

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation into the) DOCKET NO. 930987-EI
currently authorized return on) ORDER NO. PSC-93-1840-FOF-EI
equity for Tampa Electric) ISSUED: December 28, 1993
Company)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO
DIANE K. KIESLING

ORDER DENYING PUBLIC COUNSEL'S MOTION TO HOLD EXPEDITED HEARINGS TO RESCIND TAMPA ELECTRIC COMPANY'S 1994 RATE INCREASE AND ORDER A RATE REDUCTION, OR, IN THE ALTERNATIVE, ORDER THE 1994 INCREASE TO BE HELD SUBJECT TO REFUND PENDING THE OUTCOME OF HEARINGS AND SCHEDULING HEARING TO DETERMINE APPROPRIATE RETURN ON EQUITY FOR TAMPA ELECTRIC COMPANY

BY THE COMMISSION:

CASE BACKGROUND

Commission Staff (Staff) met with Tampa Electric Company (TECO or Company) on September 27, 1993 to discuss its currently authorized return on equity (ROE). The Office of Public Counsel (OPC) was represented at the meeting. At the meeting, Staff suggested that TECO's currently authorized ROE may need to be reduced given the current market conditions. Since the time the Commission approved the currently authorized ROE of 12.0% for TECO in Order No. PSC-93-0165-FOF-EI (Order No. 93-0165), capital costs have declined and Staff suggested that TECO's authorized ROE should be reduced to reflect the decline.

TECO filed a formal proposal on October 7, 1993 to reduce its ROE to 11.35% and implement a storm damage reserve of \$4 million a year for the next four years, both effective January 1, 1994. The Commission accepted TECO's proposal at the October 19, 1993 agenda conference and issued Proposed Agency Action (PAA) Order No. PSC-93-1570-FOF-EI (Order No. 93-1570) on October 27, 1993.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

On November 12, 1993, OPC timely filed a petition to officially protest the Commission's action in Order No. 93-1570. In a separate petition filed on the same date, OPC filed a motion to hold an expedited hearing to set a new ROE for TECO, rescind TECO's 1994 rate increase and order a rate reduction, or, in the alternative, if a hearing cannot be held before January 1, 1994, order the 1994 rate increase to be held subject to refund pending the outcome of the hearing.

We find that the Commission should not hold an expedited hearing to set a new ROE for TECO before January 1, 1994 as requested by OPC.

As pointed out in the Company's response to OPC's motion, because Order No. 93-1570 was issued as a PAA, OPC's protest nullifies the proposed action. As a result, the circumstances revert back to the status quo prior to the issuance of Order No. 93-1570. Specifically, TECO's authorized ROE reverts back to the 12.0% approved in Order No. 93-0165 and the Company is no longer bound to its proposal to accrue \$4 million a year for a storm damage reserve.

At the time of the initial meeting with Staff, TECO and OPC, January 21, 1994 was reserved as a hearing date (if necessary) to resolve the issue of TECO's currently authorized ROE. OPC states in its petition that a limited proceeding to set a new ROE could be held on an expedited basis without prejudice to anyone. We agree. A hearing held on this date (and not before January 1, 1994 as sought by OPC) limited to the determination of: the appropriate ROE for TECO; whether money should be placed subject to refund; and; whether TECO should accrue an appropriate amount for a storm damage reserve will fairly address OPC's request for a timely hearing and give all parties and Staff sufficient time to prepare their cases.

In order to expedite the process, we establish the following schedule for the limited proceeding:

1. December 22, 1993 - Direct testimony to be filed by the Company and intervenors.
2. January 7, 1994 - Direct testimony to be filed by Staff (if necessary.)
3. January 7, 1994 - Prehearing Statements to be filed.
4. January 12, 1994 - Rebuttal testimony to be filed.

5. January 12, 1994 - Prehearing Conference.
6. January 21, 1994 - Hearing to be held. Notice for a possible bench decision at the conclusion of the hearing.

The issues to be addressed in this limited proceeding are:

1. What is the appropriate return on equity (ROE) for Tampa Electric Company (TECO) for all regulatory purposes?
2. What is the appropriate amount, if any, that TECO should accrue for a storm damage reserve?
3. What amount of funds, if any, should be held subject to refund?

We find that TECO's January 1, 1994 step rate increase should not be rescinded or held subject to refund at this time.

The step rate increase for January 1, 1994, was approved by final Commission order after a full evidentiary hearing in TECO's recent rate case. There is no evidence at this time, nor any allegation that TECO is earning above or close to the top of the range of its present ROE. A hearing has been set for January 21, 1994 to determine an appropriate new ROE, and at that time the Commission will consider whether it would be appropriate to hold TECO's rates subject to refund pending any possible overearnings investigation. Such action would be premature at this time. Public Counsel admits the company is not earning outside its last authorized range for return on equity (see page 5, paragraph 13 of OPC's 11/12/93 motion).

The Commission has considerable flexibility in ratemaking proceedings to hold rates subject to refund (see *United Telephone Company of Florida v. Mann*, 403 So. 2d 962 (Fla 1981)). However, we believe that rescinding TECO's step increase, or holding it subject to refund, without evidence before the Commission that those rates are unfair, unjust, or unreasonable, or even that TECO is earning at the high end of its range, would be inappropriate.

In its petition to rescind TECO's 1994 base rate increase of \$16 million, Public Counsel asserts that all of the approved projected data from the rate case should be utilized except for one component, i.e. the return on common equity (ROE). Public Counsel proposes to simply drop a revised ROE into the capital structure

and then compute a revised revenue requirement to change the previously authorized rate increase.

This approach ignores the Commission's decision to use a financial integrity test to determine the amount of Construction Work in Progress (CWIP) that should be included in rate base. The Commission's decision was to include CWIP in rate base to the extent that the Company achieved a 3.75 times interest earned (TIE) ratio. If the TIE ratio is considered, the revenue requirements do not change significantly until the maximum CWIP level is reached. At a 10.5% ROE as proposed by OPC, the required revenue increase would still be over \$14 million based upon the projections from the rate case.

OPC's motion ignores other known changes that have occurred since the rate case was concluded in early 1993 which would affect the utility's earnings. Since that time, there have been many variances from the projected data in such areas as interest rates, federal income tax rates, construction schedules, transmission and distribution facilities insurance premiums or accruals, and KWH sales and O&M expense levels. In order to properly evaluate whether the approved 1994 rate increase is still appropriate, it is necessary to obtain updated projected data for the 1994 test year. We do not agree with TECO's assertion that the hearing scheduled for January 21, 1993 is limited to a consideration of "the narrow subject matter of whether the action proposed in Order No. 93-1570 should be approved".

Whether or not TECO's authorized ROE is revised, the Staff will continue to monitor TECO's earnings through the surveillance program. Appropriate action will be taken in the event that a potential overearnings situation occurs as a result of the scheduled 1994 rate increase. Such appropriate action may include, holding TECO's rates subject to refund. The specific question of whether TECO's ROE should be reduced, and if reduced, whether TECO's rates should thereafter be held subject to refund should be addressed by the parties at the hearing on January 21, 1994.

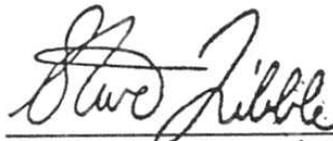
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that is public counsel's Motion to hold Expedited Hearings to Rescind Tampa Electric Company's 1994 Rate Increase and Order a Rate Reduction, or, in the Alternative, Order the 1994 Increase to be held Subject to Refund pending the outcome of hearings and Scheduling Hearing to Determine Appropriate Return on Equity for Tampa Electric Company is denied. It is further

ORDERED that a hearing shall be held on January 21, 1994 to resolve the matters at issue in this docket. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission, this 28th day of December, 1993.



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.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) 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. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.