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September 9, 2008

HAND DELIVERED

Ms. Ann Cole, Director
Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RECEIVED-FPSC
08 SEP - 9 AM 10: 04
COMMISSION
CLERK

Re: Petition for Rate Increase by Tampa Electric Company;
Docket No. 080317-EI

Dear Ms. Cole:

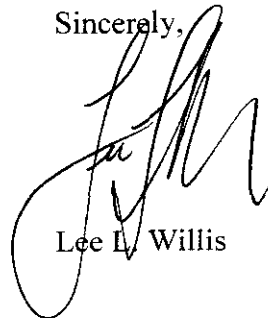
Enclosed are the original and fifteen (15) copies of Tampa Electric Company's Response to Office of Public Counsel's Motion to Modify Hearing Dates, Prehearing Date and Key Activity Dates.

Please acknowledge receipt and filing of this document by stamping the duplicate copy of this letter and returning same to this writer.

COM _____
ECR _____
GCL 2 _____
OPC 1 _____
RCP 1 _____
SSC 1 _____
SGA 2 _____
ADM _____
CLK _____

Thank you for your assistance in connection with this matter.

Sincerely,



Lee L. Willis

LLW/bjd

cc: All Parties of Record

DOCUMENT NUMBER-DATE

08369 SEP-98

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Rate Increase)
by Tampa Electric Company.)
_____)

DOCKET NO. 080317-EI

FILED: September 9, 2008

**TAMPA ELECTRIC COMPANY'S RESPONSE TO
OFFICE OF PUBLIC COUNSEL'S MOTION TO
MODIFY HEARING DATES,
PREHEARING DATE AND KEY ACTIVITY DATES**

Tampa Electric Company ("Tampa Electric" or the "company") files this its response in opposition to Office of Public Counsel's ("OPC") Motion to Modify Hearing Dates, Prehearing Date and Key Activity Dates filed September 5, 2008 and says:

1. Notice of filing of Tampa Electric's filing of its rate case on August 11, 2008 was provided on June 12, 2008 with the filing of the test year letter.
2. All interested parties have had an extended time to make plans for participation in this case and the schedule of which is governed by Section 366.06, Fla. Stat. provides that if the Commission withholds its consent to the petition for an increase in rates "... such consent shall not be withheld for a period longer than eight (8) months from the filing of the new schedule."
3. Assuming an average of 30 days per month, the statutory eight month deadline ends April 8, 2009.¹
4. The schedule in the Commission's CASR for this docket uses that entire eight month period with the decision being made at its April 7, 2009 Agenda Conference. This schedule is not unlike previous schedules the Commission has followed for similar rate

¹ OPC contends that the eight month period ends on April 11 by keeping on the August 11 filing date and counting each month to the 11th day of the next month. In any event, the eight month clock runs well before OPC's requested schedule.

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FPSC-COMMISSION CLERK

proceedings. In fact, Peoples Gas System's ("Peoples") last rate case had its final hearing schedules within just five and one-half months after the filing of the petition. In 2005 two major base rate proceedings for investor-owned electric utilities went to final hearing 131 days and 153 days, respectively, after the utilities' initial petitions were filed, without any complaint from OPC. Tampa Electric's current case will not go to final hearing until 162 days after its initial petition was filed.

5. A delay in the schedule as proposed by OPC would cause the Commission to violate the statutory time limits in Section 366.06, Fla. Stat. by over a month.

6. A delay does not appear to solve OPC's concern about workload and their ability to have sufficient time to prepare their case because it would likely compound OPC's scheduling by overlapping this case with activities in other cases.

7. At Staff's request, Peoples agreed to conditionally extend the statutory requirement for Commission action on Peoples' petition and tariff filing in Docket No. 080318-GU, subject to disposition of Peoples' request and final disposition of its petition no later than May 19, 2009.

A. OPC now essentially seeks to substitute the schedule in Tampa Electric's Docket No. 080317-EI for the Peoples' schedule in Docket No. 080318-GU. Tampa Electric has not and will not agree to a schedule that patently violates the statutory eight month period.

B. Peoples agreed to the conditional extension requested by Staff because it has requested an interim increase which helps mitigate the effect of the delay.

C. Any such delay for Tampa Electric's case without the company's express consent would be a clear violation of Section 366.06, Florida Statutes and would cause the full amount of Tampa Electric's requested rate increase to be put into effect beyond April 8, 2009,

the end of the eight month statutory deadline. OPC's suggested delay would cause significant customer confusion, with Tampa Electric's proposed rates being implemented after eight months, with the rates finally approved by the Commission being implemented sometime thereafter.

8. The Commission has made every effort to comply with the statutory eight month deadline. While OPC states they are concerned about not having time to conduct meaningful discovery, they have been diligent in sending out a massive amount of discovery to Tampa Electric beginning only four days after the filing of Tampa Electric's case. In fact, in less than four weeks from the filing of the company's testimony and MFRs, they have issued multiple sets of discovery consisting of 111 requests for production of documents in four sets and 48 interrogatories in three sets. Tampa Electric is aggressively working to respond to these requests.

9. OPC cites the fact that Tampa Electric filed 14 testimonies and 1,000 pages of MFRs. The size of this filing is not extraordinary for a base rate proceeding particularly in view of the fact that the vast majority of the MFRs relate to cost of service and rate design details. OPC traditionally has taken no position on cost of service and rate design because of its inherent conflict of interest on these issues since OPC purports to represent individuals and entities in all rate classifications.

A. The MFRs over the years have been designed to reduce the need for discovery by providing Staff and intervenors with in depth information about the case from day one.

10. Perhaps part of OPC's problem with the schedule is the vast scope of discovery it has initiated. In its first set of document requests OPC has asked the company to produce what

amounts to over two hundred (200) boxes of documents containing over 600,000 pages. OPC has followed up with its second and third requests for documents which are more targeted but in some respects duplicate requests already made in the first set of requests for production of documents.

A. OPC cites its duty to review and conduct discovery. The current CASR allows such discovery to continue until January 9, 2009 some five months after the filing. On the other hand, Tampa Electric is allotted only two months to conduct discovery on OPC's filed case and those of other intervenors.

B. The current CASR provides OPC with ample time to efficiently conduct discovery and three months more time than the company.

11. OPC's alternative suggested change in the key dates is also patently unreasonable. OPC argues that a requirement to file its testimony by November 14, 2008, 95 days after receiving Tampa Electric's testimony and exhibits is inadequate time to issue discovery and prepare its case. At the same time, OPC's alternative schedule proposes to file its testimony on the same day as Staff and to push that date back from November 14, 2008 to Christmas Eve and give the company just 14 days over the holidays until January 7, 2008 to file its rebuttal testimony on Staff and intervenors' testimonies. OPC's proposal would allow them to have 135 days to file its testimony and 14 days for Tampa Electric to file its rebuttal testimony and consequently virtually no time to conduct meaningful discovery before the rebuttal testimony filing would be due. The unfairness of such a schedule is obvious on its face.

12. The Commission's CASR in this case requires the Commission's final decision in eight months. There are some instances in other types of proceedings involving extensive testimony, MFRs and exhibits where the Commission has a statutory deadline of 120 days within

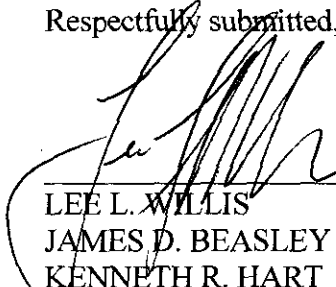
which it must reach its decision. In such cases, the statute requires the hearing to be held within 90 days. See Petitions for Determination of Need for Nuclear Power Plants, Section 403.519(4), Fla. Stat. While the eight month time frame requires efficient persistent attention by all parties, it is far from any notion of unreasonableness as OPC alleges.

13. The eight month time frame is not new but has been in effect since the mid 1970s. Since that time, parties, including OPC, routinely have been able to fall within schedules that comply with the eight month statutory deadline.

WHEREFORE, Tampa Electric strongly opposes OPC's Motion to Modify Hearing Dates, Prehearing Date and Key Activity Dates and urges the Commission to adhere to the schedule set forth in the current CASR in this proceeding.

DATED this 9th day of September 2008.

Respectfully submitted,



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ATTORNEYS FOR TAMPA ELECTRIC COMPANY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Response to OPC's Motion to Modify Hearing Dates, Prehearing Date and Key Activity Dates, filed on behalf of Tampa Electric Company, has been furnished by U.S. Mail or hand delivery (*) on this 9th day of September 2008 to the following:

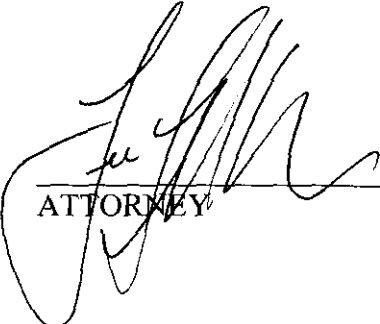
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