

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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

DOCKET NO. 20240026-EI

FILED: October 14, 2024

**CITIZENS' AMENDED MOTION FOR EXTENSION OF TIME TO FILE POST**

**HEARING BRIEF**

The Citizens of the State of Florida, by and through the Office of Public Counsel (OPC), pursuant to Rule 28-106.204(4), Florida Administrative Code (F.A.C.), hereby file this amended Motion for Extension of Time to file post-hearing briefs in this docket. OPC requests that this amended Motion be granted, and in support of the motion states the following good cause:

1. On February 1, 2024, the Tampa Electric Company (TECO) filed a test year notification letter informing the Commission that TECO would be filing a request for a rate increase on April 2, 2024.
2. On February 22, 2024, OPC filed a notice of intervention in this docket.
3. OPC is statutorily required to represent customers of investor-owned utilities in proceedings before the Florida Public Service Commission (Commission).<sup>1</sup>
4. On April 2, 2024, TECO filed its Petition for a Rate Increase, Minimum Filing Requirements, and testimony in support of its requested rate increase.
5. Throughout the week of August 26, 2024, to August 30, 2024, the collective parties litigated Tampa Electric Company's petition for a rate increase.

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<sup>1</sup> § 350.0611, Fla. Stat.

6. On August 30, 2024, based upon the original court reporter's representation that the hearing transcripts would be available on September 6, 2024, the Florida Public Service Commission determined that the original brief due date would be the close of business on Monday, September 30, 2024 (approximately one month after the conclusion of the hearing). *See Exhibit A.*

7. The production of the original transcripts was delayed and provided to the parties between September 10-16, 2024.

8. From day one (September 10, 2024), multiple inaccuracies and omissions in the original transcripts were immediately evident and identified by the parties. These deficiencies cascaded with the delivery of each volume. On September 16, 2024, these material deficiencies were collectively brought to the Commission's attention by both the Citizens of Florida and Tampa Electric Company. The multitude of deficiencies included the omission of the entire testimony and exhibits of testifying witnesses (as though they had not participated in the hearing), inaccurate capture as to which counsel conducted direct or cross-examination of witnesses, and significant deviations from the content of the remaining testimony and proceedings throughout the 5-day hearing. *See Exhibit B.*

9. On September 18, 2024, due to the inaccuracies in the originally published transcript, the Florida Public Service Commission notified the parties that they had engaged the talents of the most seasoned public utilities court reporter in Florida to conduct a forensic transcription of the 5-day hearing in docket No. 20240026-EI, and the anticipated date for the completion of the reconstructed hearing transcripts' would be October 4, 2024, with the post-hearing brief due date being changed to October 16, 2024. *See Exhibit C.*

10. Through the extraordinary talents and efforts of the replacement court reporter to examine the forensic records to produce an accurate transcript, the final volume was delivered on October

9, 2024.<sup>2</sup> It is unknown if the landfall of Hurricane Helene impacted the production of the reconstructed transcript.

11. The Office of Public Counsel, located in Tallahassee, Florida, was also impacted by the landfall of Hurricane Helene, on September 27, 2024, as the majority of the office evacuated under either an evacuation order or advisory. Under the Florida Senate and House's direction, all legislative offices in Tallahassee, Florida, were closed Wednesday, September 25 – Friday, September 27, 2024, for Hurricane Helene. Members of OPC returned on or around October 1, 2024, after the power had been restored to their homes. Some were engaged in assisting with the evacuation of family members who were impacted by both Hurricane Helene and Hurricane Milton which made landfall on October 9, 2024. Some of those who evacuated for Hurricane Helene are now hosting those who fled Hurricane Milton, which includes a key staff member whose mother's house was rendered uninhabitable in Clearwater Beach.

12. OPC counsel are still in the process of reviewing the reconstructed transcripts for accuracy and inclusion in the post hearing brief. These above-mentioned events have reduced the OPC's time to review and incorporate the contents of the reconstructed transcripts to a mere handful of days.

13. OPC does not seek to create delay in the rate setting process. OPC is simply informing the Commission that weeks of substantial and material setbacks were experienced by the Citizens of the State of Florida in the run-up to the current brief deadline and is stating good cause for an extension of time to file the brief.

14. OPC moves the Commission to extend the deadline to file the brief by five days, to October 21, 2024. OPC respectfully suggests that the extraordinary and unprecedented events cited herein be accepted as good cause for the modest relief sought.

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<sup>2</sup> Document No. 09454-2024, PSC Docket No. 20240025-EI, *In Re: Petition for rate increase by Tampa Electric Company* (Filed 10/9/2024).

15. OPC notes that the original brief due date was originally set for 24 days after the date that all original transcripts were to be filed and that without granting the requested relief, those days have been reduced to 7 days from the date of the filing of the reconstructed transcripts. Granting the motion would provide the parties with a total of 12 days from the date transcripts were ultimately filed and the brief due date, which is only half of the days originally allotted.

16. In order to adequately brief the complex issues of this roughly \$1.1 billion dollar case, on behalf of all of the customers of Tampa Electric and professional requirements set forth by the Florida Bar Association,<sup>3</sup> the OPC moves the Commission to extend the 20240026-EI post-hearing brief due date 5 days, to Monday, October 21, 2024.

17. OPC has conferred with the other parties in this matter regarding their position on this motion. TECO opposes the motion. Florida Rising, LULAC, FRF, Walmart, FEA, Sierra Club, and FIPUG support the motion. Wawa, Inc., RaceTrac, Inc., Circle K Stores, Inc., and Americans for Affordable Clean Energy, Inc. take no position.

WHEREFORE, the OPC hereby requests that the Commission grant Citizen's Amended Motion for Extension of Time to file post-hearing briefs for the reasons outlined in the body of this motion above.

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<sup>3</sup> *E.g.*, Fla. Bar Code of Prof Resp. R. 4-3.1 Meritorious Claims and Contentions "A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes *a good faith argument for an extension. . .*"

Respectfully submitted,

Walt Trierweiler  
Public Counsel

/s/ Austin A. Watrous  
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*Attorneys for the Citizens of the  
State of Florida*

**CERTIFICATE OF SERVICE**  
**DOCKET NO. 20240026-EI**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by electronic mail on this 14<sup>th</sup> day of October 2024, to the following:

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# Exhibit A.

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**Cc:** [Keith Hetrick](#); [Timothy Sparks](#); [Carlos Marquez](#); [Adria Harper](#); [Nancy Harrison](#); [Lanisha Thornton](#); [Danvel Sims](#); [Chasity Vaughan](#); [Mark Futrell](#); [Marissa Ramos](#); [Penny Buys](#); [Ana Ortega](#)  
**Subject:** TECO Rate Case -- Brief Due Date & Number of Pages  
**Date:** Friday, August 30, 2024 1:42:48 PM

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Dear All:

I have conferred with the Chairman's office and Mark Futrell about the information we promised to send by the close of business today. Briefs are due by the close of business on Monday, September 30, 2024. The page limit for the brief of each party is set at 100 pages, including attachments.

I hope that everyone has a wonderful 3-day weekend.

Happy Labor Day,  
Mary Anne

Mary Anne Helton  
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Florida Public Service Commission  
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## Exhibit B.

**From:** [Carlos Marquez](#)  
**To:** "[Malcolm N. Means](#)"  
**Cc:** [Watrous, Austin](#); [Rehwinkel, Charles](#); [Trierweiler, Walt](#); [Jeff Wahlen](#); [Virginia Ponder](#); [Timothy Sparks](#)  
**Subject:** RE: TECO (Docket No. 20240026); Hearing Record References  
**Date:** Tuesday, September 17, 2024 2:16:17 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)  
[image007.png](#)  
[image008.png](#)  
[image009.png](#)  
[image012.png](#)  
[image013.png](#)

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Thank you, OPC and TECO for bringing these matters to our attention. We will inform the Parties of our decision on how to address these issues in the next few days. We appreciate your patience.

Sincerely,  
Carlos

**Carlos M. Marquez II, Esq.**

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**Subject:** RE: TECO (Docket No. 20240026); Hearing Record References

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Carlos,

We identified a similar issue with Mr. Aponte's portion of the transcript. Our transcription from the video, with highlights indicating errors and omitted testimony, and excerpts from the official transcription are included below. We are still reviewing the transcript, but we have also identified potential errors and omissions in the transcript for witnesses Strickland, Whitworth, Cifuentes, Aldazabal, and Lukcic. We may identify others as we continue to review.

**Ausley Transcription:**

Starting on Page 001013 (PDF 133)

Q. If you applied the higher tax production tax credit to all of the solar



projects that you are proposing would their cost effectiveness improve?

A. Yes, absolutely.

Q. You were asked some questions about the South Tampa Resiliency project by the Office of Public Council and they asked the question well if the federal government presented or paid some money towards the project would it improve the cost effectiveness. Do you remember that?

A. I remember that.

Q. The company's getting the land for that project at no cost, correct?

A. That is correct

Q. If the company had to buy land or lease land for that project, it would hurt the cost effectiveness, wouldn't it?

A. Yes, it would be very expensive or almost impossible.

Q. So the fact that there is free land helps the cost effectiveness of the project, correct?

A. It helps a lot.

Q. You were asked some questions about the company's winter reserve margin. I know you remember that. When the company calculates its winter reserve margin does the company assume a particular temperature?

A. Yes, that's correct, we do.

Q. What is that temperature?

A. It's 31 degrees Fahrenheit.

Q. Does the company do a sensitivity analysis around temperature for reserve margin?

A. Yes.

Q. Could we call up master document F2.1-74 please? CEL 226. Is that the reserve margin that you were...sensitivity that you were referring to?

A. Yes, it is.

Q. What temperature does this assume?

A. This is at 29 degrees.

Q. Okay, so, if the temperature is 29 degrees instead of 31, what does the winter reserve margin look like in 2025.

A. Well it drops significantly to 17%.

Q. And that is below the 20%, right?

A. It is below.

Q. Do you recall being asked about whether replacing the company's solid fuel

assets was...you were asked about whether the company did an analysis about replacing the company's solid fuel assets with solar and battery storage?

A. Yes, I recall that.

Q. Would it be possible to cost-effectively replace the company's solid fuel capacity...generating capacity with solar and energy storage?

A. Possible, I mean it would be extremely expensive.

Q. Would it be cost effective?

A. To replace the with in kind solid fuel units have the capability of running 24/7 around the clock for weeks, in the event that fuel is the economic fuel or in the event that we have a disruption with natural gas. Those units can run for an extended amount of time. So to replace them with solar, battery storage would require a lot of solar and batter storage. Doing some mental math here, it would not be cost-effective. It would be very expensive.

Q. Thank you. Mr. Bradley Marshall asked you about your retirement analysis for Polk 1. Do you remember that?

A. I do.

Q. Did you do an analysis that showed...that compared the retirement of Polk 1 to the simple cycle conversion of Polk 1?

A. Yes.

Q. and which was more cost effective?

A. The status quo option was the most expensive option. Retiring it in 2028 was a slight benefit to customers, but converting the unit to single cycle was the most cost-effective option.

Q. One last series of questions, there was a lot of talk about reserve margin and its role in the company's planning. Any of the generation additions that you are talking about being proposed solely to meet reserve margin requirements?

A. Well, as I said earlier, the reserve margin criteria is a minimum 20% criteria, but to the extent that we can add assets that enhance value to the customer, affordability, fuel savings to the customer, fuel price mitigation, we would be comfortable with being slightly above the 20% because the added benefit it brings to the customer. So, not all the proposed additions are strictly due to reserve margin requirement contribution, many of them are

just additional value to customers. I mentioned the 1.2 billion dollars of fuel cost benefits of the portfolio. Part of that benefit comes from an asset that may not contribute to **reserve margin**, but its an economic benefit to customers **to do so.** 1

**Official Transcript:**

10 REDIRECT EXAMINATION  
11 BY MR. WAHLEN:  
12 Q. Mr. Aponte, Mr. Moyle asked you a question  
13 about a particular solar project. And you indicated that  
14 with the increase in the production tax credit, the cost-  
15 effectiveness was better?  
16 A. Yes.  
17 MR. MOYLE: I was going to object on that,  
18 asked and answered.  
19 CHAIR LA ROSA: Go on.  
20 BY MR. WAHLEN:  
21 Q. Mr. Aponte, you apply the higher production tax  
22 credit to all of the solar projects that you're proposing  
23 to?  
24 A. Yes.  
25 Q. Thank you. You were asked some questions about

1 the South Tampa Resiliency project by the Office of  
2 Public Council.

3 A. I remember that

4 Q. They asked the question, well, if the federal  
5 government had presented or paid some money for the  
6 project, would it have improved the cost-effectiveness if  
7 the company is getting the land for that project for no  
8 cost?

9 A. That's correct.

10 Q. If the company had to buy land or lease land  
11 for that project, it would curve off that?

12 A. Yes, it would be very expensive.

13 Q. So the fact that there's real land?

14 A. Yes.

15 Q. Thank you. You were asked some questions about  
16 the company's winter reserve margin. I know you remember  
17 that.

18 A. Yes.

19 Q. When the company calculates its winter reserve  
20 margin, does the company assume a particular temperature

21 A. Yes. Correct.

22 Q. What is that temperature?

23 A. It's 31 degrees.

24 Q. Does the company do a sensitivity analysis  
25 around temperature?

1 A. Yes.  
2 MR. WAHLEN: Could we pull up master document  
3 F174 or CEL 26?  
4 BY MR. WAHLEN:  
5 Q. Is that the reserve margin that you were  
6 referring sensitivity that you were referring to?  
7 A. Yes.  
8 Q. What temperature does this assume?  
9 A. This is at 29 degrees.  
10 Q. So if the temperature is 29 degrees instead,  
11 what does the winter reserve margin look like in 2021?  
12 A. Well, it --  
13 Q. And that's below the 20 percent rate?  
14 A. It is below.  
15 Q. Do you recall being asked about whether the  
16 company did an analysis?  
17 A. Yes.  
18 Q. Do you remember that? Replacing the company's  
19 solid fuel assets with solar batteries for --  
20 A. Possibly.  
21 Q. Would it be possible --  
22 A. To cost-effectively replace a company's solid  
23 fuel capacity, generating capacity for solar and energy  
24 for -- it would be extremely expensive to replace. The  
25 solid new units have the capability of running 24/7

1 around the clock for weeks in the event that that field  
2 is a disruption.

3           With natural gas, those units can run for  
4 extended amounts of time. So to replace them with solar  
5 battery storage will require a lot of solar and battery  
6 storage. I'm doing some mental math here. It's just  
7 going to not be cost-effective. It's going to be very  
8 expensive.

9           Q. Thank you. Mr. Bradley Marshall asked about  
10 your retirement analysis for Polk 1. Do you recall that?

11          A. I do.

12          Q. Did you do an analysis that compared the  
13 retirement of Polk 1 to the size of inverter?

14          A. Yes.

15          Q. And which was more cost-effective?

16          A. The status quo option is the most expensive  
17 option, but the --

18          Q. One last series of questions. There was a lot  
19 of talk about the company's planning. Any of the  
20 generation additions that you're talking about being  
21 proposed solely for new preserved margin requirements?

22          A. Well, as I said earlier, we can handle more  
23 fuel benefit to the customer. The reserve margin  
24 criteria is a minimum, 20 percent criteria. But to the  
25 extent that we can add assets that enhance value to the

1 customer for fuel savings to the customer through price  
2 indication, we would be comfortable with being slightly  
3 above the 20 percent because of the added benefit that it  
4 brings to the customer.

5           So not all the solutions are strictly due to  
6 reserve required contribution. Many of them are just  
7 additional value to customers. I mentioned the \$1.2  
8 billion of fuel cost benefit of the portfolio. Part of  
9 that benefit comes from an asset that may not contribute  
10 to external market. But it is an economic benefit to  
11 customers.

Thanks,



**Malcolm Means**

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**Subject:** RE: TECO (Docket No. 20240026); Hearing Record References

Carlos,

Not to pile on, but we have also found an error in the transcript, namely the omission of substantive portions of the redirect examination of Kris Stryker. Included below is a screenshot of the relevant portion of the official transcript and our own transcription of the redirect examination from the hearing video. I highlighted the text in our transcription that is missing from the official transcript for your convenience:



**Ausley Transcription:**

Q. Mr. Stryker, you recall a lot of questions about the CCS project today and yesterday, correct?

A. I do.

Q. Is Tampa Electric asking for cost recovery for installation of the CCS equipment at Polk Unit 2 in this case?

A. No. As I mentioned before, the only request in this case is our cost share of the DOE awards.

Q. And do you recall a line of questioning yesterday about whether there is a current emissions limit for greenhouse gases for Polk Unit 2?

A. I do.

Q. And you recall testifying that there is not currently one?

A. I do.

Q. If there's not an emissions limit, why are proceeding with the CCS project now?

A. Well, for a couple reasons, one is the current availability of federal funding that may not be available in the future if and when there becomes a mandate. The other reason is, is as I mentioned, as you heard in witness Collins' testimony, you know, we are constantly looking for, at ways we can benefit the customer and the affordability concern, and the magnitude of the tax credits associated with a carbon capture project, we are talking \$3 billion in tax credits over the life of the project, we kind of feel it would be imprudent for us not to evaluate the potential of such a project.

**Official Transcript:**

13

REDIRECT EXAMINATION

14 BY MR. MEANS:

15 Q. Mr. Stryker, do you recall a lot of questions  
16 about the CCS project yesterday?

17 A. I do.

18 Q. Is Tampa Electric asking for cost recovery for  
19 installation of the CCS equipment?

20 A. No. As i mentioned before, the only request in  
21 this case is our cost share of --

22 Q. And do you recall a line of questioning  
23 yesterday, whether there's a current emissions limit for  
24 greenhouse gas?

25 A. I do.

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000905

Page 26

1 Q. And do you recall testifying that there's not a  
2 current one?

3 A. I do.

4 Q. If there's not an emissions limit, why are you  
5 proceeding with this CCS?

6 A. Well, for a couple of reasons, one is the  
7 current availability of federal funding.

8 MR. MEANS: No further questions.

9 CHAIR LA ROSA: Thank you. Let's start with  
10 moving some exhibits into the record.

We are still reviewing the transcript.

Thanks,



**Malcolm Means**

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**Subject:** FW: TECO (Docket No. 20240026); Hearing Record References

**JEFF WAHLEN**  
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**From:** Watrous, Austin <[WATROUS.AUSTIN@leg.state.fl.us](mailto:WATROUS.AUSTIN@leg.state.fl.us)>  
**Sent:** Monday, September 16, 2024 3:17 PM  
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**Subject:** TECO (Docket No. 20240026); Hearing Record References

Carlos,

Throughout the week, OPC discovered a fair number of errors in the transcript. However, I found one that was material enough to bring to your attention.

In Volume 3 of the transcript for Tampa Electric's petition for a rate increase, master page number 1192 or transcript page number 312, lines 2-6 do not match the video recording (hearing day 3 at roughly 3:30:37 in the recording). The transcript merged the very first and second questions together and removed Mr. Lukcic's answer to the first question.

With this finding and the other cumulative errors, we have concerns about the transcript's overall inaccuracy. Since we are heavily involved in briefing the case, we cannot take the time to do a line-by-line video comparison.

Perhaps one should be done.

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## Exhibit C.

**From:** [Timothy Sparks](#)  
**To:** [Lanisha Thornton](#); [Ashley N. George](#); [Watrous, Austin](#); [Bradley Marshall](#); [Rehwinkel, Charles](#); [EarthJustice](#); [Ebony M. Payton](#); [Floyd R. Self](#); [Hema Lochan](#); [J. Jeffry Wahlen \(jwahlen@ausley.com\)](#); [John T. LaVia \(jlavia@gbwlegal.com\)](#); [Jon C. Moyle Jr. \(jmoyle@moylslaw.com\)](#); [Jordan Luebke](#); [Karen Putnal](#); [Leslie R. Newton](#); [Malcom N. Means](#); [Wessling, Mary](#); [Mary Anne Helton](#); [Michael A. Rivera](#); [Nihal Shrinath](#); [Ponce, Octavio](#); [Christensen, Patty](#); [Paula K. Brown](#); [Robert Scheffel "Scheff" Wright \(scheff@gbwlegal.com\)](#); [Ruth Vafek](#); [Sari Amiel](#); [Stephanie U. Eaton](#); [Thomas A. Jernigan](#); [Virginia Ponder \(vponder@ausley.com\)](#); [Trierweiler, Walt](#); [Aaron Zaslow](#); [Adria Harper](#); [Ailynne Ramirez-Abundez](#); [Alara Kaymak](#); [Amber Norris](#); [Andrew Souchik](#); [Andrew Kunkler](#); [Benjamin Crawford](#); [Bill McNulty](#); [Carlos Marquez](#); [Carolyn Craig](#); [Cassie Gatlin](#); [Cissy Galloway](#); [Corey Hampson](#); [Curt Mouring](#); [Dale Buys](#); [Devlin Higgins](#); [Donna Brown](#); [Dylan Andrews](#); [Garret Kelley](#); [Greg Davis](#); [Ian Mason](#); [Javier Ferrer](#); [Jenny Wu](#); [Jerral McGowan](#); [Karesha Hinson](#); [Kate McClelland](#); [Laura King](#); [Lee Smith](#); [Marissa Ramos](#); [Mark Cicchetti](#); [Matthew Vogel](#); [Michael Barrett](#); [Orlando Wooten](#); [Patrick Kelley](#); [Patti Zellner](#); [Penny Buys](#); [Phillip Ellis](#); [Sevini Guffey](#); [Shannon Hudson](#); [Shelby Fichler](#); [Sonica Bruce](#)  
**Cc:** [Mark Futrell](#)  
**Subject:** 20240026-TECO Hearing Transcript Issues  
**Date:** Wednesday, September 18, 2024 2:35:25 PM

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Good Afternoon Everyone,

We recognize that the current TECO hearing transcript has a number of issues, and we have been working towards a solution. To that end, we have engaged our usual court reporter, Debra Krick (who was unavailable at the time of the hearing), to prepare an accurate transcript. She has already begun and will submit individual volumes to the Clerk's office as she completes them. She anticipates the final volume of the transcript will be ready by October 4<sup>th</sup>.

Accordingly, the post-hearing brief due date is **October 16**. We expect there will be some changes to one or both of the special agenda dates as well. That information will be forthcoming. Thank you everyone for your time and patience with this docket.

Regards,  
Tim

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**From:** Lanisha Thornton <[LThornton@psc.state.fl.us](mailto:LThornton@psc.state.fl.us)>  
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**Cc:** Lanisha Thornton <LThornto@psc.state.fl.us>

**Subject:** 20240026-TECO Hearing Exhibits & Final CEL

Good afternoon,

It came to our attention that some Parties may have been confused with which exhibits were entered during the hearing. Here is a courtesy copy of the final CEL that lists those exhibits that were entered. This Final CEL has also been updated in Case Center.

Thank you so much,

*Lanisha Thornton*  
Senior Legal Assistant

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"Your work is going to fill a large part of your life, and the only way to be truly satisfied is to do what you believe is great work. And the only way to do great work is to love what you do." - Steve Jobs.