

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Review of Tampa Electric Company's  
2004-2008 waterborne transportation contract  
with TECO Transport and associated  
benchmark.

DOCKET NO. 031033-EI  
ORDER NO. PSC-04-0464-PCO-EI  
ISSUED: May 5, 2004

ORDER DENYING MOTION TO RELOCATE AND CONSOLIDATE HEARINGS

By Order No. PSC-03-1398-PCO-EI, issued December 11, 2003, a hearing in this docket was scheduled for April 13-14, 2004, to be held at the Florida Public Service Commission in Tallahassee, Florida. The hearing was subsequently rescheduled for May 27-28, 2004, as set forth in Order No. PSC-04-0195-PCO-EI, issued February 23, 2003, granting a motion for continuance filed by the Office of Public Counsel. On February 25, 2004, 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 ("Residential Customers") filed, in this docket, a motion to relocate the hearing to Tampa, Florida, and to consolidate it with the hearing scheduled for June 10, 2004, in Docket No. 031057-EI concerning recovery of Progress Energy Florida, Inc.'s ("Progress Energy") waterborne coal transportation expenses. On March 2, 2004, Tampa Electric Company ("Tampa Electric") filed a response in opposition to the Residential Customers' motion. On March 16, 2004, Progress Energy filed, in Docket No. 031057-EI, a response in opposition to the Residential Customers' motion. Upon consideration of the pleadings, the Residential Customers' motion is hereby denied.

The hearing in this docket was established to address technical issues deferred from consideration in the Commission's fuel and purchased power cost recovery proceedings which are held annually at the Florida Public Service Commission's hearing facilities in Tallahassee. The Commission has almost exclusively conducted formal evidentiary hearings on such technical matters at its facilities in Tallahassee. Using its Tallahassee facilities, the Commission provides the public with live audio access to such proceedings via the Commission's internet website. Relocating this hearing away from the Commission's Tallahassee facilities may limit or preclude the Commission's technical ability to provide such access to the public. Further, in addition to the Commission and its staff, counsel for every party in this docket, including counsel for each party representing consumer interests, is located in Tallahassee. For the sake of efficiency and convenience for all parties, and in the interest of maintaining the public's access to live audio of this proceeding, it is reasonable to maintain the hearing in Tallahassee. For these reasons, the Residential Customers' motion to relocate the hearing in this docket is denied.

The Residential Customers' motion to consolidate the hearing in this docket with the hearing involving Progress Energy in Docket No. 030157-EI is also denied. While both dockets concern waterborne coal transportation, the two dockets address distinctly different issues. In addition, as Progress Energy notes in its response to the motion, the Residential Customers' are

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not parties to Docket No. 031057-EI and, as Tampa Electric customers, do not have standing to become parties to that docket. More importantly, though, the parties to Docket No. 031057-EI filed on April 28, 2004, a joint notice of settlement of the issues in that docket, which, if the settlement is approved, would obviate the need for a hearing in that docket.

Based on the foregoing, it is

ORDERED by Chairman Braulio L. Baez, as Prehearing Officer, that the Residential Customers' motion to relocate the hearing in this docket and consolidate it with the hearing in Docket No. 031057-EI is denied.

By ORDER of Chairman Braulio L. Baez, as Prehearing Officer, this 5th day of May, 2004.

 for Chairman Braulio L. Baez

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BRAULIO L. BAEZ  
Chairman and Prehearing Officer

(SEAL)

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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.

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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 Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, 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.