

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and Purchased Power Cost Recovery) Docket No. 030001-EI
Clause with Generating Performance Incentive)
Factor.)
_____) **Filed October 8, 2003**

MOTION TO ESTABLISH SEPARATE DOCKET

Pursuant to Rule 28-106.204, Florida Administrative Code, Catherine L. Claypool, Helen Fisher, William Page, Edward A. Wilson, Sue E. Strohm, Mary Jane Williamson, Betty J. Wise, Carlos Lissabet, and Lesly A. Diaz, through their undersigned attorney, file their Motion to Establish Separate Docket, and in support thereof, state as follows:

1. By their Petition to Intervene filed concurrently with this motion, Catherine L. Claypool, Helen Fisher, William Page, Edward A. Wilson, Sue E. Strohm, Mary Jane Williamson, Betty J. Wise, Carlos Lissabet, and Lesly A. Diaz (the “residential electric customers”) seek intervention in this docket on the basis that they are residential electric customers of Tampa Electric Company (“Tampa Electric”) whose economic substantial interests will be affected by the level of Tampa Electric’s fuel and fuel transportation costs this Commission finds reasonable and prudent in these proceedings, which costs will then be reflected in the retail rates charged to the residential electric customers.

2. The procedural schedule in this docket has long established that there would be a final hearing on November 12, 2003, which was to be preceded by electric utilities’ projection filings and testimony on September 12, 2003 and intervenor direct testimony and exhibits on October 2, 2003.

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3. Consistent with this schedule, Tampa Electric, on September 12, 2003 filed certain testimony and exhibits, including those of Brent Dibner and Joann T. Wehle. Subsequently, however, 13 days later and just 8 days prior to the due date for intervenor testimony, Tampa Electric filed its Motion for Leave to File Supplemental Direct Testimony and Exhibit, to which was attached the additional extensive testimony of witnesses Dibner and Wehle addressing Tampa Electric's fuel transportation request for proposal process and calculations of alleged market-based rates for waterborne transportation.

4. On September 29, 2003, the Florida Industrial Power Users Group (FIPUG) filed its objections to the "extensive and complicated" supplemental Tampa Electric testimony and exhibits, requesting that consideration of the additional materials at the November 12, 2003 hearings be denied and that consideration of these issues be deferred until the next fuel adjustment hearings or, alternatively, that they be considered in a separate docket. FIPUG argued that consideration of this new testimony at this late date, even with the intervenor filing extension proposed by Tampa Electric would not allow it sufficient time to investigate the RFP process and the analysis related to it and to prepare responsive testimony.

5. FIPUG also noted in its objection to the extensive "supplemental" Tampa Electric testimony and exhibits that the "timing of the TECO RFP, and all activities connected with it, have been solely and totally in TECO's control" and that "[i]t would be patently unreasonable to force the parties to attempt to evaluate a process that took TECO months to complete in a mere three weeks."

6. On October 3, 2003, the Office of Public Counsel filed its response objecting to Tampa Electric's additional testimony and exhibits noting that witness Dibner's confidential study was 102 pages in length and that Public Counsel submitted that "it is patently unreasonable to expect parties [to] digest the testimony and exhibits, hire experts, conduct the requisite discovery and file testimony on unfamiliar material in 21 days."

7. The residential electric customers join the Office of Public Counsel and FIPUG in objecting to the Commission's consideration of the late-filed Tampa Electric testimony and exhibits at its November 12, 2003 hearing. As pointed out by both intervenor parties, there is simply not enough time for any intervenor, including the residential electric customers, to properly analyze the extensive additional testimony and exhibits, hire qualified experts, conduct discovery and file responsive testimony prior to the November 12, 2003 hearing. The residential electric customers would submit that it is simply impossible for intervenors to adequately review the late-filed materials in a timely fashion and would argue that it would be impermissibly unfair for this Commission to force them to attempt such an examination without a reasonable period of additional time.

8. Historically, this Commission has dealt with controversial fuel clause issues, such as extended individual power plant outages and challenged subsidiary fuel and fuel transportation contracts and charges, by the establishment of separate, or "spin-off" dockets. One clear advantage of such separate dockets is that the Commission and the parties can focus their efforts and time on the specific issue separate and apart from the everyday fuel issues concerning the rest of the utilities participating in the docket. Just as importantly, under the facts and time constraints of this case, establishment of a separate docket would allow intervenors a sufficient

and fair amount of time to analyze the new evidence offered by Tampa Electric, conduct discovery and prepare responsive testimony.

9. The residential electric customers would respectfully suggest to this Commission that rescheduling these matters in a separate docket for hearing in the latter part of the First Quarter of next year would allow a fair amount of time for intervenors to protect their substantial interests related to Tampa Electric's fuel and fuel transportation requested recoveries.

WHEREFORE, Catherine L. Claypool, Helen Fisher, William Page, Edward A. Wilson, Sue E. Strohm, Mary Jane Williamson, Betty J. Wise, Carlos Lissabet, and Lesly A. Diaz request that the Commission establish a separate docket for the purposes of considering the fuel transportation matters raised by Tampa Electric's September 25 testimony and schedule hearings on the matter for the latter part of the First Quarter of 2004.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this petition has been served by U.S.

Mail or email this 8th day of October, 2003 on the following:

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