

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to approve the 2020 settlement agreement by Tampa Electric Company.

DOCKET NO. 20200145-EI

In re: Petition for a limited proceeding to approve fourth SoBRA, by Tampa Electric Company.

DOCKET NO. 20200064-EI

In re: Petition for a limited proceeding to eliminate accumulated amortization reserve surplus for intangible software assets, by Tampa Electric Company.

DOCKET NO. 20200065-EI

In re: Review of 2020-2029 Storm Protection Plan pursuant to Rule 25-6.030, F.A.C., Tampa Electric Company.

DOCKET NO. 20200067-EI

In re: Storm protection plan cost recovery clause.

DOCKET NO. 20200092-EI
ORDER NO. PSC-2020-0164-PCO-EI
ISSUED: May 19, 2020

PROCEDURAL ORDER

Background

On May 4, 2020, Tampa Electric Company (TECO) filed a Motion to Approve 2020 Agreement attaching the 2020 Agreement. The 2020 Agreement is signed and executed by TECO, the Office of Public Counsel (OPC), the Florida Industrial Power Users Group (FIPUG), the Florida Retail Federation (FRF), the Federal Executive Agencies (FEA), and the West Central Florida Hospital Utility Alliance (HUA) (collectively, the Signatories). The 2020 Agreement was filed in Docket Nos. 20200064-EI,¹ 20200065-EI,² 20200067-EI,³ and 20200092-EI⁴ because it impacts, in part, all of these dockets. Docket No. 20200145-EI was opened to have one central docket in which to address the 2020 Agreement. The Signatories are deemed parties for purposes of the proceeding described below in which the Commission will consider the 2020 Agreement.

TECO contends that if the 2020 Agreement is approved, it will establish, as to TECO, a series of stipulations that will reduce the issues to be litigated in Docket Nos. 20200067-EI and

¹ *In re: Petition for a limited proceeding to approve fourth SoBRA, by Tampa Electric Company.*

² *In re: Petition for a limited proceeding to eliminate accumulated amortization reserve surplus for intangible software assets, by Tampa Electric Company.*

³ *In re: Review of 2020-2029 Storm Protection Plan pursuant to Rule 25-6.030, F.A.C., Tampa Electric Company.*

⁴ *In re: Storm protection plan cost recovery clause.*

20200092-EI, thereby allowing the Signatories and the Commission to focus on the merits of TECO's Storm Protection Plan and the recovery of the costs associated with that Plan in 2020 and 2021 in Docket No. 20200092-EI. TECO states that if the 2020 Agreement is approved, it will resolve all issues currently pending in Docket No. 20200065-EI, and reduce the issues to be litigated in Docket No. 20200064-EI.

The 2020 Agreement also presents a base rate revenue reduction amount and reflects a determination of certain expenses for which TECO plans to seek cost recovery through the Storm Protection Plan Cost Recovery Clause, Docket No. 20200092-EI. TECO contends that approval of the 2020 Agreement promotes regulatory economy and administrative efficiency, and avoids the time and expense associated with litigating the settled issues in the various existing and continuing Commission dockets.

TECO, with the support of the Signatories, requests that the Commission schedule the 2020 Agreement for the Commission's consideration as soon as possible. TECO states that the Signatories to the 2020 Agreement believe that approval of the 2020 Agreement is in the best interests of the customers the Signatories represent, and that the 2020 Agreement in its totality is in the public interest. TECO states that the Signatories agree that if the 2020 Agreement is approved, then the approval of the 2020 Agreement will resolve specified matters in Docket Nos. 20200064-EI, 20200065-EI, 20200067-EI, and 20200092-EI.

Based on its Motion and TECO's representation that the Signatories to the 2020 Agreement are in support of the requested proceedings, an administrative hearing is hereby scheduled on this matter, to commence immediately following the Commission's Agenda Conference on June 9, 2020.

This Order is issued pursuant to the authority granted by Rule 28-106.211, Florida Administrative Code (F.A.C.), which provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case.

Intervention

Pursuant to Rule 28-106.205, F.A.C., persons other than the original parties to a pending proceeding whose substantial interest will be affected by the proceeding and who desire to become parties may move the presiding officer for leave to intervene. Except for good cause shown, motions for leave to intervene must be filed at least 20 days before the final hearing unless otherwise provided by law.

Discovery

Commission staff and the parties shall be permitted a limited time to send no more than 150 data requests. Parties are directed to respond to the data requests in writing so the response is received within 5 days of receipt of the request. Affidavits must accompany all written data

responses. All data responses must be received by May 29, 2020. Information obtained through data request responses may be used by the parties in their oral arguments, by staff in advising the Commission, and by the Commissioners in consideration of the proposed 2020 Agreement.

Use of Confidential Information at Hearing

While it is the Commission's policy to have all Commission hearings open to the public at all times, the Commission also recognizes its obligation pursuant to Section 366.093, Florida Statutes (F.S.), to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use at the hearing any proprietary confidential business information, as that term is defined in Section 366.093, F.S., shall adhere to the following:

- (1) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents. 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 information is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidentiality 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.

Hearing Exhibits

All exhibits to be sponsored by the parties or staff, or utilized for the purposes of cross-examination or impeachment at the hearing, must be filed electronically in this docket, with an electronic copy of all such documents also provided to all parties and Commission staff, no later than June 2, 2020. Any confidential exhibits shall be identified in such a way as to not disclose information for which confidential treatment is requested, with the exhibits filed consistent with the requirements of Section 366.093, F.S., and Rule 25-22.006, F.A.C., with copies provided to those parties who have executed appropriate nondisclosure agreements.

Hearing Procedures

State buildings are currently closed to the public and other restrictions on gatherings remain in place due to COVID-19. Accordingly, the hearing will be conducted remotely, and all parties and witnesses shall be prepared to present argument and testimony by communications media technology.

Section 120.57(4), F.S., permits the Commission to informally dispose of any proceeding by stipulation, agreed settlement, or consent order. Pursuant to Rule 28-106.302(2), F.A.C., the purpose of this hearing is for the Commission to take oral and written evidence or argument regarding TECO's Motion for approval of the 2020 Agreement as being in the public interest.

The hearing agenda for June 9, 2020, will include the following:

- Parties present Opening Statements of no more than 5 minutes per party;
- Public Testimony, if any;
- Parties present evidence and respond to questions from Commissioners regarding the 2020 Agreement.

Upon the admission of all testimony and evidence, and completion of the Commission's questions at hearing, the hearing record will be closed. At that time, the Commission may render a bench decision, provided all parties are willing to waive filing of post-hearing briefs. If a bench decision is not made, the Commission will render a decision during an Agenda Conference; date and time to be determined. Briefs, if any, will be due June 23, 2020.

The Commission has jurisdiction in this matter pursuant to Chapters 120, and 366, F.S., and is proceeding under its authority under Sections 366.04, 366.05, 366.06, and 120.57, F.S.

Based on the foregoing, it is

ORDERED by Chairman Gary F. Clark, as Prehearing Officer, that the provisions of this Order shall govern this proceeding unless modified by the Commission.

ORDER NO. PSC-2020-0164-PCO-EI
DOCKET NO. 20200145-EI, 20200064-EI,
20200065-EI, 20200067-EI, and 20200092-EI
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By ORDER of Chairman Gary F. Clark, as Prehearing Officer, this 19th day of May,
2020.



GARY F. CLARK
Chairman 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.

BYL

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.