

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for limited proceeding to
approve first solar base rate adjustment
(SoBRA), effective September 1, 2018.

DOCKET NO. 20170260-EI
ORDER NO. PSC-2018-0225-PHO-EI
ISSUED: May 3, 2018

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on April 26, 2018, in Tallahassee, Florida, before Commissioner Donald J. Polmann, as Prehearing Officer.

APPEARANCES:

JAMES D. BEASLEY, ESQUIRE, J. JEFFRY WAHLEN, ESQUIRE, Ausley McMullen, Post Office Box 391, Tallahassee, Florida 32302
On behalf of Tampa Electric Company (TECO).

CHARLES J. REHWINKEL, ESQUIRE, Deputy General Counsel, Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400
On behalf of the Citizens of the State of Florida (OPC)

WALT TRIERWEILER, ESQUIRE, Senior Attorney, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Florida Public Service Commission (Staff).

ROSANNE GERVASI, ESQUIRE, Senior Attorney, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
Advisor to the Florida Public Service Commission.

PREHEARING ORDER

I. CASE BACKGROUND

In 2017, the Commission approved Tampa Electric Company's (TECO's) 2017 Amended and Restated Stipulation and Settlement Agreement (2017 Agreement) that included a Solar Base Rate Adjustment (SoBRA) mechanism, which provides for the recovery of costs associated with solar projects that meet the criteria laid out in the 2017 Agreement.¹ As contemplated in the 2017 Agreement, on December 14, 2017, TECO filed its Petition for a Limited Proceeding to Approve First SoBRA Effective September 1, 2018 (SoBRA Petition). TECO filed an amended SoBRA petition on February 14, 2018, which takes into account the impact of the Tax Cuts and Jobs Act of 2017 enacted by the United States Congress on December 20, 2017, and signed into law on December 22, 2017, by the President.

II. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, F.A.C., this Prehearing Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapter 366, Florida Statutes (F.S.). This hearing will be governed by said Chapter and sections 366.05, and 366.06, in addition to Chapter 120, F. S., and Rules 25-6, 25-9, 25-22, and 28-106, Florida Administrative Code, as well as any other applicable provisions of law.

IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Information for which proprietary confidential business information status is requested pursuant to Section 366.093, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Section 119.07(1), F.S., pending a formal ruling on such request by the Commission or pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Section 366.093, F.S. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

¹ Order No. 2017-0456-S-EI, issued November 27, 2017, in Docket No. 20170210-EI, *In re: Petition for limited proceeding to approve 2017 amended and restated stipulation and settlement agreement, by Tampa Electric Company.*

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, F.S., to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093(3), F.S., at the hearing shall adhere to the following:

- (1) When confidential information is used in the hearing that has not been filed as prefiled testimony or prefiled exhibits, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents and with the confidential information highlighted. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- (2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Office of Commission Clerk's confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C., if continued confidentiality of the information is to be maintained.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties has been prefiled and will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to timely and appropriate objections. Upon insertion of a witness's testimony, exhibits appended thereto may be marked for identification. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to five minutes.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer. After all parties and Staff have had the opportunity to cross-examine the witness, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

The parties shall avoid duplicative or repetitious cross-examination. Further, friendly cross-examination will not be allowed. Cross-examination shall be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Any party conducting what appears to be a friendly cross-examination of a witness should be prepared to indicate why that witness's direct testimony is adverse to its interests.

VI. ORDER OF WITNESSES

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
Mark D. Ward	TECO	1, 2, 3, 4, 5, 7
R. James Rocha	TECO	1, 2, 5, 7
William R. Ashburn	TECO	1, 6, 7

VII. BASIC POSITIONS

TECO: The Commission should approve the Balm Solar Project and Payne Creek Solar Project which comprise Tampa Electric's First SoBRA pursuant to the 2017 Agreement approved by the Commission in Order No. PSC-2017-0456-S-EI. The two projects in the company's First SoBRA satisfy the cost-effectiveness test specified in the 2017 Agreement. The projected installed cost of each project is under the \$1,500 per kW_{ac} installed cost cap established in such order, and taken together the projected installed cost of the two projects falls below the \$1,475 per kW_{ac} installed cost threshold specified in subparagraph 6(b) footnote 2 of the 2017 Agreement.

The Commission should also approve the annual revenue requirement of \$24.245 million for the two projects comprising the First SoBRA, as reflected in witness Rocha's Direct Testimony, as well as the base rate increases needed to collect the estimated annual revenue requirement for the two solar projects in the First SoBRA, as reflected in the testimony of witness Ashburn.

FIPUG: Tampa Electric Company seeks approval of its first solar project for inclusion as a specific, discrete adjustment to base rates pursuant to the 2017 Settlement Agreement approved in Order No. PSC-2017-0456-S-EI. Paragraph 6 of the Settlement Agreement provides many criteria for eligibility under the streamlined, limited proceeding base rate freeze exception provided therein.

FIPUG intends to conduct limited cross-examination at hearing intended to hold the Company to its burden to demonstrate compliance with the Settlement's terms. At this point, it has not been conclusively demonstrated that the burden has been met by Tampa Electric.

OPC: Tampa Electric Company seeks approval of its first solar project for inclusion as a specific, discrete adjustment to base rates pursuant to the 2017 Settlement Agreement approved in Order No. PSC-2017-0456-S-EI. Paragraph 6 of the Settlement Agreement provides many criteria for eligibility under the streamlined, limited proceeding base rate freeze exception provided therein.

Citizens intend to conduct limited cross-examination at hearing intended to hold the Company to its burden to demonstrate compliance with the Settlement's terms. At this point, it has not been conclusively demonstrated that the burden has been met by Tampa Electric.

STAFF: Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

VIII. ISSUES AND POSITIONS

ISSUE 1: Are the 2018 SoBRA projects eligible for treatment pursuant to paragraph 6 of the 2017 Agreement?

TECO: Yes. The 2018 SoBRA projects meet all of the eligibility requirements for treatment pursuant to paragraph 6 of the 2017 Agreement. Tampa Electric witness Ward's Direct Testimony describes in detail the characteristics of the two projects which qualify them for cost recovery via the company's First SoBRA, as well as their projected in-service dates and installed cost per kW_{ac}. Tampa Electric witness Rocha uses the projected installed project costs to calculate the annual revenue requirement for the First SoBRA. Further, Tampa Electric witness Ashburn uses the annual revenue requirement described in witness Rocha's testimony to develop the proposed customer rates for the First SoBRA. All of these efforts were performed consistent with the requirements of paragraph 6 of the 2017 Agreement. (Witnesses: Ward, Rocha, Ashburn)

FIPUG: No. Tampa Electric has not met its burden of demonstrating compliance with all applicable terms of the 2017 Settlement Agreement.

OPC: No. Tampa Electric has not met its burden of demonstrating compliance with all applicable terms of the 2017 Settlement Agreement.

STAFF: Staff takes no position pending evidence adduced at hearing.

ISSUE 2: **Are the 2018 SoBRA projects proposed by TECO cost effective pursuant to subparagraph 6(g)?**

TECO: Yes. As explained by Tampa Electric witness Rocha, the two projects covered by the First SoBRA lower the company's projected system cumulative present value of revenue requirement ("CPVRR") as compared to such CPVRR without the solar projects; therefore, the projects covered by the First SoBRA satisfy the cost-effectiveness test in the 2017 Agreement. (Witnesses: Ward, Rocha,)

FIPUG: No. Tampa Electric has not met its burden of demonstrating compliance with all applicable terms of the 2017 Settlement Agreement.

OPC: No. Tampa Electric has not met its burden of demonstrating compliance with all applicable terms of the 2017 Settlement Agreement.

STAFF: Staff takes no position pending evidence adduced at hearing.

ISSUE 3: **Are the projected installed costs of each of TECO's 2018 SoBRA projects under the Installed Cost Cap pursuant to subparagraph 6(d) of the 2017 Agreement?**

TECO: Yes. As explained by Tampa Electric witness Ward, the projected installed costs of the Payne Creek and Balm solar projects are \$1,324 per kW_{ac} and \$1,480 per kW_{ac}, respectively. These installed costs are lower than the \$1,500 per kW_{ac} Installed Cost Cap pursuant to subparagraph 6(d) of the 2017 Agreement. (Witness: Ward)

FIPUG: No. Tampa Electric has not met its burden of demonstrating compliance with all applicable terms of the 2017 Settlement Agreement.

OPC: No. Tampa Electric has not met its burden of demonstrating compliance with all applicable terms of the 2017 Settlement Agreement.

STAFF: Staff takes no position pending evidence adduced at hearing.

ISSUE 4: **Is the projected average capital cost of the 2018 SOBRA projects no more than \$1,475 kWac for the year 2018 pursuant to subparagraph 6(c), of the 2017 Agreement?**

TECO: Yes. The projected average capital cost of the 2018 SoBRA projects is no more than \$1,475 per kW_{ac} for the year 2018 pursuant to subparagraph 6(c) of the 2017 Agreement. (Witness: Ward)

FIPUG: No. Tampa Electric has not met its burden of demonstrating compliance with all applicable terms of the 2017 Settlement Agreement.

OPC: No. Tampa Electric has not met its burden of demonstrating compliance with all applicable terms of the 2017 Settlement Agreement.

STAFF: Staff takes no position pending evidence adduced at hearing.

ISSUE 5: What are the estimated annual revenue requirements associated with TECO's 2018 SoBRA projects?

TECO: The estimated annual revenue requirement including incentive associated with Tampa Electric's 2018 SoBRA projects is \$24.245 million. This amount is calculated by Tampa Electric witness Rocha using the projected installed costs of the two projects in Tampa Electric witness Ward's Direct Testimony and in accordance with the revenue requirement cost recovery provisions of the 2017 Agreement. (Witnesses: Ward, Rocha,)

FIPUG: At this time Tampa Electric has not met its burden of demonstrating compliance with all applicable terms of the 2017 Settlement Agreement, so the actual revenue requirements cannot be determined for certain.

OPC: At this time Tampa Electric has not met its burden of demonstrating compliance with all applicable terms of the 2017 Settlement Agreement, so the actual revenue requirements cannot be determined for certain.

STAFF: Staff takes no position pending evidence adduced at hearing.

ISSUE 6: What are the appropriate base rates needed to collect the estimated annual revenue requirement for the two solar projects in the First SoBRA?

TECO: The appropriate base rates needed to collect the estimated annual revenue requirement for the two solar projects in the First SoBRA are those reflected in the redlined and clean tariffs set forth as Documents Nos. 5 and 6 of witness Ashburn's revised Exhibit No. 3 (WRA-1), which are incorporated herein by reference. (Witnesses: Ashburn)

FIPUG: At this time Tampa Electric has not met its burden of demonstrating compliance with all applicable terms of the 2017 Settlement Agreement, so the actual base

rates needed to collect an uncertain revenue requirement cannot be determined for certain.

OPC: At this time Tampa Electric has not met its burden of demonstrating compliance with all applicable terms of the 2017 Settlement Agreement, so the actual base rates needed to collect an uncertain revenue requirement cannot be determined for certain.

STAFF: Staff takes no position pending evidence adduced at hearing.

ISSUE 7: **Should the Commission approve the revised tariffs for TECO reflecting the base rate increases for the 2018 projects determined to be appropriate in these proceedings?**

TECO: Yes. For all the reasons provided in the company's Petition, and in the supporting 2017 Agreement, complete with amended tariff sheets and the other appendices filed with the company's Petition, the Commission should approve the revised tariffs for Tampa Electric reflecting the base rate increases for the 2018 projects comprising the company's First SoBRA. (Witnesses: Ward, Rocha, Ashburn)

FIPUG: No, not at this time. Tampa Electric has not met its burden of demonstrating compliance with all applicable terms of the 2017 Settlement Agreement.

OPC: No, not at this time. Tampa Electric has not met its burden of demonstrating compliance with all applicable terms of the 2017 Settlement Agreement.

STAFF: Staff takes no position pending evidence adduced at hearing.

ISSUE 8: **Should the docket be closed?**

TECO: Yes. Once all issues in this docket are resolved, the docket should be closed.

FIPUG: No. Tampa Electric has not met its burden of demonstrating compliance with all applicable terms of the 2017 Settlement Agreement. The docket should remain open until a final true-up based on actual costs is determined by the Commission.

OPC: No. Tampa Electric has not met its burden of demonstrating compliance with all applicable terms of the 2017 Settlement Agreement. The docket should remain open until a final true-up based on actual costs is determined by the Commission.

STAFF: Staff takes no position pending evidence adduced at hearing.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Mark D. Ward	TECO	MDW-1	Payne Creek Solar Project Specifications; Payne Creek Solar Project General Arrangement Drawing; Payne Creek Solar Project Projected Installed Cost by Category; Balm Solar Project Specifications; Balm Solar Project General Arrangement Drawing; Balm Solar Project Projected Installed Cost by Category
R. James Rocha	TECO	RJR-1	Demand and Energy Forecasts; Fuel Price Forecast; Revenue Requirements for First SoBRA; Cost-effectiveness Test for First SoBRA
William R. Ashburn	TECO	WRA-1	Development of First SoBRA Base Revenue Increase by Rate Class; Base Revenue by Rate Schedule; Rollup Base Revenue by Rate Class; Typical Bills Reflecting first SoBRA Base Revenue Increase; Redlined Tariffs Reflecting First SoBRA Base Revenue Increase; Clean Tariffs Reflecting First SoBRA Base Revenue Increase

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

X. PROPOSED STIPULATIONS

There are no stipulations at this time.

XI. PENDING MOTIONS

TECO's Motion for Temporary Protective Order, filed February 2, 2018.
TECO's Motion for Temporary Protective Order, filed February 26, 2018.
TECO's Motion for Temporary Protective Order, filed April 4, 2018.

XII. PENDING CONFIDENTIALITY MATTERS

TECO's Request for Confidentiality filed February 2, 2018.
TECO's Request for Confidentiality filed February 26, 2018.
TECO's Request for Confidentiality filed April 4, 2018.

XIII. POST-HEARING PROCEDURES

If no bench decision is made, each party shall file a post-hearing statement of issues and positions, which is due June 1, 2018. A summary of each position of no more than 75 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of this Prehearing Order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 75 words, it must be reduced to no more than 75 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, F.A.C., a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages and is due June 1, 2018.

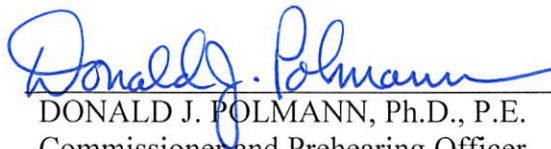
XIV. RULINGS

Opening statements, if any, shall not exceed five minutes per party, meaning up to five minutes for the Petitioner and up to five minutes for each Intervenor. Time shall not be shared among the Intervenors.

It is therefore,

ORDERED by Commissioner Donald J. Polmann, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Donald J. Polmann, as Prehearing Officer, this 3rd day
of May, 2018.



DONALD J. POLMANN, Ph.D., P.E.
Commissioner and Prehearing Officer
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Copies furnished: A copy of this document is provided to
the parties of record at the time of issuance and, if
applicable, interested persons.

WLT

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 Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, 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.