

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Tampa
Electric Company.

DOCKET NO. 130040-EI
ORDER NO. PSC-13-0329-PCO-EI
ISSUED: July 18, 2013

ORDER DENYING WCF HOSPITAL UTILITY ALLIANCE'S MOTION TO MODIFY
CONTROLLING DATES AND DISCOVERY PROCEDURES APPLICABLE TO
REBUTTAL AND SECOND ORDER REVISING ORDER ESTABLISHING PROCEDURE

The Order Establishing Procedure (OEP) in this docket, Order No. PSC-13-0150-PCO-EI, was issued on April 8, 2013, and revised thereafter by Order No. PSC-13-0203-PCO-EI.¹ On June 11, 2013, WCF Hospital Utility Alliance (HUA) filed a motion to modify certain controlling dates and discovery procedures established by the revised OEP. Currently, the revised OEP sets August 8, 2013, as the date for filing Tampa Electric Company's (TECO) rebuttal testimony, and August 26, 2013, as the date of the Prehearing Conference and also the date to conclude discovery actions. In accordance with the OEP, TECO is required to respond to written discovery requests within 15 days.

HUA asserts that the schedule leaves one day to prepare written discovery after rebuttal testimony is filed, and HUA proposes to make two modifications to the revised OEP to permit additional time for discovery on the rebuttal testimony. First, HUA requests that the date to conclude most discovery actions should remain August 26, 2013, but the time for TECO's responses to discovery should be reduced to 10 days. Second, HUA requests that the deadline for taking depositions of TECO's witnesses should be extended for 4 days, to August 30, 2013. HUA represents that the other intervenors in this docket support these proposed modifications.

On June 11, 2013, TECO filed a Response in Opposition to HUA's motion, urging that the controlling dates established by the revised OEP be retained. TECO argues that HUA's motion should be denied because the OEP was revised on May 17, 2013, before HUA was an intervenor in this docket, and no other intervenors raised an issue regarding the revised testimony date until HUA's motion. TECO claims that HUA did not become an intervenor until June 4, 2013, and takes the case as it finds it. TECO also argues that shortening the time for TECO's responses to discovery to 10 days would be unduly burdensome, particularly considering the voluminous and broad discovery that HUA has already propounded regarding TECO's direct testimony. Further, TECO provides that:

Tampa Electric will have a difficult time responding to already pending voluminous discovery requests by HUA within the currently allowed 30-day timeframe. It would be difficult, if not impossible, to reasonably respond to similar discovery by HUA and the other intervenors relative to Tampa Electric's rebuttal testimony within the 10-day timeframe proposed by HUA.

¹ Order Granting in Part and Denying in Part Joint Motion to Modify Controlling Dates and Service of Discovery and first Order Revising Order Establishing Procedure, issued May 17, 2013.

Response P. 2.

Finally, TECO argues that HUA's proposal to extend deposition discovery to August 30, 2013, unduly interferes with TECO's ability to prepare for the formal hearing, leaving only eight days to prepare.

Ruling

The modifications to the procedural schedule that HUA proposes do not appear to promote the just, speedy, and inexpensive determination of this docket, pursuant to Rule 28-106.211, Florida Administrative Code. No other parties objected to the revised schedule until HUA intervened, and HUA takes the case as it finds it. Considering the amount of discovery that has already been propounded on TECO in this case, it is reasonable to expect that the discovery on TECO's rebuttal testimony will also be extensive. Ten days is not enough time to respond to extensive discovery. Furthermore, an extension of the discovery deadline for depositions to eight days before the hearing will place an unreasonable burden on TECO and the other parties preparing for hearing. Additionally, it will place an unreasonable burden on the Public Service Commission staff, who will also be preparing for the hearing.

For these foregoing reasons, HUA's motion is denied. However, the discovery deadline shall be extended to August 27, 2013. The OEP in this docket shall be revised accordingly.

Based on the foregoing, it is

ORDERED that the Motion to Modify Controlling Dates and Discovery Procedures Applicable to Rebuttal is denied. It is further

ORDERED that Order No. PSC-13-0150-PCO-EI, as revised by Order No. PSC-13-0203-PCO-EI, shall be revised to extend the date to complete discovery to August 27, 2013. It is further

ORDERED that Order No. PSC-13-0150-PCO-EI, as revised by Order No. PSC-13-0203-PCO-EI, is affirmed in all other respects.

By ORDER of Commissioner Julie I. Brown, as Prehearing Officer, this 18th day of
July, 2013.



JULIE I. BROWN

Commissioner and Prehearing Officer
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

MCB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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 25-22.0376, 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 wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, 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.