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April 29, 2024

ELECTRONIC FILING

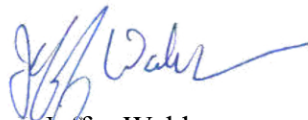
Mr. Adam J. Teitzman, Commission Clerk
Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

In re: Petition for Rate Increase by Tampa Electric Company	DOCKET NO. 20240026-EI
In re: Petition for approval of 2023 Depreciation and Dismantlement Study, by Tampa Electric Company	DOCKET NO. 20230139-EI
In re: Petition to implement 2024 Generation Base Rate Adjustment provisions in Paragraph 4 of the 2021 Stipulation and Settlement Agreement, by Tampa Electric Company	DOCKET NO. 20230090-EI

Dear Mr. Teitzman:

Attached for filing in the above-referenced docket is Tampa Electric Company's Response to: (1) Citizen's Expedited Motion for Reconsideration or, in the Alternative, Motion for Continuance; (2) Florida Rising, LULAC and Sierra Club's joinders in those motions; and (3) Citizen's related request for expedited oral argument.

Sincerely,



J. Jeffrey Wahlen

cc: Adria Harper, OGC
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Nihal Shrinath, Sierra Club
Sari Amiel, Sierra Club

JJW/ne
Attachments

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Rate Increase by Tampa Electric Company	DOCKET NO. 20240026-EI
In re: Petition for approval of 2023 Depreciation and Dismantlement Study, by Tampa Electric Company	DOCKET NO. 20230139-EI
In re: Petition to implement 2024 Generation Base Rate Adjustment provisions in Paragraph 4 of the 2021 Stipulation and Settlement Agreement, by Tampa Electric Company	DOCKET NO. 20230090-EI FILED: April 29, 2024

**TAMPA ELECTRIC COMPANY’S RESPONSE TO CITIZENS’
EXPEDITED MOTION FOR RECONSIDERATION OR, IN THE ALTERNATIVE,
MOTION FOR RECONSIDERATION; FLORIDA RISING AND LULAC’S JOINDER;
SIERRA CLUB’S NOTICE OF JOINDER; AND
CITIZENS’ REQUEST FOR EXPEDITED ORAL ARGUMENT**

Pursuant to Rule 25-22.0376, Florida Administrative Code, Tampa Electric Company (“Tampa Electric” or the “company”), files this Response to: (1) Citizens’ Expedited Motion for Reconsideration or, in the Alternative, Motion for Continuance (“Motion”); (2) Florida Rising and LULAC’s joinder in those motions (“FR/LULAC Joinder”); (3) Sierra Club’s Joinder in the Motion; and (4) Citizens’ related request for expedited oral argument, and states:

Request for Oral Argument

1. Citizens’ request for oral argument should be denied. Citizens’ Motion contains 30 pages of argument and 46 footnotes about the procedural schedule and other procedural matters in the Order Establishing Procedure¹ (“OEP”) issued in this docket. It is difficult to imagine how oral argument would inform the Commission on the issues in the Motion any more than the 30 pages of written argument in the Motion.

¹ Order No. PSC-2024-0096-PCO-EI, issued April 16, 2024.

Motion

2. Tampa Electric takes no position on the sections in the Motion addressing the Provision of Exhibits and Deposition Use (pages 15 through 24), but acknowledges, based on past experience, that the Office of Public Counsel (“OPC”) typically makes more extensive use of cross-examination exhibits than the company. Tampa Electric is prepared to comply with all of the procedural requirements in the OEP.

3. The remainder of the Motion should be denied for the following reasons:

4. First, the Motion does not meet the high legal standard for reconsideration. It does not include any new *material* information or legal arguments not already included in its Motion for Expedited Joint Docket Scheduling Conference [DN 01094-2024] or its Supplement [DN 01589-2024]. Rather than re-addressing the arguments repeated by OPC in the Motion, Tampa Electric reasserts and reincorporates by reference the points raised in its Response to OPC’s Supplement to Motion for Expedited Joint Docket Scheduling Conference, dated April 4, 2024. [DN 01620-2024]

5. Second, OPC’s concerns about the litigation challenges it may face in Docket No. 20240025-EI should not form the basis for asserting a due process violation or seeking scheduling relief in this docket. Like Tampa Electric’s 2021 rate case, this case involves one test year and two proposed subsequent year adjustments (“SYA”). One of the orders² cited in footnote 27 of the Motion confirms that the Commission has the legal authority to grant SYA and recites the statutory and case law basis for that authority. Nothing about the company’s proposed 2025 test year or SYA requests in this docket are new or unique. OPC’s concerns about the three test years proposed in Docket No. 20240025-EI should not be the basis for adjusting the schedule in this docket.

² FPSC Order No. 2010-0153-FOF-EI, Docket No. 20080677-EI, issued March 17, 2010.

6. Third, the Motion improperly minimizes the importance of the legislatively prescribed deadlines for rates cases in Section 366.06(3), Florida Statutes, which states:

Pending a final order by the commission in any rate proceeding under this section, the commission may withhold consent to the operation of all or any portion of the new rate schedules, delivering to the utility requesting such increase, within 60 days, a reason or written statement of good cause for withholding its consent. Such consent shall not be withheld for a period longer than 8 months from the date of filing the new schedules. The new rates or any portion not consented to shall go into effect under bond or corporate undertaking at the end of such period, but the commission shall, by order, require such public utility to keep accurate account in detail of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts were paid and, upon completion of hearing and final decision in such proceeding, shall by further order require such public utility to refund with interest at a fair rate, to be determined by the commission in such manner as it may direct, such portion of the increased rate or charge as by its decision shall be found not justified. (emphasis added)

7. The schedule change and continuance OPC requests in the Motion, if granted, will increase the likelihood that the Proposed Tariff Sheets and Rate Schedules included as Exhibit B to the company's Petition will go into effect subject to refund on January 1, 2025. The procedural schedule in the OEP appears to have been carefully crafted – considering the totality of the regulatory activity before the Commission in 2024 – to avoid operation of the eight month clock in this case.

8. Fourth, there may be room within the basic framework of the schedule in the OEP to adjust filing dates for intervenor, staff, and rebuttal testimony, but the hearing and post-hearing timeframes contemplated in the OEP appear reasonable based on Section 366.03, Florida Statutes, and recent cases. The hearing dates in this case of August 26 to August 30, 2024, are similar to the original hearing dates of August 29 to September 1, 2023, for Peoples Gas System, Inc. (“Peoples”) in Docket No. 20230023-GU.³ The OPC actively participated in the 2023 Peoples rate case and did

³ As noted in Tampa Electric's Response to the Supplement to OPC's Motion for Expedited Joint Scheduling Conference, dated April 4, 2024, the Peoples hearing was rescheduled to September 12, 2023, due to the approach of Hurricane Idalia.

not object to the hearing schedule.

9. Fifth, Tampa Electric continues to work in good faith with the parties to facilitate discovery. OPC began discovery before Tampa Electric filed its petition and has now served 158 interrogatories and 120 requests for production of documents.⁴ As soon as the OEP was issued, Tampa Electric contacted OPC about depositions, blocked the weeks of May 6, 13 and 20 for that purpose, and by now has accommodated OPC's request to depose two Tampa Electric witnesses on May 8 and 9, 2024.

10. Florida Rising and LULAC did not officially become parties to this docket until April 23, 2024, but Tampa Electric agreed to accept and respond to 52 interrogatories and 37 requests for production of documents before then as though they were parties.⁵ The company worked with counsel for Florida Rising/LULAC to schedule one of Tampa Electric's witnesses for deposition on May 22, 2024 and the notice was filed on April 22, 2024, the day before Florida Rising/LULAC officially became parties. Tampa Electric is not aware of any discovery disputes with Florida Rising/LULAC, so the statement in the FR/LULAC Joinder that they "had no mechanism to enforce their discovery requests" is of no consequence.

11. Sixth, the Motion improperly attempts to turn perfectly appropriate procedural conversations with staff about the future filing of a rate case and the possible timing of the hearing into something significant. The Motion expressly acknowledges that OPC estimated or "suspected" in early March that the final hearing in this case could be August 26-30, 2024, so it is hard to imagine how the hearing *actually* being scheduled for those dates could cause prejudice. The Motion does not explain how OPC learning earlier that those dates were "likely" would have

⁴ Counting subparts, the company estimates that OPC's first six sets of interrogatories and seven requests for production of documents total over 350 interrogatories and over 125 requests for production.

⁵ Counting subparts, the company estimates that Florida Rising/LULAC's two sets of interrogatories and two requests for production of documents total over 150 interrogatories and approximately 60 requests for production.

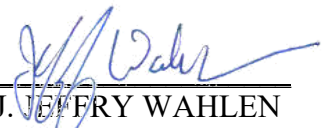
enabled OPC to conduct itself differently, what OPC would have done differently, and how not being able to do those things has prejudiced OPC.

12. Seventh, Sierra Club's joinder, filed April 24, 2024 is arguably untimely, but in any event adds nothing material to the arguments in the Motion. Sierra Club petitioned to intervene in this docket on April 1, 2024. The company granted Sierra Club access to the Tampa Electric Discovery SharePoint site for this docket on April 4, 2024, so the Sierra Club has had access to the over 17,000 pages of answers and documents already served on OPC via the SharePoint site. Sierra Club first served discovery to Tampa Electric on April 26, 2024, over three weeks after its Petition to Intervene, so its argument that it does not have adequate time to conduct discovery lacks merit.

Conclusion

13. For these reasons, Tampa Electric respectfully requests that the Motion be denied, except for the portions specified in paragraph 2, above, on which Tampa Electric takes no position.

RESPECTFULLY SUBMITTED this 29th day of April, 2024.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of April, 2024, electronic copies of the foregoing Response has been served by electronic mail on the following:

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