

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Tampa Electric Com-)	DOCKET NO. 900153-EI
pany for Refund of Certain 1989 "Tax)	
Savings" Revenues)	ORDER NO. 23883
_____)	ISSUED: 12-14-90

The following Commissioners participated in the disposition of this matter:

MICHAEL MCK. WILSON, Chairman
 THOMAS M. BEARD
 BETTY EASLEY
 GERALD L. GUNTER
 FRANK S. MESSERSMITH

NOTICE OF PROPOSED AGENCY ACTIONORDER DETERMINING 1989 TAX SAVINGS REFUND

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein 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.

In Order No. 22719, issued in this docket on March 22, 1990, Tampa Electric Company ("TECO") was directed to refund 1989 tax savings in the amount of \$18,705,879, plus interest of \$1,721,043, for a total refund of \$20,426,922, subject to further proceedings and true-up, if necessary. Order No. 22719 also specified the appropriate refund methodology to be used by TECO.

Commission Staff reviewed information submitted by TECO in support of its petition, and conducted an audit. During Staff's analysis of the utility's expenses, TECO discovered that Operations & Maintenance ("O&M") expenses were overstated by \$67,314 due to the inclusion of non-utility and below-the-line expenditures in the utility's regulated expenses. This overstatement results in an additional revenue refund in the amount of \$68,586.

In accordance with Rule 25-6.109(7), Florida Administrative Code, TECO submitted a final refund report, which indicated that the refund was completed with the closing of the September, 1990 billing cycle. However, the utility actually refunded \$18,774,465,

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plus interest, which is more than was required by Order No. 22719. Accordingly, we must offset the additional revenue refund against the excess refund actually made by the utility.

We find that TECO has refunded an excess of \$290,724, which the utility should recover through Docket No. 910001-EI, Fuel and Purchased Power Cost Recovery Clause and Generating Performance Incentive Factor:

\$18,705,879	Tax savings refund per Order No. 22719
+ <u>1,721,043</u>	Interest
\$20,426,922	Total tax savings refund per Order No. 22719
\$18,705,879	Tax savings refund per Order No. 22719
68,586	Correction of error
+ <u>1,703,307</u>	Actual interest
\$20,477,772	Total revised tax savings refund
\$20,768,496	Amount actually refunded by TECO
- <u>20,477,772</u>	Total revised tax savings refund
\$ 290,724	Excess refund

In its report, TECO calculated an O & M benchmark comparison by function. Although TECO exceeded its benchmark in a few functional categories, the utility is below its benchmark in the aggregate. We believe that TECO's level of O&M expenses appear reasonable for tax savings purposes.

It is therefore

ORDERED by the Florida Public Service Commission that the appropriate 1989 tax savings refund for Tampa Electric Company is \$20,477,772, which includes interest of \$1,703,307. It is further

ORDERED that Tampa Electric Company shall recover its excess refund of \$290,724 through Docket No. 910001-EI, Fuel and Purchased Power Cost Recovery Clause and Generating Performance Incentive Factor. It is further

ORDERED that this Order shall become final 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. It is further

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ORDERED that this docket be closed if no petition for formal proceeding is timely filed.

By ORDER of the Florida Public Service Commission, this 14th
day of DECEMBER, 1990.


STEVE TRIBBLE, 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 120.59(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 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.

The action proposed herein 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 January 7, 1991.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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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 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.