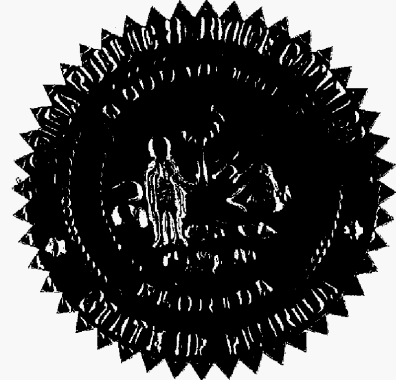


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 041375-EI

In the Matter of:

REQUEST TO EXCLUDE APRIL 11-12, 2004
AND JUNE 13, 24, AND 26, 2004 OUTAGE
EVENTS FROM ANNUAL DISTRIBUTION SERVICE
RELIABILITY REPORT BY TAMPA ELECTRIC
COMPANY.



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PROCEEDINGS: AGENDA CONFERENCE
ITEM NO. 12

BEFORE: CHAIRMAN BRAULIO L. BAEZ
COMMISSIONER J. TERRY DEASON
COMMISSIONER RUDOLPH "RUDY" BRADLEY
COMMISSIONER LISA POLAK EDGAR

DATE: Tuesday, June 21, 2005

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: JANE FAUROT, RPR
Official FPSC Hearings Reporter
(850) 413-6732

1 APPEARANCES:

2 JAMES BEASLEY, ESQUIRE, and Howard Bryant,
3 representing Tampa Electric Company.

4 COCHRAN KEATING, ESQUIRE, and JIM BREMAN,
5 representing the Florida Public Service Commission Staff.

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P R O C E E D I N G S

CHAIRMAN BAEZ: Item 12.

MR. BREMAN: Item 12. My name is Jim Breman,
Commission staff, technical staff.

Item 12 is Tampa Electric Company's request to
exclude certain outage data from their annual distribution
reliability report per a weather event that happened on April
11th and 12th. Staff is recommending denial of the petition.
Tampa Electric Company is here to make comments to the
Commission in support of its petition.

CHAIRMAN BAEZ: Thank you, Mr. Breman.

Mr. Beasley.

MR. BEASLEY: Yes, sir. Mr. Chairman, Jim Beasley
for Tampa Electric Company. Appearing with me today is Mr.
Howard Bryant, who is the manager of rates for Tampa Electric.
We appreciate the opportunity to appear before you.

I should start out by pointing out that the utilities
have taken to heart the comments and discussion that took place
at the last agenda conference when this subject arose. We have
had the opportunity to have a workshop with all of the
investor-owned utilities, the staff, and other interested
parties. And I think we are well on our way towards getting a
system that will streamline these types of requests and
minimize them, if not eliminate them. But we are working in
that direction.

1 In particular, Tampa Electric and Progress Energy
2 have taken steps to withdraw a request that we filed with
3 respect to a severe storm that affected both utilities on
4 December 26th of last year. And, as you will recall, at the
5 last agenda conference Tampa Electric voluntarily withdrew
6 requests related to some storms that occurred in June of last
7 year.

8 We haven't withdrawn this particular request,
9 however, since it relates to outages that were caused by the
10 exact same statewide storm that the Commission has already
11 determined warranted excluding these outages from the reporting
12 requirements for Progress Energy and Florida Power and Light
13 Company.

14 Since the service reliability indices that the
15 different utilities report are compared to one another, we felt
16 that fairness and equity supported granting Tampa Electric the
17 same exclusion of the outages of April 11 and 12, as you did
18 for the other two companies. The storm did affect customers
19 system-wide for Tampa Electric Company with the SAIDI index
20 being some 30 times higher than normal for the daily average
21 for the month of April. And the customer interruptions being
22 some 18 times greater than the average daily average for the
23 month of April.

24 So we respectfully urge that you grant Tampa
25 Electric's request to exclude the outages for reporting

1 purposes that related to the April 11 and 12 storm, the same as
2 you did for the other two utilities. And we would be happy to
3 answer any questions you may have in that regard.

4 CHAIRMAN BAEZ: Commissioners, questions?

5 COMMISSIONER DEASON: I have a question for staff. I
6 am concerned about comparability of information from utility to
7 utility. And if we made an exception for this similar event
8 for another utility, and we do not do it for Tampa Electric,
9 are we somehow doing harm to the comparability of the data or
10 is this storm event different, so different in the TECO service
11 territory than in another's utility's territory that
12 comparability could still be maintained without the exemption?

13 MR. BREMAN: I don't think comparability is affected
14 one way or the other, Commissioner. Today's vote won't change
15 things. The trend in TECO's data is what it is, and it is not
16 going to change to all of a sudden be favorable that
17 distribution reliability is improving.

18 COMMISSIONER DEASON: Well, let me kind of rephrase
19 the question. The events associated with this storm event or
20 the consequences, was it materially different in the TECO
21 territory than in other utilities' territory?

22 MR. BREMAN: We didn't see evidence indicating that
23 the devastation that occurred was comparable. I'm using
24 adjectives to try to draw the picture. In the FPL docket, FPL
25 provided evidence indicating that it actually had to hire

1 outside sources to come and help them and restore service. In
2 FPL's case, the event affected them similar to a tropical
3 storm, or say Bonnie of 2004, it affected other utilities in
4 the state. And the April 13th event affected FPL that way.

5 In Progress' scenario, the data showed that there
6 were weather events extending from north and west of
7 Jacksonville all the way through to just north of Orlando. And
8 it also affected Progress, that entire region for the dates
9 April 11th and 12th.

10 Tampa Electric Company has an expert that says that a
11 weather event occurred in the area somewhere between Tampa and
12 Brooksville, and it moved westward towards Orlando. This is
13 new data that is different. So the weather events that TECO
14 experienced, although it was on the same day, and there were
15 large thunderstorm events for the period of three days, the
16 precise cause of the outages that TECO is claiming to exclude
17 were distinctly different in location and intensity. It is
18 sort of like saying a hurricane affected everybody in the
19 nation if it affected one.

20 COMMISSIONER DEASON: Mr. Beasley, do you agree or
21 disagree with Mr. Breman's statement?

22 MR. BEASLEY: I would call upon Mr. Bryant to
23 respond.

24 MR. BRYANT: I think it does have an impact on
25 comparability. And it is true that as the weather system made

1 its way across the state, it had different impacts on different
2 utilities. And if you look at what it did in the Power and
3 Light area, I think their maximum winds that they saw were
4 gusts of around 70 miles an hour. If you look at Progress, the
5 maximum winds that they saw was around 55 to 60 miles an hour.
6 In our area, with limited weather stations available, we had
7 the weather service report 30-mile-per-hour winds over toward
8 Winter Haven. Yet within our area is the Ruskin Weather
9 Service, and the Ruskin Weather Service was reported in the
10 Power and Light data as experiencing 43-mile-an-hour winds.

11 So it did not affect us all equally. Just as a
12 hurricane comes across the state, it is stronger on one side
13 than it is on the other side of the state. But yet from the
14 standpoint of just simply being comparable in terms of
15 reporting data, that there was a weather system affecting the
16 state, and it had an impact on all the utilities. That is why
17 we are simply asking for this to be considered. And, again,
18 when you look at what the impact was on the April data relative
19 to a five-year average for April, it was some 30 times more
20 severe for that particular point in time.

21 CHAIRMAN BAEZ: Commissioners, any questions?

22 I remember when we talked about the original two
23 petitions, and while I didn't say I was against them before
24 then, this is one of the fallout of that. And I think Mr.
25 Bryant, whether intentionally or not, raises an interesting

1 point. I mean, hurricanes physically come in one end of the
2 state at a certain level of intensity and affect others in
3 decreasing -- you now, the intensity decreases. And I think
4 we've tried to set a line, and said if it was a named storm, if
5 it was something according to the National Weather Service,
6 then that's good enough, and it doesn't matter how fast it was
7 going or how intense it was moving.

8 Now we are moving the line down. And although I will
9 confess to you I find it hard to say, you know what, weather
10 events that have already been identified all of a sudden don't
11 count for one utility. You know, Commissioners, having said
12 that, I have a problem that this line is moving, and maybe we
13 need to regroup in our own rules, and whether the line has to
14 move south. But let's make it a hard line, and not take it --
15 you know, not -- maybe we need to start thinking about that
16 before this becomes too gray an area for us to handle
17 efficiently.

18 Commissioners, I would defer for a motion.

19 COMMISSIONER DEASON: I move staff's recommendation.

20 CHAIRMAN BAEZ: There's a motion. Is there a second?

21 COMMISSIONER EDGAR: Give me a second.

22 CHAIRMAN BAEZ: Okay. I will give you a second for a
23 second.

24 COMMISSIONER EDGAR: Let me pause for a moment, shall
25 I say.

1 COMMISSIONER DEASON: Let me say I'm concerned about
2 comparability of data. But, you know, it appears to me, based
3 upon the information that we have established, that this
4 particular storm event on April 11th and 12th, that it was less
5 severe in the TECO area than in the others, not meaning that it
6 wasn't significant. And, you know, I don't know where you draw
7 the line. But, Mr. Chairman, I agree with you. It seems like
8 maybe the standard is eroding to some extent, and I have that
9 concern.

10 CHAIRMAN BAEZ: I have a concern that it is eroding,
11 not that it should be moved. I mean, I'm willing -- I can
12 accept the notion of there being weather events that qualify as
13 significant that don't necessarily get national coverage and
14 don't get FEMA or the National Guard involved. I'm perfectly
15 willing to accept that those kinds of phenomena exist and that
16 there has to be some kind of objective verification. I
17 remember saying that once upon a time.

18 So if the line as to what we accept for a waiver has
19 to move south, I'm okay with that, but there has to be a line.
20 We can't be -- you know, I guess we are going to come down on
21 separate sides of this, I can see, but I think we are coming at
22 it both from the same way. We really need to -- there has to
23 be a line. I don't care where it is, personally, but wherever
24 it is, you can't leave it subject to the interpretation of one
25 company to take a shot and say, hey, me too, or, you know, what

1 do you guys think. We need to do a little bit better than
2 that.

3 Commissioner Edgar.

4 COMMISSIONER EDGAR: Thank you. I would just say,
5 Commissioner Deason, I'm sensing that we are at very similar
6 points, because it is the comparability of the data is why I
7 was pausing and trying to think through. I believe reliable
8 reliability data is important. And too many asterisks, or
9 exceptions to, and additional explaining information to a point
10 here or there on a chart does indeed compromise the utility of
11 the data. And where that line is and at what point the wind
12 range and velocity needs to be, I am just unclear. I just
13 don't know, so --

14 COMMISSIONER DEASON: I'm unclear, as well. And
15 maybe the scenario where we can't have a nice little simple
16 standard, you know, that is clear, and there is not a need for
17 exception. But it sure would be nice. I know this is
18 important. I don't mean to minimize the importance of this,
19 but it would just be nice to have an understanding out there to
20 where there wouldn't be the need for these type petitions. It
21 was just -- all the utilities would treat an event, a similar
22 event, in the same way. And the comparability of the data
23 would be maintained, and we wouldn't have to be looking at each
24 individual one. Maybe that is an unattainable goal, I don't
25 know, but I thought we had done some work in that area, or at

1 least had asked staff to do some work in that area.

2 MR. BREMAN: We have done some work in that area and
3 some discussion. To keep these exclusions from coming to the
4 Commission on a case-by-case basis ultimately would require a
5 rule change. That is essentially the bottom line. And whether
6 or not the utilities implement the rule change on their own
7 will so that there is no necessary process of formal rule
8 change, I don't know. But we still have two petitions out
9 there that have not been withdrawn by Tampa Electric Company.

10 COMMISSIONER DEASON: There is another one in
11 addition to this one?

12 MR. BREMAN: There are two more in addition to this
13 one.

14 COMMISSIONER DEASON: Two more in addition to this
15 one.

16 MR. BREMAN: Waiting in the wings.

17 COMMISSIONER BRADLEY: Let me ask this question
18 before we -- of staff. What was the damage, the documented
19 damage that was done to the infrastructure?

20 MR. BREMAN: It was more along the lines of fuses and
21 that kind of stuff that happen during thunderstorms. Trees
22 touching lines and the consequences of that.

23 COMMISSIONER BRADLEY: So there were power outages?

24 MR. BREMAN: Yes, sir.

25 COMMISSIONER BRADLEY: Okay. So is it that staff is

1 having a problem dealing with lightning versus wind damage as a
2 catastrophic, as an event, as a weather event?

3 MR. BREMAN: No, sir. In this case we have a me-too
4 petition. If TECO is filing a me-too petition, it has to
5 comport it to the same situation. None of the other utilities
6 asserted that the primary cause of the outages was lightning.
7 There is no data in the filings for the other two utilities
8 that lightning was the primary cause of the outage. But the
9 initial filing by Tampa Electric Company in this case had,
10 primarily, lightning as -- we had real bad lightning is
11 essentially how I read their petition as initially filed.

12 It was subsequent to the filing of their petition
13 that staff and TECO had dialogue saying if it is a me-too
14 petition, then we have to have comparable justification for the
15 exclusion. At that time Tampa Electric Company then sought to
16 try to find comparable evidence of saying wind. And the wind
17 phenomena that they were looking for is called a wake low.
18 They were looking for evidence of a wake low event, so that
19 their petition would be now comparable to that of FPL and
20 Progress. So all of this dialogue of support for their
21 petition changed after their initial filing of their petition.

22 COMMISSIONER BRADLEY: Okay. I will go a step
23 further. My concern would be that absent a hurricane, but a
24 thunderstorm, one geographical area might have rain, one might
25 have wind and one might have lightning out of the same storm

1 that is passing over. And to me a me-too petition should be
2 valid if the weather pattern had those variances but was of the
3 same system. I mean, it's pretty obvious that you can have
4 lightning in one area, rain and wind in another, and still have
5 outages as a result of the same pattern, which would make it a
6 me-too petition. I mean, would make a me-too valid. But is it
7 that staff has -- I mean, is it that a me-too petition should
8 be identical in terms of the --

9 MR. BREMAN: Causes of outages.

10 COMMISSIONER BRADLEY: Yes.

11 MR. BREMAN: Yes, sir, I think so. I think in
12 hurricanes, I think there is no doubt that the primary effect
13 of those type of outages that occur during hurricanes, and I
14 guess I need to be careful where I wander here, might be wind.

15 COMMISSIONER BRADLEY: It could be water or rain.

16 MR. BREMAN: There is some flooding. We had a storm
17 this year, a named storm this year, and it flooded a certain
18 section of parts of Florida that are down southward of Lake
19 Okeechobee, but didn't have the same devastating floods in
20 other areas of Florida. So even though the weather system cast
21 clouds and shadows over the majority of Florida for a period of
22 days, most of Florida wasn't really severely affected by the
23 weather event of this year. I think staff does like to look at
24 comparability.

25 The other thing that really sort of frustrates staff,

1 and I guess this is my opportunity to stand on the box, is that
2 we don't have a standard for any particular one item. There is
3 no performance standard set for how far back from the power
4 line does a utility keep trees trimmed. There is no standard
5 about how lightning protection should be constructed. So when
6 a utility comes forward, staff, who is used to doing prudence
7 reviews and trying to set rates based on those types of
8 reviews, is struggling to try to say, okay, there is no
9 standard, how do we do a prudence review and still not address
10 dollars?

11 And so this is the dilemma that we are sort of
12 learning as these petitions come in. And we are also very
13 concerned that the threshold is eroding. Because if you
14 approve an exclusion based on 40-mile-an-hour winds, tomorrow
15 you are going to see, or eventually you will see one with 38.
16 And if you approve the 38, you will see another one with
17 36-mile-an-hour winds. And eventually at some point you are
18 just going to have no reliability data, or the data that is
19 reported is not reliable because of these regulatory events.
20 So staff is struggling with this, too.

21 CHAIRMAN BAEZ: Commissioners?

22 COMMISSIONER EDGAR: The slippery slope is before me.
23 Is there still a motion before us?

24 CHAIRMAN BAEZ: There is.

25 COMMISSIONER EDGAR: I will second.

1 CHAIRMAN BAEZ: A motion and a second. All those in
2 favor say aye.

3 COMMISSIONER DEASON: Aye.

4 COMMISSIONER EDGAR: Aye.

5 CHAIRMAN BAEZ: All those nay? I vote in the
6 negative. That's 3-1.

7 COMMISSIONER BRADLEY: I'm struggling with this.
8 Make that two nays, because I'm just having a problem. And I
9 understand what -- well, this is not the time to discuss it. I
10 will just vote no.

11 CHAIRMAN BAEZ: All right. That leaves a 2-2 vote.
12 I guess --

13 COMMISSIONER DEASON: The motion fails.

14 CHAIRMAN BAEZ: -- the motion fails on a 2-2 vote.
15 We will go back to the drawing board.

16 I don't know if we are all arguing the same thing
17 just from different perspectives. And, Commissioners, the
18 reason -- now that there is no motion on it, the reason that I
19 voted in the negative is this, is that we already recognize the
20 weather event.

21 Now, I appreciate Mr. Breman's point that, you know,
22 a basis for one was lightning, and a basis for the other was
23 wind, was increased winds, but I think Commissioner Bradley
24 raises a good point. In a weather event it is very hard to
25 distinguish between the two. So that perhaps that me-too

1 threshold or requirement has to get thought out in a -- we have
2 got to take some time to think that out. And, really, that was
3 the nature of my vote.

4 And, frankly, I don't know how to -- well, let me ask
5 this. I remember when the reliability reports were coming out,
6 and I know that Tampa Electric is in the midst -- I don't know
7 if they have completed the changeover, but they were in the
8 midst of developing different systems or different processes in
9 order that they could modernize or kind of better marry up the
10 measurements or the criteria that staff was using. How far
11 along are you with that?

12 MR. BRYANT: That has been completed.

13 CHAIRMAN BAEZ: That has been completed?

14 MR. BRYANT: Right.

15 CHAIRMAN BAEZ: But it didn't wrap up -- it didn't
16 wrap this weather event in it, is that --

17 MR. BRYANT: And I may not be the best one to speak,
18 but I do believe -- and there's folks in the audience that can,
19 but I do believe the system was up and running as it should
20 have been prior to this particular event.

21 CHAIRMAN BAEZ: Did that bear any consideration on
22 staff's part?

23 MR. BREMAN: It goes to Commissioner Edgar's comment.
24 The data becomes more comparable because all the utilities have
25 almost the equivalent systems and they can capture data on a

1 comparable basis. So now the question is are the utilities
2 comparable? Tampa Electric Company is the only company showing
3 an increasing trend in their distribution reliability outage
4 data.

5 CHAIRMAN BAEZ: But this was something that was
6 anticipated?

7 MR. BREMAN: That's correct. In June of this year,
8 and maybe I am talking a little bit too early, but in June of
9 this year our management study team issued a report on Tampa
10 Electric Company. They are in the process of reviewing all
11 five companies. Earlier this year they completed one on
12 Florida Public Utilities, and in June they completed one for
13 Tampa Electric Company. And one of the comments they have in
14 there, one of the findings they have in there, is that only ten
15 minutes of the increase that has been observed since this
16 improvement occurred can be accounted for or dismissed, if you
17 will, due to the outage management system upgrade. So,
18 essentially, there is twenty minutes of erosion of outage
19 duration time. So outage duration time has increased in the
20 neighborhood of twenty minutes that is largely unexplained.

21 CHAIRMAN BAEZ: That cannot be explained by the
22 change in systems.

23 MR. BREMAN: That's correct.

24 COMMISSIONER DEASON: Mr. Chairman, I'm prepared to
25 make another motion. It looks like to me it is either yes or

1 no. And either we approve staff and deny the petition or we
2 disagree with staff and grant the petition. I'm not sure that
3 there is a middle ground here. And --

4 CHAIRMAN BAEZ: You may get the same score no matter
5 what.

6 COMMISSIONER DEASON: I'm willing to move that we
7 deny staff's recommendation and grant the waiver. The only
8 thing I would ask is that the utilities just be very
9 conservative when they ask these things. I hate to see what I
10 detect to be a little bit of, you know, lessening the standard.
11 And I'm not attributing any bad faith or anything to any of the
12 utilities. And I do recognize that TECO has withdrawn one or
13 more requests that they thought met the requirements, and I
14 think in a good faith effort have decided to do that, and I
15 appreciate that.

16 There is two more pending. I don't know the severity
17 of those, what events they are. They may be just really major
18 events that there is no question that there needs to be a
19 waiver granted. They may be a little more borderline. I don't
20 know. But I would just encourage TECO to talk to staff about
21 those. If it can be resolved at that level without actually
22 filing a formal petition, I think that would be a step in the
23 right direction, at least until we can get further
24 clarification. And if we need to go to rulemaking, whatever,
25 that would be helpful.

1 CHAIRMAN BAEZ: And I would join you in that. You
2 know, waiver petitions are not something that you try and take
3 advantage of wholesale. They are there for exceptional
4 circumstances, and I think if you have heard anything, and I'm
5 not -- Mr. Beasley, you just happened to be the lucky one to be
6 sitting on the bench. I would say that to all who are still
7 hanging around at this late stage.

8 You can sense -- you know, I thought I had professed
9 some misgivings about going down this route once upon a time.
10 And, hopefully, now that we have had this discussion a second
11 time, we can try and pay better attention or at least heed the
12 warnings. Because right now the line is getting gray, and
13 although Commissioner Deason has been gracious enough to -- I
14 don't know if he has changed his mind, but certainly to get the
15 ball rolling on this, I'm all right with drawing the line next
16 time.

17 MR. BEASLEY: It is on the front burner, Mr.
18 Chairman.

19 COMMISSIONER BRADLEY: I think that Commissioner
20 Deason has a valid point, no gaming of the system. But he also
21 mentioned rulemaking, which means that we might need to rethink
22 what me, too, really means as it relates to a weather event.
23 Because I just strongly understand that in Florida you can have
24 wind, rain, and lightning. And lightning can disable a
25 distribution or transmission system just as quickly or to the

1 same extent that rain and wind can. And --

2 CHAIRMAN BAEZ: I agree with you, Commissioner
3 Bradley.

4 COMMISSIONER BRADLEY: -- and with weather patterns
5 changing -- well, not changing, but increasing in intensity in
6 Florida.

7 CHAIRMAN BAEZ: I think you can sense that staff
8 is --

9 COMMISSIONER BRADLEY: But no gaming the system is
10 basically what --

11 CHAIRMAN BAEZ: Yes. I think you can sense that
12 staff is trying to address the problem. I mean, obviously, we
13 have got some work to do anyway, but I feel that they are on
14 top of it. They certainly understand how all of this plays in,
15 and there's a lot of moving parts. But if we do have to go to
16 rulemaking, then by all means, you know, whatever the best
17 solution to it is.

18 There is enough of a good policy reason to be trying
19 to rope these lesser events that are still significant within
20 the rules so that we can keep some level of a bright line and
21 really guard that whole waiver process jealously, because I
22 think we may be on the cusp of letting it get away from us.
23 That is for what it is worth. In any case, there is a motion.

24 COMMISSIONER EDGAR: I have one more comment.

25 CHAIRMAN BAEZ: Commissioner Edgar.

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STATE OF FLORIDA)

: CERTIFICATE OF REPORTER

COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief, Office of Hearing Reporter Services, FPSC Division of Commission Clerk and Administrative Services, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 27th day of June, 2005.



JANE FAUROT, RPR
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