

TERENCE K. WOLFE RECEIVED-FPSC
406 S. BRYAN CIRCLE
BRANDON, FLORIDA 33511-6035 08 NOV 24 AM 8:26
(813) 964-7401 (813) 465-1857
TKWOLFE@SOFTHOME.NET

COMMISSION
CLERK

November 21, 2008

Ms. Ann Cole, Commission Clerk
Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Re: Terence K. Wolfe V. Tampa Electric Company (TECO): Improper Billing and
Termination of Electrical Service in Violation of Commission Rules,
Docket No. 080435-EI

Dear Ms. Cole:

I have examined the response dated November 19, 2008 from TECO's attorneys to the November 12, 2008 data request of Keino Young, Commission Senior Attorney. I have the following response.

1. TECO was requested to "cite a specific Florida Statute or Commission Rule that Tampa Electric Company believes obligates Mr. Wolfe to be responsible for payment of the electrical service he received for the months in question."¹

TECO's response cites Florida Statutes § 366.02, but the statute creates no obligation of the complaining party here to pay for electrical service alleged to have been received for the months in question. The section on which TECO relies is a "definitions" section, and nothing in it supports TECO's position that it is entitled to be paid for electrical service delivered over an extended time to a residential location without a responsible billing party on the account, and without a single bill for such service having been issued by TECO.

The rest of TECO's response discusses an alleged staff letter, not a Florida Statute or Commission Rule, and thus is unresponsive.

TECO has failed to cite a Florida Statute or Commission Rule that obligates the complaining party herein to pay for any electrical service that has not already been paid for. Commission staff should recommend that the Commission enter an order declaring all disputed amounts now being billed by TECO to the complaining party invalid and unenforceable.

¹ This question assumes the existence of a disputed fact, but this is immaterial for purposes of this reply.

DOCUMENT NUMBER-DATE

10886 NOV 24 8

FPSC-COMMISSION CLERK

TERENCE K. WOLFE

Florida Public Service Commission
November 21, 2008
Page 2

2. TECO was requested to "explain in detail why Tampa Electric Company did not disconnect Mr. Wolfe's electrical service at the address listed in the complaint, prior to February 5, 2008."

The question, in essence, requires TECO to explain why it provided electric service to a residence for an extended period of time, during which it A) had no responsible billing party on the account, B) was issuing no bills to anyone for such electrical service, and C) was aware, as it now admits, that electrical service was being consumed.

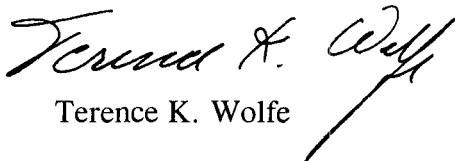
In response to this, TECO offers essentially no explanation at all. TECO merely recites its version of the factual history leading up to its first termination-without-notice of electrical service, but fails to articulate any reason, short of its own negligence, why it did not suspend electrical service under the above circumstances prior to February 6, 2008.

To the extent question 2 put to TECO was intended to elicit from TECO an assertion that it was the victim of fraud or other improper conduct on the part of its customer that might excuse TECO's failure A) properly to ensure that it had a responsible billing party on a residential account and B) to ensure that it issued and collected timely bills for electrical service allegedly consumed, TECO has failed completely to make or prove such an assertion.

Accordingly, Commission staff should recommend that the Commission enter an order declaring all disputed amounts now being billed by TECO to the complaining party invalid and unenforceable.

Finally, entirely apart from TECO's failure to identify any factual or legal basis on which it may continue to bill the complaining party for disputed amounts, Commission staff also should recommend that the Commission enter an order finding that TECO acted improperly and in violation of Commission regulations in terminating the complaining party's electrical service.

Sincerely,



Terence K. Wolfe

cc: Keino Young, FPSC Senior Attorney
J. Beasley