BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Tampa Electric Company.	DOCKET NO.: 20240026-El
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: February 18, 2025

CITIZENS' MOTION FOR RECONSIDERATION AND MOTION FOR CLARIFICATION OF CERTAIN PROVISIONS

The Citizens of the State of Florida, by and through the Office of Public Counsel ("OPC"), pursuant to Rule 25-22.060, Florida Administrative Code (F.A.C.), hereby request the Florida Public Service Commission ("FPSC" or "Commission") to reconsider its decision in Order No. PSC-2025-0038-FOF-EI, issued on February 3, 2025 ("Final Order"), and to clarify the Commission's decision on certain provisions. In support, Citizens provide the following:

I. Standard of Review for Motion for Reconsideration

The standard of review on a motion for reconsideration is whether the motion identifies a point of fact or law that was overlooked or that the Commission failed to consider in rendering its Order.[1] In Sherwood v. State, 111 So. 2d 96 (Fla. 3d DCA 1959) (citing State ex. rel. Jaytex Realty Co. v. Green, 105 So. 2d 817, 818-819 (Fla. 1st DCA 1958)), the Third district Court of Appeal stated:

[1] Order No. PSC-06-0949-FOF-EI, issued Nov. 13, 2006, p. 1, Docket No. 20060001-EI, In re: Fuel and purchased power cost recovery clause with generating performance incentive factor. Stewart Bonded Warehouse, Inc. v. Bevis, 294 So. 2d 315 (Fla. 1974); Diamond Cab Co. v. King, 146 So. 2d 889 (Fla. 1962); Pingree v. Quaintance, 394 So. 2d 161 (Fla. 1st DCA 1981).

> The sole and only purpose of a petition for rehearing is to call to the attention of the court some fact, precedent or rule of law which the court has overlooked in rendering its decision. Judges are human and subject to the frailties of humans. It follows that there will be occasions when a fact, a controlling decision or a principle of law **even though discussed in the brief or pointed out in oral argument** will be inadvertently overlooked in rendering the judgment of the court.

(Emphasis added). Recently, in Citizens of State v. Clark, 373 So. 3d 1128, 1131 (Fla. 2023), the Florida Supreme Court further found:

> One specific preservation principle comes into play when a final order addresses substantive issues or reaches legal conclusions that have not been previously raised or challenged. If this occurs, a party must file a motion for rehearing to preserve those alleged errors for appellate review.

In the Citizens case, the Court held that the alleged legal errors first appeared in the order. The Court found that when OPC withdrew the motion for reconsideration, it failed to give the Commission "a fair opportunity to correct the alleged errors raised in the motion.[2]" Thus, the Court stated that this failure constrained their review--that is, they could only reverse if those errors rose to the level of fundamental error.[3]

While a motion for reconsideration should be used sparingly, in this instance OPC believes it is necessary to provide the Commission a fair opportunity to address facts and law that the Commission overlooked or failed to consider which first appeared in the Final Order. To the extent that OPC may pursue further review of the issues in this motion or any other issues in the Order,

[2] Id. at 1132.

[3] The Court did not discount the significance of the issues raised by OPC, but the Court's refusal to exempt OPC's arguments from the preservation requirements stemmed from the Court's commitment to the critical interests served by preservation and the structural limitations on the scope of their appellate review of lower tribunal decisions. Citizens, 373 So. 3d at 1132.

OPC maintains and does not waive any appellate rights despite not addressing such other issues here.

II. Background

On November 10, 2021, Tampa Electric Company's ("TECO" or "Company") previous petition for a rate increase was resolved when the Commission approved a unanimous settlement agreement ("2021 Agreement"). OPC, the Florida Industrial Power Users Group, WCF Hospital Utility Alliance, Federal Executive Agencies, Florida Retail Federation, Walmart, Inc., and TECO were signatories to the 2021 Agreement. In Order No. PSC-2021-0423-S-EI, issued November 10, 2021 ("2021 Agreement Order"), the Commission approved the 2021 Agreement with these provisions finding the agreement, when taken as a whole, was in the public interest, resulted in rates that were fair, just and reasonable, and resolved all issues in the dockets.[4] The 2021 Agreement contained provisions (at Paragraph 8, 2021 Agreement Order, pp. 35-37) for a Storm Cost Recovery Mechanism ("SCRM") and (at Paragraph 12, 2021 Agreement Order, p. 40) an Asset Optimization Mechanism ("AOM"). The 2021 Agreement was incorporated into the 2021 Agreement Order.

On April 2, 2024, TECO filed its Petition for Rate Increase ("Petition").[5] OPC's intervention in this docket was acknowledged on February 26, 2024. As part of its Petition, TECO requested inclusion of "the Storm Cost Recovery provisions in Section 8 of the 2021 Agreement to be effective January 1, 2025, and thereafter until the company's base rates are next set in a general base rate proceeding."[6] TECO also requested "approval to extend the Asset Optimization

[4] 2021 Agreement Order, p. 4.
[5] Document No. 01489-2024.
[6] Petition, p. 11.

Mechanism ("AOM") provisions in Section 12 of the 2021 Agreement to be effective January 1, 2025, and thereafter until the company's base rates are next set in a general base rate proceeding, with modifications to include revenues from the release of natural gas pipeline transportation capacity and the sale of renewable energy credits ("REC") in the AOM."[7]

The hearing on this matter was held August 26-30, 2024. On October 21, 2024, the parties filed post-hearing briefs. On November 22, 2024, Commission staff filed its recommendation on the revenue requirement and on December 13, 2024, its recommendation on the rates. The Commission's required public deliberations to consider the evidence and vote on revenue requirement was held December 3, 2024, and its required public deliberations to consider the evidence and vote on rates was held December 19, 2024. The Final Order Granting in Part and Denying in Part Tampa Electric Company's Petition for Rate Increase was issued February 3, 2025.

In the Final Order, the Commission approved the SCRM without modification.[8] The Commission approved the AOM with modifications. The Commission denied the request to add REC sales and natural gas sales since the customer-sharing thresholds were not increased.[9]

III. Argument

a. The Commission Overlooked the Rule of Law Regarding Administrative Finality.

While the prohibitive language of the 2021 Agreement was raised in OPC's brief, the Commission overlooked the application of the doctrine of administrative finality in its decision. The Commission's approval and appending of the 2021 Agreement to the 2021 Agreement Order

[7] Id.
[8] Final Order, p. 173.
[9] Final Order, p. 177.

requires the Commission to give its terms and conditions full force and effect. Paragraph 16 (b) of the 2021 Agreement states:

> [n]o Party will assert in any proceeding before the Commission or before any court that this 2021 Agreement or any of the terms in the 2021 Agreement shall have any precedential value.[10]

Black Law Dictionary defines "precedent" as a decided case that furnishes a basis for determining later cases involving similar facts or issues."[11] Further, for the adjective "precedential," Black Law's Dictionary refers to doctrine of *stare decisis*. Black Law's Dictionary further defines *stare decisis* as the doctrine of precedent, under which it is necessary for a court to follow earlier judicial decisions when the same points arise again in litigation.[12]

The Parties to that 2021 Agreement, including TECO, were barred from resorting to any of the provisions, including the SCRM and AOM, as the basis for supporting a claim for relief in a subsequent case. However, this is exactly what TECO has done in this case. In fact, in its Petition, TECO specifically asked the Commission to use the SCRM and AOM in the 2021 Agreement as the basis for its decision to extend and adopt the SCRM and AOM provisions beyond the December 31, 2024, expiration date.

In the Final Order, the Commission states that SCRM "can be implemented regardless of the provisions of the 2021 Agreement as we have jurisdiction to approve a Storm Cost Recovery Mechanism."[13] Similarly, the Commission found for the AOM that "the mere existence of a settlement agreement does not permit this Commission to grant something it otherwise could not,

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[10] 2021 Agreement Order, p. 50.
[11] Black Law's Dictionary, Seventh Edition, Bryan A. Garner, Editor in Chief, West Group, St. Paul, Minn, (1999) at 1195.
[12] Id. at 1414.
[13] Final Order, p. 172.

absent the settlement agreement."[14] Further, the Commission stated "[w]e allow the AOM [to] continue not merely because it was part of the 2021 Settlement Agreement."[15] However, this rationale misapprehended the doctrines of precedent and administrative finality.

Importing specific provisions from the 2021 Agreement violates the Commission's prior 2021 Agreement Order wherein the Commission approved the language that no term would have any precedential value. In Fla. Indus. Power Users Grp. v. Brown, 273 So.3d 926, 930 (Fla. 2019) ("FIPUG"), the Court cited Peoples Gas System v. Mason, 187 So. 2d 335, 339 (Fla. 1966), which recited the doctrine of administrative finality:

> [O]rders of administrative agencies must eventually pass out of the agency's control and become final and no longer subject to modification. This rule assures that there will be a terminal point in every proceeding at which the parties and the public may rely on a decision of such an agency as being final and dispositive of the rights and issues involved therein. This is, of course, the same rule that governs the finality of decisions of courts. It is as essential with respect to orders of administrative bodies as with those of courts.

In FIPUG, the Court noted that if the Commission were to later require a prudence or need determination for the Solar Base Rate Adjustment projects included in that settlement agreement, it would have had to vacate the settlement order in contravention of doctrine of administrative finality.[16] Similarly, by allowing TECO to seek and obtain adoption of the SCRM and AOM in direct contravention of the approved 2021 Agreement prohibition language, the Commission is effectively vacating the 2021 Agreement Order three years later which would violate the doctrine of administrative finality. Moreover, the Court said that once the Commission entered the settlement order and the order was affirmed by the Court on appeal, the parties and the public were entitled to rely on that order and the settlement agreement as being final and dispositive of the

[14] Final Order, p. 177.
[15] Id.
[16] Id. at 930.

rights and issues involved therein.[17] The 2021 Agreement was not appealed and the time for appeal had passed. Therefore, the parties were entitled to rely on the language being final and dispositive on the issue of the lack of precedential value of any terms of the 2021 Agreement in a future proceeding. Even if the Commission has the statutory authority to create a new SCRM-type of storm relief and AOM-type of asset optimization, the Final Order merely continues the 2021 SCRM language from the agreement.

b. The Commission Overlooked the Burden of Proof

Since the doctrine of administrative finality would prohibit the reliance on the provisions of the 2021 Agreement, for the first time in its Final Order the Commission mistakenly shifted the burden of proof from the utility to the intervenors for the independent evidence necessary to support these requested provisions. The burden of proof in a Commission proceeding is always on a utility seeking a rate change, and upon other parties seeking to change established rates. Fla. Power Corp. v. Cresse, 413 So. 2d 1187, 1191 (Fla. 1982). In regard to the SCRM provision, the Final Order impermissibly shifts the burden of proof to the intervenors when it states "[f]urthermore, none of the intervenors argued to change specific aspects of the Provision or put forth evidence supporting which aspects should be revised."[18] This burden shifting was made more egregious by the fact that the 2021 Agreement Order approved the expiration of the AOM and SCRM. No party, regardless of burden, had to do anything for the operative provision to terminate the effectiveness of the AOM and SCRM on December 31, 2024. Put another way, the OPC was entitled to rely on the Commission's approval of the expiration. Similarly, on the AOM issue, the Final Order states that "[n]o Party provided testimony regarding this Issue," while noting

[17] Id.
[18] Final Order, p. 172.

OPC's objection to the inappropriate use of the 2021 Agreement AOM provision.[19] This burden shifting is especially problematic when the OPC, as a party to the 2021 Agreement, has the further right to rely on the 2021 Agreement's precedent prohibition language as dispositive of the issue. The SCRM provision in the 2021 Agreement states "[t]he provisions of this Paragraph 8 shall remain in effect during the Term except as other permitted or provided for in this 2021 Agreement and shall continue in effect until the company's base rates are next reset by the Commission."[20] The AOM provision in the 2021 Agreement states "[t]his Paragraph 12 shall expire at the end of the Term or upon termination of the 2021 Agreement pursuant to Paragraph 10."[21] Both provisions terminate pursuant to the 2021 Agreement as approved by the Commission by December 31, 2024, or the rates are reset.[22] Therefore, TECO retained the burden of proof to support its request for a SCRM and AOM with evidence independent of the terms of the 2021 Agreement. TECO did not offer any independent evidence outside the 2021 Agreement language itself to support its request.

Assuming *arguendo* that a provision from a settlement agreement has worked as intended by benefiting the Parties to the agreement, this itself does not create independent evidence to support all aspects of the SCRM and AOM provisions. Without relying on the specific terms in the 2021 Agreement SCRM and AOM as precedent, there is no testimony or documentation on how to structure a SCRM or AOM. This is demonstrated by the establishment of a generic proceeding for the AOM.[23] Just because the Commission has the statutory authority to approve certain provisions does not mean it can do so absent evidence independent of the prohibitive use

[19] Final Order, p. 177.
[20] 2021 Agreement Order, p. 37.
[21] 2021 Agreement Order, p. 46.
[22] 2021 Agreement Order, p. 11.
[23] Final Order at 176-177.

of the 2021 Agreement provisions, nor does the Commission's inherent statutory authority to allow an activity absolve a utility of its burden to prove all elements of the rate increase request.

c. <u>The Commission Overlooked and Failed to Consider the Fact and Law That Increasing the Midpoint ROE to 10.5% was Unsupported by Competent and Substantial Evidence and Unnecessary Since TECO's Size and Storm Risk are Already Mitigated Through Other Methods.</u>

On November 22, 2024, the Commission staff filed a recommendation to the Commission on all issues in this case, including the issue of return on equity ("ROE").[24] The expert staff's recommendation regarding the ROE issue thoroughly summarized and analyzed the evidence presented by the parties and ultimately recommended the following:

> The average of the results of the three cost of equity model results is 10.27 percent.
>
> . . . .
>
> Therefore, on balance, staff believes the record evidence supports an ROE of 10.30 percent for TECO, which is above the recent national average of awarded ROEs of 9.78 percent, and would enable TECO to generate the cash flow needed to meet its near term financial obligations, make the capital investments needed to maintain and expand its system, maintain sufficient levels of liquidity to fund unexpected events, and sustain confidence in Florida's regulatory environment among credit rating agencies and investors.[25]

On December 3, 2024, the Commission held an agenda conference to publicly deliberate, consider, and vote upon the revenue requirement aspects of TECO's Petition. Only the Commissioners and Commission staff were allowed to participate at the agenda conference.[26] During the discussion regarding the ROE issue, staff thoroughly explained the process that staff undertook to methodically calculate its recommended 10.3% ROE. Then, two Commissioners

[24] Document No. 09993-2024, pp. 131-160, Docket No. 20240026-EI.
[25] Id. at 159.
[26] Id. at 1.

expressed that the interrelated issues of TECO's relatively small service territory[27] and the threat of future severe weather events[28] supported an ROE of 10.5% before voting to approve a 10.5% ROE. This raises two concerns for OPC: (1) there was no citation during the deliberations or in the Final Order to competent and substantial record evidence to support a 10.5% ROE calculation; and (2) there was no discussion or consideration during the deliberations or in the Final Order that was based on those deliberations of how TECO's size and severe weather risks are already mitigated through other cost-recovery mechanisms. These concerns constitute facts and law that the Commission overlooked and failed to consider when making its decision on this issue. Since the oversight of countervailing offsets to the purported risk differentiation concerns were manifested for the first time during the vote and the Final Order, and since OPC was not allowed to participate at the Agenda Conference, OPC was unable to raise these concerns to the Commissioners at the time. This gives rise to the need for this motion.[29]

Pursuant to sec. 120.68(7)(b), Florida Statutes, "[t]he court shall remand a case to the agency for further proceedings consistent with the court's decision or set aside agency action, as appropriate, when it finds that. . . . [t]he agency's action depends on any finding of fact that is not supported by competent, substantial evidence in the record of a hearing." Competent, substantial evidence is defined as evidence that is "sufficiently relevant and material that a reasonable mind

[27] "I have maybe put a little heavier emphasis on the territory, understanding what the risk impact would be to a small territory such as this. That's hard to negate, right? It's hard to spread the cost out if a storm was to come through, right, just because of its mere size. So that's kind of where my thinking was." Document No. 10626-2024, p. 50, Docket No, 20240026-EI.
[28] "I had similar thoughts of -- I think, you know, that staff laid out a really good synopsis here of what the record supports, both indicating sort of downward adjustments with having a lower financial risk, but then offsetting with the higher upward adjustment when we are talking about higher business risk, and weather, and just the territory, I think, just in the going through the record, I think it supports a 10.5. I think that there is a significant weather and climate risk that's going to impact the Tampa territory." *Id.* at 51.
[29] Citizens of State v. Clark, 373 So. 3d 1128 (Fla. 2022).

would accept it as adequate to support the conclusion reached." De Groot v. Sheffield, 95 So. 2d 912, 916 (Fla. 1957).

While OPC maintains that the ROE recommended by OPC's witness was the most appropriate ROE to award TECO, OPC acknowledges that the 10.3% ROE recommended by the Commission's expert staff was the product of a thorough, objective calculation and was well-documented and explained in the staff recommendation replete with references to record evidence. In contrast, neither the deliberations among Commissioners nor the Final Order cite to competent, substantial evidence that supports the 20-basis point increase in the awarded ROE of 10.5%. There is no evidence (let alone competent and substantial evidence) in the record of the relationship between basis points and risk mitigation. Why would 19 basis points be insufficient to mitigate TECO's small territory and severe weather risks but 21 basis points be too many? There is no evidence in the record to answer that question, which makes the Commission's decision arbitrary and capricious. No reasonable mind would accept that the evidence in this case is adequate to support the Commission's arbitrary conclusion that a 10.5% ROE would mitigate the risks expressed by the Commission while a 10.3% ROE would not. The Commission should have relied upon the well-documented and supported calculation of 10.3% ROE when deciding the ROE issue in this case.

Additionally, the Commission overlooked and failed to consider the fact that TECO's size and weather vulnerability risks are already mitigated by the Commission in several other ways. Customers already pay to mitigate TECO's interrelated risks of size and severe weather, on top of their own personal costs related to severe weather. TECO is already authorized to recover all prudent storm hardening costs from customers through the annual Storm Protection Plan Cost Recovery Clause ("SPPCRC"), which allows TECO to fortify its system against severe weather,

thereby mitigating risk. In 2025, TECO customers can expect to pay at least $117,623,744 in SPPCRC costs alone.[30] Additionally, when severe weather does occur, TECO is able to track its costs for restoring service and recover every prudently-spent penny from customers, which also greatly mitigates the risk that severe weather poses to the Company. For example, on February 4, 2025, the Commission voted to allow TECO to recover $463.6 million of interim storm restoration costs incurred as a result of Hurricanes Idalia, Debbie, Helene, and Milton.[31] Additionally, unless reconsidered and disallowed as argued *supra*, the SCRM approved by the Commission in this case or similar type of tariff filing mechanism is yet another way that the risk of severe weather is mitigated for TECO in that it serves as a $55.8 million bucket of money that is immediately available to TECO when severe weather occurs. Also, in this very rate case, TECO has just been authorized to recover from customers $335 million to relocate its critical infrastructure inland to improve resiliency and mitigate the impact of future storms.[32]

In total, TECO's customers will already be paying to mitigate TECO's size and severe weather risk with at least $117.6 million in SPPCRC costs in 2025 alone **PLUS** $463.6 million in recent storm recovery costs **PLUS** $55.8 million to fund the SCRM **PLUS** at least $335 million approved in this case to relocate critical infrastructure from severe weather risk areas. TECO's customers should not also have to pay to further mitigate TECO's size and severe weather risks by

[30] PSC Order No. 2024-0459-FOF-EI, p. 7, Docket No. 20240010-EI, *In re: Storm protection plan cost recovery clause.* NOTE: On December 9, 2024, TECO filed updated total jurisdictional revenue requirement factors based on the Commission's decision in this case, which increased to $120,568,401. See Document No. 10146-2024, Docket No. 20240010-EI.
[31] An order has not yet been issued; however, the staff's recommendation (Document No. 00413-2025) and the Commission's vote sheet (Document No. 00663-2025) can be viewed in Docket No. 20240172-EI.
[32] Final Order, p. 65.

paying for the Commission's arbitrary $12.6 million[33] ROE gift to TECO given in the name of risk mitigation and unsupported by competent, substantial evidence.

The Commission's decision to increase the ROE by 20 basis points from the objective, supported 10.3% ROE in the name of risk mitigation overlooks and fails to consider the facts and law that there is no competent, substantial evidence to support a 10.5% ROE in the record. It also overlooks and fails to consider the fact that the Commission already mitigates those risks and that customers already pay for that risk mitigation in multiple ways. Increasing the ROE is not only improper but also unnecessarily compounds the financial burden on TECO's customers, making the new rates unfair, unjust, and unreasonable. Reconsideration of this issue and changing the authorized midpoint ROE to 10.3% would be supported by competent, substantial evidence and would not unfairly charge customers for size and storm risk mitigation.

d. Errors in the Calculations for the Revenue Requirement in the Final Order

In the interest of full transparency, Citizens found errors in the calculations for the revenue requirement in the Final Order. These errors occurred because the calculations do not accurately reflect the Commission's vote in all instances. An explanation of these calculation errors is fully set forth in Attachment A to this motion.

MOTION FOR CLARIFICATION

OPC incorporates the facts set forth above in the Motion for Reconsideration.

[33] On page 82 of the Final Order, the Commission notes that the Florida Retail Federation calculated that 100 basis points of ROE in this case is equal to approximately $63.19 million of revenue requirement. Therefore, 20 basis points (20%) of $63.19 million is equal to $12.638 million of revenue requirement. See also, Document No. 09157-2024, p. 401, Docket No. 20240026-EI; Document No. 09383-2024, p. 2603, Docket No. 20240026-EI.

TECO requested inclusion of "the Storm Cost Recovery provisions in Section 8 of the 2021 Agreement to be effective January 1, 2025, and thereafter until the company's base rates are next set in a general base rate proceeding."[34] The Final Order states "[b]ased on the foregoing, we approve the Storm Cost Recovery Provision."[35] Given the request and subsequent approval, OPC seeks clarification regarding which terms and conditions the Commission is approving from the 2021 Agreement for Paragraph 8, the SCRM, and regarding the evidentiary support for the terms and condition approved. For example, Paragraph 8(c) is plainly a contract provision.[36] It reads:

> The Parties expressly agree that any proceeding to recover costs associated with any storm shall not be a vehicle for a "rate case" type earnings inquiry concerning the expenses, investments or financial results of operations of Tampa Electric and shall not apply any form of earnings test or measure or consider previous or current base rate earnings. Such issues may be fully addressed in any subsequent Tampa Electric base rate case.

The Commission is requested to clarify whether this provision 8(c) - negotiated in the full give and take of the 2021 Agreement - was adopted in the Final Order and did the Commission intend, by wholesale adoption the SCRM, to deny the rights of substantially affect parties from litigating earnings and cost savings offsets in proceedings involving Tampa Electric's efforts to recover future storm costs.[37] OPC further seeks clarification regarding which numerical values and other

[34] Petition, p. 11.
[35] Final Order, p. 173.
[36] See In re: Consideration of the tax impacts associated with Tax Cuts and Jobs Act of 2017for Florida Power & Light Company, Order No. PSC-2019-0225-FOF-EI, at 10-12. (Commission treated provisions of settlement agreement as contract terms for purposes of interpreting them in the event of dispute.)
[37] See also, In re: Petition for approval of stipulation and settlement for special accounting treatment and recovery of costs associated with Hurricane Ivan's impact on Gulf Power Company. Order No. 2005-0250-PAA-EI, issued March 4, 2005, at 3. (Order approving settlement recognized that the resolution involved a sharing of costs between the customers and shareholders and brought Gulf Power's achieved earnings close to the midpoint of the authorized rate of return range).

terms and conditions the Commission is approving from the 2021 Agreement, SCRM provision in Paragraph 8, and an identification of the evidentiary support for the values, terms, and condition approved.

TECO also requested "approval to extend the Asset Optimization Mechanism ("AOM") provisions in Section 12 of the 2021 Agreement to be effective January 1, 2025, and thereafter until the company's base rates are next set in a general base rate proceeding, with modifications to include revenues from the release of natural gas pipeline transportation capacity and the sale of renewable energy credits ("REC") in the AOM."[38] The Final Order states:

> [b]ased on the foregoing, the proposed AOM shall be approved, effective January 1, 2025, with modifications. As the customer-sharing threshold has not been increased, the requested REC sales and natural gas sales should not be added to the allowable optimization activities. In addition, a new docket shall be established for a generic proceeding to address allowable optimization activities and revenue-sharing incentives for all investor-owned utilities.[39]

OPC seeks clarification regarding which terms and conditions the Commission is approving from the 2021 Agreement, AOM provision in Paragraph 12 and an identification of the numerical values and the evidentiary support for the values, terms, and condition approved.

Conclusion

OPC has consulted with TECO and other intervenors in this docket regarding their position on these motions. TECO stated that without knowing the basis for OPC's motion, or which items for which OPC is seeking reconsideration, it cannot take a position on the motion for reconsideration or request for oral argument at this time. Tampa Electric does, however, plan to

[38] Petition, p. 11.
[39] Final Order, p. 177.

file a response. Florida Rising, Inc., and League of United Latin America Citizens of Florida support the motion. Florida Industrial Power Users Group does not oppose the motion. Florida Retail Federation, Walmart, Inc., Wawa, Inc., RaceTrac, Inc., Circle K Stores, Inc., Americans for Affordable Clean Energy, Inc., Federal Executive Agencies and Sierra Club take no position.

WHEREFORE, Citizens respectfully request that the Commission grant Citizens' Motion for Reconsideration and Motion for Clarification of Certain Provisions of the Final Order.

Respectfully submitted,

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CERTIFICATE OF SERVICE
DOCKETS NOS. 20240026-EI, 20230139-EI and 20230090-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail on this 18th day of February 2025, to the following:

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Attachment A

TECO Revenue Requirement Errors

Based on the Commission's December 3, 2024, Vote Sheet ("Vote Sheet") and the record, the OPC has identified several inconsistencies that reveal revenue requirement errors in Attachments A and C of the Commission's Final Order No. PSC-2025-0038-FOF-EI. These errors are described as follows:

1. For Issue 15, Vote Sheet states, in pertinent part, "[t]herefore, an adjustment should be made to remove $2,846,972." This $2,846,972 adjustment amount also appears on page 48 of the Final Order. However, in Attachment A on Page 191 of the Final Order in the "Plant in Service" column, the adjustment is reflected as (2,800) with "[d]ollar in 000's", meaning the figures in this schedule omits the last three numbers for each figure. In the Excel spreadsheet for the Commission Post Agenda revenue requirement, the amount entered for this adjustment was "(2800)". Based on the Commission's vote, the amount that should have been entered is "2846.972" which should result in the appropriate amount of "(2,847)" in Attachment A. Due to this rounding, the Commission-approved plant reduction was understated by $46,972 on Attachment A. Moreover, the resulting corresponding accumulated depreciation reduction should be "(99)" instead of the "(97)" also reflected in Attachment A.

2. In the "COC Schd 2" tab of the Excel spreadsheet for the Commission Post Agenda revenue requirement, a cost rate of 7.90% was utilized for the fall-out interest synchronization adjustment for Investment Tax Credits (ITCs). For cost of capital purposes, the 7.90% cost rate is comprised of 1.97% related to long-term debt and 5.93% related to common equity. However, the fall-out interest synchronization adjustment for Investment Tax Credits is only affected by the 1.97% cost rate associated with long-term debt to represent the effect on the interest expense, as the common equity rate of 5.93% portion of the ITCs has no applicable effect on interest expense since the Company does not incur any interest expense on common equity. As such, the result is that the effect on interest expense for ITCs was overstated by $126,000 which resulted in overstatement of $32,000 when the composite income tax rate of 25.345% is applied.

3. On page 48 of the Final Order, it reflects $0.174 million of annual O&M expenses associated with the Customer Digitalization projects. The OPC has confirmed that Hearing Exhibit 194 admitted in the record, specifically in TECO's response to Staff Interrogatory 39a, reflects "O&M associated with these investments is approximately $174,000 annually." In the Excel spreadsheet for the Commission Post Agenda revenue requirement, the amount entered was "(1740)" for this adjustment instead of (174) which overstated the actual approved reduction by $1,739,826.

4. For Issue 45 the Vote Sheet states, in pertinent part, "[i]n addition, staff recommends amortizing the atypical expenses in 2025 over a three-year period, for a total reduction of $8,286,667 million." This $8,286,667 adjustment amount also appears on page 102 of the Final Order. However, on page 193 of the Final Order in the "O&M Other" column on Attachment C, the adjustment is reflected as (8,270). In the Excel spreadsheet for the Commission Post Agenda revenue requirement, the amount of "(8270)" in Cell C18 is based on a hard input amount of "-8270000" in Cell C40 for this adjustment. It is unclear why the amount of the reduction is not (8,286.667) for Cell 18 in the Excel spreadsheet for the Commission Post Agenda revenue requirement or (8,287) on page 193 of the Final Order in the "O&M Other" column on Attachment C. If this adjustment is in error as it appears to be, the adjustment of 8,200 in the Working Capital column in Attachment A on page 191 of Final Order may also be impacted.

5. The Vote Sheet reflects, in pertinent part for Issue 55, "[t]he amount for allocated costs reflects a reduction of $3,811,027 for the removal of half of allocated corporate responsibility costs." This $3,811,027 adjustment amount also appears on page 111 of the Final Order. However, on page 193 of the Final Order in the "O&M Other" column on Attachment C, the adjustment is reflected as (3,810). In the Excel spreadsheet for the Commission Post Agenda revenue requirement, the amount of (3810) in Cell C21 is based on a hard inputted for this adjustment. As such, the approved reduction is understated by $1,027 and the amount on Attachment C should be (3,811) consistent with the Vote Sheet.

6. The Vote Sheet reflects, in pertinent part for Issue 56, "$151,500 in Directors and Officers Liability Insurance and $376,000 in Board of Director expense be approved, resulting in a total reduction of $527,500 for the 2025 test year." This $527,500 adjustment amount also appears on page 112 of the Final Order. However, on page 193 of the Final Order in the "O&M Other" column on Attachment C, the adjustment is reflected as (151). In the Excel spreadsheet for the Commission Post Agenda revenue requirement, the amount of (151) in Cell C22 is based on a hard inputted amount for this adjustment. As such, the approved reduction is understated by $376,500 and the amount on Attachment C should be (528) consistent with the Vote Sheet.