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Subject: Docket No. 080317-EI
Attachments: FIPUG's Objection to Tariff Approval 04.03.09.pdf

In accordance with the electronic filing procedures of the Florida Public Service Commission, the following filing is made:

- a. The name, address, telephone number and email for the person responsible for the filing is:

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- b. This filing is made in Docket No. 080317-EI, In re: Petition for Rate Increase by Tampa Electric Company.
- c. The document is filed on behalf of Florida Industrial Power Users Group.
- d. The total pages in the document are 6 pages.
- e. The attached document is "FIPUG's Objection to Administrative Approval of TECO's IS, IST, and SBI Tariffs and Rate Design."

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 080317-EI

Filed: April 3, 2009

**THE FLORIDA INDUSTRIAL POWER USERS GROUP'S
OBJECTION TO ADMINISTRATIVE APPROVAL
OF TECO'S IS, IST, AND SBI TARIFFS AND RATE DESIGN**

The Florida Industrial Power Users Group (FIPUG), pursuant to sections 366.05, 366.07 and 366.072, Florida Statutes, hereby objects to administrative approval of the tariffs and rate design related to the IS, IST and SBI rates for the reasons set forth below, including that such a delegation of authority to Staff to approve these rates and tariffs is inappropriate. The Commission should require Tampa Electric Company (TECO) to refile its Compliance Allocated Cost of Service Study to reflect the appropriate design for the energy charge for IS rates and require that this new firm, cost-based rate remain open, the same as TECO's other firm, cost-based rates. As grounds therefor, FIPUG states:

I. INTRODUCTION

On August 11, 2008, TECO filed a petition for a rate increase and requested approval of changes in rate design for the interruptible classes.

In its filing, TECO requested that the GSD, GSLD and IS classes be combined. The Commission rejected this request and voted that the IS class should be a separate firm rate schedule. (See Vote Sheet, Issue No. 88). TECO also requested that the current IS rates be eliminated and that customers on those rates be transferred to the appropriate GSD rate schedules with a GSLM credit provided for their "interruptibility." The Commission voted to eliminate the current IS rates and to transfer customers to the new firm IS and IS standby and supplemental rates. (Vote Sheet, Issue No. 87).

The Commission's decisions require that new IS rates be designed. On March 26, 2009, TECO filed its Compliance Allocated Cost of Service Study (Study). In the Study, TECO is proposing to more than double the IS energy charge. This design of the energy charge was not discussed at hearing and contradicts the record evidence. Further, such rate design is highly illogical and is not supported by the evidence.

In addition, the new IS, IST, and SBI tariffs provided to FIPUG for review indicate that such rates will be closed to new business as of May 6, 2009. The closure of the new rates was not raised as an issue in the case.

It is typical for the Commission to provide the Staff with the ability to administratively approve rates tariffs after a rate case when such approval is ministerial and simply implements an articulated decision. However, in this instance, the charges and tariffs raise substantive issues not addressed at hearing, not voted upon by the Commission, and not supported by the evidence. Therefore, they should not be administratively approved. To permit Staff to make these substantive decisions would be an inappropriate delegation of administrative authority and would deprive FIPUG of due process.

II. INAPPROPRIATE DELEGATION OF ADMINISTRATIVE AUTHORITY

In the instances described herein, Staff seeks to have the Commission delegate to it the right to administratively approve the charges and tariffs in question. However, because decisions as to these charges and tariffs are substantive, rather than ministerial, such delegation would be inappropriate.

This Commission has recognized that it "cannot delegate our ratemaking authority to administrative staff." Order No. PSC-07-0816-FOF-EI at 12, Docket No. 060658. *See also, Citizens v. Wilson*, 567 So.2d 889, 892 (Fla. 1990) (only ministerial tasks may be delegated).

Unlike the *Wilson* case, where the Commission “specified the conditions for approval, and the staff merely carried out the ministerial task of seeing whether these conditions were met,” *Id.* at 892, in this instance, Staff will be given authority to approve important rate design issues. Because the design of rates, which by their nature, affect what customers will pay is not ministerial, this cannot be delegated to Staff.

III. IS ENERGY CHARGE

TECO’s calculation of the IS energy charge as a result of the new IS rate design results in an increase in that charge of over 125%. (See Study, pages 91-97).

Not only is the more than doubling of the energy charge extremely harsh for customers in the IS rate class, it is illogical and not supported by the evidence in the case. The 125% increase represents an increase that is *higher* than TECO proposed under its original revenue request where it asked for a \$228 million increase (which it did not receive). Further, the IS energy charge would be over 1¢ (or 50%) higher than the proposed GSD energy charge. Thus, no other comparable rate class would have as high an energy charge as IS.

The fact that the IS class remained separate from the GSD class also does not support the proposed IS energy charge. When TECO was asked to develop a “stand-alone” IS rate, TECO stated that the energy charge should be comparable to the current IS-3 energy charge. (Exhibit No. 13, Document No. 15, TECO Response to Staff Interrogatory No. 232).

There is no evidence supporting this huge shift in cost recovery from demand to energy charges nor did the Commission consider this aspect of rate design. This is a substantive rate design question which neither the Commission nor the parties addressed. The energy charge design in the Study is inappropriate and the parties were provided no opportunity to address the design contained in TECO’s Study. Such large ratemaking adjustments with substantial impact

on customers may not be delegated to Staff.

IV. CLOSURE OF IS CLASS

TECO's proposal to restructure the IS rate was described in the testimony of TECO witness Ashburn. Mr. Ashburn explained that the reasons for the new rate design was to meet TECO's "rate design objective of providing interruptible service to new and existing customers on a cost-effective rate." (Tr. 1665). Mr. Ashburn also testified the transfer of IS customers was to ensure that such load is served "under a cost-effective rate schedule..." (Tr. 1666).

Thus, the purpose of the new IS rate design was to construct a cost-effective rate.¹ Given that purpose, closure of the new IS rate makes no sense. Why would a cost-effective rate schedule be closed? or was FIPUG on notice that the new IS class was to be closed to new business. This was not an issue in the case and was not raised at the time of hearing.

Again, this substantive issue, which affects customers, is not simply ministerial and may not be delegated to Staff for decision.

WHEREFORE, FIPUG objects to the Commission's delegation of authority to Staff to administratively approve the charges and tariffs described above.

s/ Vicki Gordon Kaufman

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¹ FIPUG does not agree that the current IS rate is not cost-effective; however, that is not at issue here.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished

by electronic mail and U.S. Mail this 3rd day of April, 2009 to the following:

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