

Dorothy Menasco

From: Rhonda Dulgar [rdulgar@yvlaw.net]
Sent: Tuesday, August 26, 2008 2:56 PM
To: James D. Beasley; Lee L. Willis; Patricia A. Christensen; J.R. Kelly; Filings@psc.state.fl.us; Jennifer Brubaker; Jean Hartman; Keino Young; Martha Brown; Paula Brown; Schef Wright
Subject: Electronic Filing - Docket 080317-EI
Attachments: 080317.FRF.PetitionToIntervene.8-26-08.pdf

a. Person responsible for this electronic filing:

Robert Scheffel Wright
Young van Assenderp, P.A.
225 South Adams Street, Suite 200
Tallahassee, FL 32301
(850) 222-7206
swright@yvlaw.net

b. 080317-EI

In Re: Petition for Rate Increase by Tampa Electric Company.

c. Document being filed on behalf of the Florida Retail Federation.

d. There are a total of 10 pages.

e. The document attached for electronic filing is Petition to Intervene, Petition to Conduct General Rate Case, and Request for Hearing of the Florida Retail Federation.

(see attached file: 080317.FRF.PetitionToIntervene.8-26-08.pdf)

Thank you for your attention and assistance in this matter.

Rhonda Dulgar
Secretary to Schef Wright
Phone: 850-222-7206
FAX: 850-561-6834

8/26/2008

DOCUMENT NUMBER-DATE
07758 AUG 26 8
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Rate Increase by)
Tampa Electric Company) DOCKET NO. 080317-EI
) FILED: AUGUST 26, 2008

PETITION TO INTERVENE, PETITION TO CONDUCT GENERAL RATE CASE,
AND REQUEST FOR HEARING OF THE FLORIDA RETAIL FEDERATION

The Florida Retail Federation ("FRF"), pursuant to Chapters 120 and 366, Florida Statutes,¹ and Rules 25-22.036, 25-22.039 and 28-106.201, Florida Administrative Code ("F.A.C."), hereby petitions to intervene in the above-styled docket addressing Tampa Electric Company's ("TECO") request for a general increase in its base rates. The FRF also petitions the Florida Public Service Commission to conduct in this docket a general investigation of TECO's rates -- i.e., a general rate case -- and to conduct a hearing on TECO's rates in accordance with Chapters 120 and 366, Florida Statutes.²

In summary, the FRF is an established association with more than 10,000 members in Florida, many of whom are retail customers of TECO. The FRF respectfully petitions for intervention in order to protect its members' interests in

¹ All references herein to the Florida Statutes are to the 2007 edition thereof.

² This is not an idle request. The FRF, along with other consumer intervenors, believes that a rate decrease may be appropriate for TECO and requests that the Commission conduct its own general investigation of TECO's rates so that TECO cannot avoid that consequence by withdrawing its case in mid-stream.

DOCUMENT NUMBER-DATE

07758 AUG 26 8

FPSC-COMMISSION CLERK

having the Commission determine the fair, just, and reasonable rates to be charged by TECO upon the conclusion of the case, and in having the Commission take such other action to protect the interests of the FRF's members and of all of TECO's customers as the Commission may deem appropriate. The interests of the many members of the FRF who are TECO customers will be determined by the Commission's decisions in this case, and accordingly, the FRF is entitled to intervene to protect its members' substantial interests. In further support of its Petition to Intervene, the Florida Retail Federation states as follows.

1. The name, address, and telephone number of the Petitioner are as follows:

Florida Retail Federation
100 East Jefferson Street
Tallahassee, Florida 32301
Telephone (850) 222-4082
Telecopier (850) 226-4082.

2. All pleadings, orders and correspondence should be directed to Petitioner's representatives as follows:

Robert Scheffel Wright, Attorney at Law
John T. LaVia, III, Attorney at Law
Young van Assenderp, P.A.
225 South Adams Street, Suite 200
Tallahassee, Florida 32301
(850) 222-7206 Telephone
(850) 561-6834 Facsimile
E-Mails - swright@yvlaw.net and jlavia@yvlaw.net

3. The agency affected by this Petition to Intervene is:

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850.

4. The Florida Retail Federation is an established association of more than 10,000 members in Florida. Many of the FRF's members are retail electric customers of Tampa Electric Company; these members purchase electricity from TECO pursuant to several different TECO rate schedules. The FRF's members require adequate, reasonably-priced electricity in order to conduct their businesses consistently with the needs of their customers and ownership.

5. Statement of Affected Interests. In this docket, the Commission will decide whether to approve TECO's request for a general rate increase and will ultimately determine whether any changes - increases or decreases - in TECO's rates are appropriate. TECO initiated this docket by filing a Test Year Notification on June 12, 2008, and TECO filed its Minimum Filing Requirements and testimony on August 11, 2008. The Commission will necessarily have to decide whether any rate increases (or decreases) are justified, and if so, the Commission will also have to approve the rates and charges that would enable TECO to recover any authorized increase in TECO's base rate revenues. As the representative of its many members who are TECO retail customers, the Florida Retail Federation's and its members' substantial interests will be affected by any action that the Commission takes in this docket.

6. The FRF's substantial interests are of sufficient immediacy to entitle it to participate in the proceeding and are the type of interests that the proceeding is designed to protect. To participate as a party in this proceeding, an intervenor must demonstrate that its substantial interests will be affected by the proceeding. Specifically, the intervenor must demonstrate that it will suffer a sufficiently immediate injury in fact that is of the type the proceeding is designed to protect. Ameristeel Corp. v. Clark, 691 So. 2d 473 (Fla. 1997); Agrico Chemical Co. v. Department of Environmental Regulation, 406 So.2d 478 (Fla. 2d DCA 1981), rev. denied, 415 So. 2d 1359 (Fla. 1982). Here, the FRF is the representative of a large number of its members who are retail electric customers of TECO, and these members' substantial interests will be directly affected by the Commission's decisions regarding TECO's retail electric rates. Thus, the interests that the FRF seeks to protect are of sufficient immediacy to warrant intervention, and the nature of its members' interests in having the Commission set rates for TECO that are fair, just, reasonable, and not unduly discriminatory is exactly the type of interest that this proceeding is designed to protect. This is a general rate case, and the FRF seeks to protect its members' substantial interests as they will be affected by the Commission's decisions determining TECO's rates.

7. Associational Standing. Under Florida law, to establish standing as an association representing its members' substantial interests, an association such as the Florida Retail

Federation must demonstrate three things:

- a. that a substantial number of its members, although not necessarily a majority, are substantially affected by the agency's decisions;
- b. that the intervention by the association is within the association's general scope of interest and activity;
and
- c. that the relief requested is of a type appropriate for an association to obtain on behalf of its members.

Florida Home Builders Ass'n v. Dep't of Labor and Employment Security, 412 So. 2d 351, 353-54 (Fla. 1982). The FRF satisfies all of these "associational standing" requirements. A substantial number of the FRF's more than 10,000 members are located in TECO's service area and receive their electric service from TECO, for which they are charged TECO's applicable retail rates. The FRF exists to represent its members' interests in a number of venues, including the Florida Public Service Commission: indeed, the FRF was an intervenor in recent rate cases involving Florida Power & Light Company and Progress Energy Florida, as well as in storm surcharge cases and the Commission's Fuel Cost Recovery Docket. Finally, the relief requested -- intervention and the lowest rates consistent with the Commission's governing law -- is across-the-board relief that will apply to all of the FRF's members in the same way, according to the retail rate schedules under which they receive service; therefore, the requested relief is of the type that is appropriate for an association to obtain on behalf of its

members.

8. Disputed Issues of Material Fact. The FRF believes that the disputed issues of material fact in this proceeding will include, but will not necessarily be limited to, the issues listed below. Naturally, at this early point in this docket, the issues stated below are broad, general issues, and the FRF expects that numerous additional, specific issues will be identified and developed as this docket progresses.

Issue: What are the appropriate jurisdictional values of TECO's Plant in Service, Accumulated Depreciation, and Rate Base for setting TECO's rates in this case?

Issue: What are the appropriate jurisdictional values of TECO's operation and maintenance expenses for setting TECO's rates in this case?

Issue: What is the appropriate capital structure for TECO for the purpose of setting TECO's rates in this case?

Issue: What is the appropriate rate of return on equity for TECO for the purpose of setting TECO's rates in this case?

Issue: What are the appropriate rates to be charged by TECO for its services?

Issue: What is the appropriate amount to be included in TECO's base rates for storm restoration accrual?

The FRF reserves all rights to raise additional issues in accordance with the Commission's rules and the anticipated Order Establishing Procedure in this case.

9. Statement of Ultimate Facts Alleged. It is TECO's burden to prove that it is entitled to any rate relief, and to prove that requirement, TECO must prove that its existing rates and charges are not fair, just, and reasonable. It has been sixteen years since TECO's last general rate proceeding and thus sixteen years since the Commission last actually decided disputed issues in a TECO general rate case. A substantial number of the FRF's more than 10,000 members are TECO's retail customers, and accordingly, their substantial interests are subject to determination in and will be affected by the Commission's decisions in this docket. Accordingly, as the representative association of its members who are TECO customers, the FRF is entitled to intervene herein.

10. Statutes and Rules That Entitle the Florida Retail Federation to Relief. The applicable statutes and rules that entitle the FRF to relief include, but are not limited to, Sections 120.569, 120.57(1), 366.04(1), 366.05(1), 366.06(1)&(2), and 366.07, Florida Statutes, and Rule 25-22.039 and Chapter 28-106, Florida Administrative Code. Rules 25-22.039 and 28-106.205, F.A.C., provide that persons whose substantial interests are subject to determination in, or may be affected through, an agency proceeding are entitled to intervene in such proceeding. A substantial number of the FRF's more than 10,000 members are TECO's retail customers, and accordingly, their substantial interests are subject to determination in and will be affected by the Commission's decisions in this docket. Accordingly, as the representative association of its members

who are customers of TECO, the FRF is entitled to intervene herein. The above-cited sections of Chapter 366 relate to the Commission's jurisdiction over TECO's rates and the Commission's statutory mandate to ensure that TECO's rates are fair, just, and reasonable. The facts alleged here by the FRF demonstrate (a) that the Commission's decisions herein will have a significant impact on TECO's rates and charges, (b) that a substantial number of the FRF's members will be directly impacted by the Commission's decisions regarding TECO's rates and charges, and (c) accordingly, that these statutes provide the basis for the relief requested by the FRF in this Petition to Intervene. Additionally, the facts alleged herein demonstrate that the FRF is entitled to a hearing on TECO's rates and charges.

CONCLUSION AND RELIEF REQUESTED

The Florida Retail Federation is an established association that, consistent with its purposes and history of intervening in Commission proceedings to protect its members' interests under the Commission's statutes, rules, and orders, seeks to intervene in this general rate case docket to protect its members' substantial interests in having the Commission set rates for Tampa Electric Company that are fair, just, reasonable, and not unduly discriminatory. The FRF also requests that the Commission conduct a general rate case proceeding to set the fair, just, and reasonable rates and charges for TECO on a going-forward basis. The interests of the FRF's members that the FRF seeks to protect via its intervention and participation

in this case are immediate and of the type to be protected by this proceeding.

RELIEF REQUESTED

WHEREFORE, the Florida Retail Federation respectfully requests the Florida Public Service Commission to enter its order GRANTING this Petition to Intervene, GRANTING the FRF's Petition To Conduct a General Rate Case, and GRANTING the FRF's Request for Hearing, and requiring that all parties to this proceeding serve copies of all pleadings, notices, and other documents on the FRF's representatives indicated in paragraphs 1 and 2 above.

Respectfully submitted this 26th day of August, 2008.



Robert Scheffel Wright
Florida Bar No. 966721
John T. LaVia, III
Florida Bar No. 853666
Young van Assenderp, P.A.
225 South Adams Street, Suite 200
Tallahassee, Florida 32301
(850) 222-7206 Telephone
(850) 561-6834 Facsimile

Attorneys for the Florida
Retail Federation

CERTIFICATE OF SERVICE

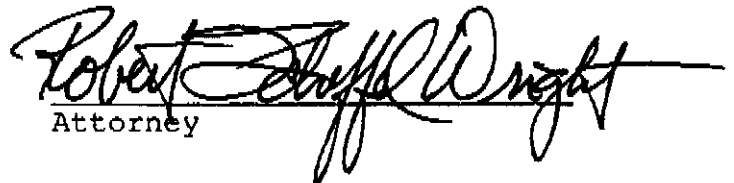
I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic Mail this 26th day of August, 2008, to the following:

Jean Hartman/Keino Young
Jennifer Brubaker/Martha Brown
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399

Lee Willis/James Beasley
Ausley Law Firm
P.O. Box 391
Tallahassee, FL 32302

J.R. Kelly/Patricia Christensen
Office of Public Counsel
c/o the Florida Legislaturc
111 W. Madison Street
Room 812
Tallahassee, FL 32399-1400

Paula K. Brown
Tampa Electric Company
Regulatory Affairs
P.O. Box 111
Tampa, FL 33601-0111


Attorney