

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Review of Tampa Electric Company's
2004-2008 waterborne transportation contract
with TECO Transport and associated
benchmark.

DOCKET NO. 031033-EI
ORDER NO. PSC-04-0195-PCO-EI
ISSUED: February 23, 2004

SECOND ORDER REVISING ORDER ESTABLISHING PROCEDURE,
GRANTING MOTION FOR CONTINUANCE,
AND DIRECTING PARTIES TO DISCUSS PROPOSED BIFURCATION
OF PROCEEDING AND RELATED DISCOVERY ISSUES

By Order No. PSC-03-1398-PCO-EI, issued December 11, 2003 (Order Establishing Procedure), a procedural schedule was established setting forth the controlling dates for this docket. By Order No. PSC-04-0156-PCO-EI, issued February 16, 2004 (First Order Revising Order Establishing Procedure), the previously established schedule for filing intervenor testimony, staff testimony, and rebuttal testimony was modified to extend the filing deadline for each of those items. No other controlling dates were modified by that order.

On February 13, 2004, the Office of Public Counsel (OPC) filed a Motion for Revision to Order Establishing Procedure or Continuance.¹ In its motion, OPC asserts the need for additional time to prepare its direct case in light of an unresolved discovery dispute concerning access to books and records of TECO Transport, an affiliate of Tampa Electric. On February 19, 2004, Tampa Electric Company (Tampa Electric) filed a response to OPC's motion. In its response, Tampa Electric asserts that the information sought from TECO Transport is irrelevant to this proceeding. In addition, Tampa Electric proposes that this proceeding be bifurcated in an attempt to avoid the current dispute over access to such information. Tampa Electric requests that the Prehearing Officer order the parties to meet with Commission staff to discuss the procedural schedule and the merits of this proceeding in an effort to amicably resolve the issues in this proceeding.

Upon consideration, I grant OPC's motion. The hearing for this proceeding is rescheduled for May 27-28, 2004. The controlling dates established in the Order Establishing Procedure and the First Order Revising Order Establishing Procedure are revised as follows:

1)	Intervenors' direct testimony and exhibits	March 29, 2004
2)	Staff's direct testimony and exhibits	April 9, 2004
3)	Rebuttal testimony and exhibits	May 3, 2004

¹ The First Order Revising Order Establishing Procedure, although issued three days after OPC's motion was filed, was not intended to address or resolve OPC's motion but was issued by the Prehearing Officer *sua sponte*.

DOCUMENT NUMBER DATE

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4)	Prehearing Statements	May 10, 2004
5)	Prehearing Conference	May 17, 2004
6)	Hearing	May 27-28, 2004
7)	Briefs	June 14, 2004

Further, I reserve ruling upon Tampa Electric's proposal to bifurcate this proceeding and direct the parties to meet by March 2, 2004, to discuss Tampa Electric's proposal and the related discovery issues and to make earnest efforts to resolve these procedural issues. I also encourage the parties to discuss the potential for settlement of the substantive issues in this proceeding.

Based on the foregoing, it is

ORDERED by Chairman Braulio L. Baez, as Prehearing Officer, that the Office of Public Counsel's Motion for Revision to Order Establishing Procedure or Continuance is granted as set forth in the body of this Order. It is further

ORDERED that the controlling dates established in Order No. PSC-03-1398-PCO-EI, as revised in Order No. PSC-04-0156-PCO-EI, are modified as set forth in the body of this Order. Order No. PSC-03-1398-PCO-EI is affirmed in all other respects. It is further

ORDERED that the parties to this docket shall meet no later than March 2, 2004, to discuss Tampa Electric Company's proposal to bifurcate this proceeding, to discuss the related discovery issues, and to make earnest efforts to resolve these procedural issues. It is further

ORDERED that ruling is reserved on Tampa Electric Company's proposal to bifurcate this proceeding.

By ORDER of Chairman Braulio L. Baez, as Prehearing Officer, this 23rd day of February, 2004.


BRAULIO L. BAEZ
Chairman and Prehearing Officer

(SEAL)

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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 Director, Division of the Commission Clerk and Administrative Services, 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.