FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

DECEMBER 4, 2001

RE: Docket No. 950379-EI - Determination of regulated earnings of Tampa Electric Company pursuant to stipulations for calendar years 1995 through 1999.

ISSUE 1: Does the inclusion of interest expense on tax deficiencies in the calculation of TECO's regulated earnings comply with the provisions of the settlement?
RECOMMENDATION: Yes. The inclusion of interest expense on tax deficiencies in the calculation of TECO's regulated earnings does comply with the provisions of the settlement. More specifically, paragraphs 10 and 11 of the settlement do not preclude the Commission from determining the prudence and reasonableness of interest expense on tax deficiencies in calculating TECO's regulated earnings.

APPROVED

COMMISSIONERS ASSIGNED: Jacobs, Jaber, Baez

COMMISSIONERS' SIGNATURES

MAJORITY	**DISSENTING**

REMARKS/DISSENTING COMMENTS:

replacement
DOCUMENT NUMBER-DATE
15176 DEC-4 ō
FPSC-COMMISSION CLERK

PSC/RAR33 (5/90)

VOTE SHEET
DECEMBER 4, 2001
Docket No. 950379-EI - Determination of regulated earnings of Tampa Electric Company pursuant to stipulations for calendar years 1995 through 1999.

(Continued from previous page)

ISSUE 2: Does the settlement preclude interest on tax deficiencies for any items other than those related to the Polk Power Station?
RECOMMENDATION: No. The settlement does not preclude any reasonably and prudently incurred interest on tax deficiencies. The plain meaning and purpose of the settlement allows any interest on tax deficiencies that the Commission deems to be prudent and reasonable. The settlement does preclude OPC from challenging the prudence of interest on tax deficiencies related to the tax life of the Polk Power Station. Because the language of the settlement is unambiguous, additional standards of contract interpretation need not be applied in this proceeding.

APPROVED

ISSUE 3: Was it appropriate for TECO to record interest expense on income tax deficiencies in 1999?
RECOMMENDATION: Yes. It was correct to record the interest on tax deficiencies in 1999 because the liability was incurred and could be reasonably estimated. Further, under APB 20, it would have been improper for the company to record the expense as a prior period adjustment.

APPROVED

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ISSUE 4: What amount of tax deficiency interest included in the calculation of the company's earnings in 1999 is related to the Polk Power Station that OPC is obligated to support as a prudent expense for rate making purposes in this proceeding under paragraph 10 of the stipulation?
RECOMMENDATION: While the record indicates that some of the tax deficiencies relate to the Polk Power Station, it is silent as to what amount of interest on tax deficiencies relates to Polk.

APPROVED

ISSUE 5: Should rate case benefits be included in the cost/benefit analysis used to determine the prudence of costs incurred in 1999?
RECOMMENDATION: No. The evidence does not reflect that a rate change would have resulted if the deferred tax balance in the 1994 test year for the last rate case was lower. Thus, the rate case benefits should be removed from the company's cost/benefit analysis.

APPROVED

ISSUE 6: Should deferred revenue benefits/(costs) be included in the cost/benefit analysis used to determine the prudence of costs incurred in 1999?
RECOMMENDATION: Yes. To the extent the cost/benefit analysis is relied upon by the Commission, it is appropriate to include the deferred revenue benefits. Had the company not taken the tax positions it did, the overall refund that the customers received for the years 1995-1998 would have been much less, assuming that the stipulated refunds were decreased proportionately.

APPROVED

VOTE SHEET
DECEMBER 4, 2001
Docket No. 950379-EI - Determination of regulated earnings of Tampa Electric Company pursuant to stipulations for calendar years 1995 through 1999.

(Continued from previous page)

ISSUE 7: Is it appropriate to include the interest accrued on deferred revenues as a component of the cost/benefit analysis?
RECOMMENDATION: Yes. To remain consistent with the Commission's prior treatment of interest on deferred revenues, staff agrees that, to the extent the cost/benefit analysis is relied upon by the Commission, the deferred revenue interest component should not be removed.

NO VOTE

ISSUE 8: Does the cost/benefit analysis prepared by the company support its claim that the interest on tax deficiencies is prudent and in the best interests of the customers?
RECOMMENDATION: No. However, allowing recovery of half of the requested interest expense on tax deficiencies is the most reasonable alternative available to determine fair and reasonable costs to allow for 1999. Interest on tax deficiencies of $6,343,836 should be allowed as an above-the-line expense in determining the net operating income for 1999.

APPROVED Allow recovery of entire requested tax expense deficiencies.

ISSUE 9: Does the use of a cost/benefit analysis as a method to determine the prudence of a cost incurred in 1999 violate the proscription against retroactive ratemaking?
RECOMMENDATION: No. The cost-benefit analysis does not violate the proscription against retroactive ratemaking as it is not applying new rates to past consumption. Rather, it is applying a past rationale to determine the prudence of a cost incurred in 1999.

APPROVED ~~allow recovery of entire requested tax expense deficiencies.~~

CCA note: Vote sheet corrected after review of audiotape.
KS
12-21-01

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<u>ISSUE 10</u>: Is OPC equitably estopped from asserting inconsistent positions in this proceeding regarding adjustments not made in the last TECO rate case?
<u>RECOMMENDATION</u>: No. TECO did not rely to its detriment on positions asserted by OPC in this proceeding. Accordingly, OPC cannot be equitably estopped from asserting inconsistent positions in this proceeding regarding adjustments not made in the last TECO rate case.

APPROVED

<u>ISSUE 11</u>: What effect, if any, does Section 120.66, Florida Statutes (2000), have on the Commissioners' ability to engage in ex parte communications with staff members?
<u>RECOMMENDATION</u>: None. The staff has not engaged in any "prosecution or advocacy" in this proceeding which would result in the application of Section 120.66, Florida Statutes, to staff in these proceedings.

APPROVED

<u>ISSUE 12</u>: What is the appropriate net operating income for 1999?
<u>RECOMMENDATION</u>: The appropriate net operating income for 1999 is $182,762,385.

APPROVED

VOTE SHEET
DECEMBER 4, 2001
Docket No. 950379-EI - Determination of regulated earnings of Tampa Electric Company pursuant to stipulations for calendar years 1995 through 1999.

(Continued from previous page)

ISSUE 13: What is the amount to be refunded?
RECOMMENDATION: The amount to be refunded is $10,512,378 through September 30, 2001, plus interest accrued from October 1, 2001, until the refund is made to customers.

APPROVED Consistent with vote in prior issues.

ISSUE 14: Should this docket be closed?
RECOMMENDATION: The docket should be closed after the time for filing an appeal has run.

APPROVED