

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation into) DOCKET NO. 920062-EI
earnings and return on equity for) ORDER NO. PSC-92-0022-FOF-EI
Tampa Electric Company.) ISSUED: 3/10/92

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK
J. TERRY DEASON
LUIS J. LAUREDO

ORDER DENYING RECONSIDERATION AND
NOTICE OF PROPOSED AGENCY ACTION APPROVING STIPULATION

BY THE COMMISSION:

At our February 4, 1992 Agenda Conference we voted to initiate a limited proceeding in this docket to consider whether to update Tampa Electric Company's (TECO's) return on equity (ROE) for all regulatory purposes. TECO has moved for reconsideration of our February 4, 1992 vote, arguing that instead of conducting a limited proceeding, we should delay adjustment of TECO's ROE until after TECO makes application for a rate increase. We disagree, and deny TECO's Motion For Reconsideration.

The purpose of a motion for reconsideration is to bring to the attention of the Commission some point of fact or law which was overlooked, or which we failed to consider when rendering an order in the first instance. See Diamond Cab Co. v. King, 146 So.2d 889 (Fla. 1962); Pingree v. Quaintance, 394 So.2d 161 (Fla. DCA 1981). It is not an appropriate avenue for rehashing matters which we have already considered.

Here, TECO has not even alleged that the Commission made a mistake or failed to consider some point. Rather, TECO's ground for reconsideration is that it "changed its mind" on the question of whether it could initiate its rate proceeding by May of 1992. Such a "change of mind" is not a legitimate ground for reconsideration under Florida law and we therefore deny TECO's Motion For Reconsideration.

NOTICE is hereby given by the Florida Public Service Commission that the action discussed below, setting TECO's ROE, is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

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Prior to our vote on TECO's Motion For Reconsideration, and after negotiations with staff, TECO announced that it would stipulate to have its return on equity set at a 12.5% midpoint with a range of 11.5% (minimum) to 12.5% (maximum) for all regulatory purposes until reset by the Commission. We believe that at present this is a reasonable ROE for TECO, and approve the stipulation as announced.

The authorized ROE midpoints for Florida Power and Light Company, Florida Power Corporation, and Gulf Power Company are 12.8%, 12.6%, and 12.55% (without the penalty) respectively. TECO's newly stipulated ROE brings TECO in line with the other major electric utilities. It should be noted that the most recent decision for these three utilities was in January 1991. Since that time, the cost of equity has continued to decline. Consequently, the required ROE may have been lower had this matter gone to a full evidentiary hearing. However when we consider (1) the costs associated with conducting a limited proceeding on this matter, (2) the company's representation that it is contemplating filing a full rate case in the near future, and (3) that the stipulated rate compares favorably with the currently allowed ROEs of the other major electric utilities, we believe it is reasonable to approve the ROE of 12.5% as stipulated by TECO. Approval of this stipulation will not preclude us from revisiting TECO's ROE should changing conditions warrant further adjustment.

TECO has stipulated that its ROE be reset for all regulatory purposes. This means that TECO's new ROE will replace all other ROEs which have been assigned to TECO for specific purposes. This also means that TECO's new ROE will be used in setting interim rates and in determining whether moneys should be placed under bond or corporate undertaking subject to refund under the interim statute. We note that the maximum of the ROE range for TECO is the same as its midpoint. Under this arrangement, the maximum of TECO's range for interim purposes is 12.5%. We believe that a 12.5% maximum and 11.5% minimum for interim purposes provides a reasonable range from which to determine whether TECO should be required to hold moneys subject to refund pursuant to the interim statute (Section 366.071, Florida Statutes).

It is therefore

ORDERED by the Florida Public Service Commission that the Motion For Reconsideration filed by Tampa Electric Company on February 6, 1992, is hereby denied. It is further

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ORDERED that the stipulation announced by Tampa Electric Company to have its return on equity set at a 12.5% midpoint with a range of 11.5% (minimum) to 12.5% (maximum) is hereby approved. It is further

ORDERED that Tampa Electric Company's return on equity is hereby set at a 12.5% midpoint with a range of 11.5% (minimum) to 12.5% (maximum) for all regulatory purposes until reset by the Florida Public Service Commission. It is further

ORDERED that the portion of this Order identified as a Proposed Agency Action shall become final and this docket shall be closed unless an appropriate petition for formal proceeding is received by the Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the date indicated in the Notice of Further Proceedings or Judicial Review.

By ORDER of the Florida Public Service Commission, this
10th day of MARCH, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

by: Kay J. [Signature]
Chief, Bureau of Records

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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

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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.

As identified in the body of this order, our action setting Tampa Electric Company's return on equity is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on 3/31/92. In the absence of such a petition, this order shall become effective on the date subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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 the relevant portion of this order becomes final and effective 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 sewer 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 effective date of this order, 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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of

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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 after the issuance of this order, 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.