

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

Petition for rate increase by Duke Energy  
Florida, LLC.

DOCKET NO.: 20240025-EI

Petition for rate increase by Tampa Electric  
Company.

DOCKET NO.: 20240026-EI

FILED: March 8, 2024

**Office of Public Counsel's Motion for Expedited Joint Docket Scheduling Conference**

The Office of Public Counsel (“OPC”) on behalf of the customers of Duke Energy Florida (“DEF”) and Tampa Electric Company (“TEC”) request that this Commission notice and hold a joint scheduling conference among and including intervened and interested parties, staff, DEF, and TEC in order to consider fair and equitable key activities and hearing dates, consistent with due process. In support, the OPC states as follows:

On January 31, 2024, and February 1, 2024, respectively, DEF and TEC filed official notice of each company’s intent to file a full revenue requirements base rate case on April 2, 2024.<sup>1</sup> As of the filing of this motion, no Order Establishing Procedure (“OEP”) has been issued. However, the OPC has consulted the Commission’s publicly available calendar, dated March 1, 2024, for guidance on the schedule. See Attachment 1.

If we are reading the scheduled dates accurately, the amount of time afforded to Intervenors and Staff to evaluate and prepare for the two largest rate increases in DEF’s and TECO’s history

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<sup>1</sup> On December 27, 2023, TEC filed a depreciation study 97 days before the expected April 2, 2024, filing date. On October 24, 2023, in Docket No. 20230122-EI, TEC filed a waiver request related to MFR filing provisions which was subsequently withdrawn. Both filings signaled a 2024 first quarter rate case filing by TEC.

has been reduced by 53 days and 60 days respectively as compared with their most recently filed, fully contested rate cases. The details and explanation of why this hearing schedule would present insurmountable hurdles to the proper evaluation and adjudication of these rate cases that amount to a denial of constitutionally guaranteed Due Process of these record rate cases is provided below.

On July 29, 2024, there is an entry for a “Commission Hold PH PS” shown. The CASR for the DEF Docket (No. 20240025-EI) lists Commissioner Gabriella Passidomo as the assigned pre-hearing officer, while Commissioner Gary F. Clark is shown as the assigned pre-hearing officer for the TEC Docket (No. 20240026-EI). A further entry on August 5, 2024, indicates “Commission Hold PH” with no Commissioner initials shown. Further, for the five days of August 12-16, 2024, there is a daily entry of “Commission Hold.” Likewise, for the days August 26-30, 2024, an identical entry of “Commission Hold” is shown. Accordingly, and based on combined decades of Commission practice experience by OPC personnel, it is reasonable to assume that the holds shown on these 12 days represent the likely prehearing and hearing dates for the DEF and TEC rate cases.

For DEF, which is proposing rate increases of a total cumulative revenue increase amount of \$818 million spread over an unprecedented three fully projected test years, a total hearing preparation time of four months and ten days has been allocated if these dates hold.

For TEC, four months and 24 days are allocated for a case seeking as much as \$490 million in cumulative revenue increase over three years, based on one fully projected test year followed by two subsequent year adjustments.

The rate increase requests represent, for each company, the largest rate increase requests ever sought. On a proportional customer basis, the TEC request would roughly correspond to a

\$1.2 billion request were it the size of DEF, while the DEF request would approximately represent a \$2.5 billion revenue increase request were it a six million customer utility like FPL. Needless to say, both DEF and TEC are seeking historically large, complex, multi-year rate relief in what appears to be an historically truncated time frame with an unprecedented situation of two simultaneous major electric companies' rate cases being conducted on virtually identical schedules. These present serious due process issues for the OPC.

The OPC has reviewed past schedules for cases involving these two utilities and is prepared to discuss in a scheduling conference various historical schedules for comparative purposes. However the two most recent schedules for each utility are presented below.

In DEF's last fully litigated, filed rate case involving a single projected test year (with a mid-proceeding adjustment for a large baseload generating unit, Bartow), the petition and MFRS were filed on March 20, 2009, and a nine-day hearing began on September 21, 2009. This 185 day period is 53 days -- almost two months -- longer than the apparent time frame for the 2024 DEF case.

For TEC, the 146 days that would result from the apparent hearing dates is 60 days -- or a full two months -- less than the last full revenue requirements filed rate case for which a hearing schedule was established. In Docket No. 20210034-EI, 207 days were scheduled. Although the case was ultimately settled, the allotted time was reasonable.

At this time, since no OEP has been issued,<sup>2</sup> parties can only make educated guesses about likely testimony dates. For DEF, the closest analog for intervenor testimony might be found in

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<sup>2</sup> In Docket No. 20090079-EI (DEF), the OEP was issued 7 days after petition filing, while in Docket No. 20210034-EI (TEC), the OEP was issued 50 days after petition filing.

Docket No. 20200051-GU (Peoples Gas or PGS) where a 147 day petition-to-hearing timeline resulted in a 57 day – or approximately two months -- interval between petition filing and intervenor testimony. In the DEF case, day 57 would be May 29, 2024 if the apparent schedule holds. For TEC, the apparent schedule would provide an intervenor testimony date in the same timeframe.

For illustration purposes, if “reverse-engineered” or derived working backwards from the apparent hearing dates using the relationships of key dates in the PGS case, a proportional intervenor testimony-to-hearing interval (which, given Memorial Day weekend issues, and adjusted to account for the apparent DEF schedule making up 93% of the 2020 PGS filing-to-hearing timeline) would be about 79 days in advance of the putative hearing start or would require intervenor testimony to be filed on May 28, 2024. The apparent TEC 2024 schedule representing an almost the same (146/147 days) duration of the 2020 PGS filing-to-hearing timeline, would yield derived a intervenor filing date of 85 days in advance of the hearing or June 6, 2024. Either way, the intervenors would be faced with constitutionally deficient preparation time given all the facts and circumstances. This is not tenable or reasonable.

On top of the schedule timeline issues, the OPC has grave concerns about shoehorning DEF’s three fully projected rate cases into only five hearing days when a single projected test year case hearing in 2009 took nine full days. OPC has similar concerns about the five day truncated place hold for the TEC hearing for a fully projected test year with two subsequent year adjustments. Nothing like this combined set of case and subsequent year issues has been attempted before from a scheduling standpoint and it would appear to be egregiously unfair to expect the OPC or other intervenors to be the guinea pigs for such an experiment.

In light of these circumstances, the OPC requests that the Commission provide an opportunity for all stakeholders to provide input on the issues presented by the apparent schedule, including likely impacts on written discovery, deposition discovery, witness preparation time and needed hearing time. The OPC requests that a noticed, joint scheduling conference be scheduled as expeditiously as possible, transcribed and to the greatest degree possible, involve the personnel necessary to make decisions about modifications to the schedule that that are fair to all and comport with procedural and substantive due process.

The OPC has consulted the parties to the above dockets and is authorized to represent that DEF and TEC have stated that they take “No Position” on the motion.

WHEREFOR,

The OPC respectfully requests that in the interests of justice that the Commission order that a scheduling conference be held as requested.

Respectfully submitted,

/s/ Charles J. Rehwinkel  
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**CERTIFICATE OF SERVICE**  
**DOCKET Nos. 20240025-EI and 20240026-EI**

I **HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished  
by electronic mail on this 8th day of March, 2024, to the following:

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# **Attachment #1**

COMMISSION CALENDAR 03/04/2024 - 02/28/2025  
THIS IS AN INTERNAL PLANNING DOCUMENT AND SUBJECT TO REVISION

	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	
M A R C H	4	5 9:30 Agenda Rm 148	6	7	8 Session Ends	M A R C H
	11	12	13	14	15	
	18	19 1:30 20240001-EI Rm 148 Fuel Cost Recovery Clause - PH PS	20	21	22	
A P R I L	25	26 9:30 Internal Affairs Rm 105 ← # 20240001-EI - Fuel Cost Recovery Clause → following IA Rm 148	27 Rm 148	28	29	A P R I L
	1	2 9:30 Agenda Rm 148	3	4	5	
	8	9	10	11	12	
	15	16	17	18	19	
M A Y	22	23	24 9:30 Internal Affairs Rm 105 20230019-EI Rm 148 TECO Storm Recovery - PH GH following IA Rm 148	25	26	M A Y
	29	30	1 9:30 Rm. 148 ← # 20230019-EI - TECO Storm Recovery →	2 9:30 Rm. 148	3	
	6	7 9:30 Agenda Rm 148 20230020-EI Rm 148 Duke Limited Proceeding - PH GH following Agenda	8	9	10	
	13	14	15	16	17	
	20	21 9:30 Internal Affairs Rm 105 Undocketed Rm 148 # Hurricane Preparedness - Workshop following IA # 20230020-EI - Duke Energy Limited Proceeding - following Workshop	22 Rm 148 # 20230020-EI - Duke Energy Limited Proceeding	23	24	
27 Memorial Holiday	28	29	30	31		
J U N E	3 SEARUC - Asheville, NC	4 SEARUC - Asheville, NC	5 SEARUC - Asheville, NC	6	7	J U N E
	10	11 1:00 20230017-EI Rm 148 FPL Storm Restoration Costs - PH GH	12	13	14	
	17	18 9:30 Agenda Rm 148 IA following Agenda Rm 105 20230017-EI Rm 148 # FPL Storm Restoration Costs following IA	19 Rm 148 ← # 20230017-EI - FPL Storm Restoration Costs →	20 Rm 148	21	
	24	25	26	27	28	
J U L Y	1	2	3	4 4 <sup>th</sup> of July Holiday	5	J U L Y
	8	9 9:30 Agenda Rm 148	10	11	12	
	15 NARUC - West Palm Beach	16 NARUC - West Palm Beach	17 NARUC - West Palm Beach	18	19	
	22	23 9:30 Internal Affairs Rm 105 20240012/13/14/15/16/17-EG Rm 148 DSM Goals - PH GH following IA	24	25	26	
	29 Commission Hold - PH PS	30	31	1	2	
A U G U S T	5 Commission Hold - PH 1:00 20240010-EI Rm 148 Storm Protection CRC - PH PS	6 9:30 Agenda Rm 148 ← # 20240012/13/14/15/16/17-EG - DSM Goals → following Agenda	7 Rm 148	8 Rm 148	9 Rm 148	A U G U S T
	12 Commission Hold	13 Commission Hold	14 Commission Hold	15 Commission Hold	16 Commission Hold	
	19	20 9:30 Internal Affairs Rm 105 ← # 20240010-EI - Storm Protection Plan Cost Recovery Clause → following IA Rm 148	21 Rm 148	22 Rm 148	23	

# = All Commissioners CK = Clark GH = Graham FY = Fay LR = La Rosa PS = Passidomo \* = Staff only  
IA=Internal Affairs OA=Oral Argument PH=Prehearing RDW=Rule Development Workshop SA=Special Agenda SH=Service Hearing CM=Customer Meeting IM=Informal Meeting

COMMISSION CALENDAR 03/04/2024 - 02/28/2025  
 THIS IS AN INTERNAL PLANNING DOCUMENT AND SUBJECT TO REVISION

	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	
AUG	26 Commission Hold	27 Commission Hold	28 Commission Hold	29 Commission Hold	30 Commission Hold	AUG
S E P T E M B E R	2 Labor Day Holiday	3	4	5	6	S E P T E M B E R
	9	10 9:30 Agenda Rm 148	11	12	13	
	16	17	18	19	20	
O C T O B E R	23	24 9:30 Internal Affairs Rm 105 Commission Hold - PH	25	26	27	O C T O B E R
	30	1 9:30 Agenda Rm 148 Commission Hold	2	3	4	
	7	8	9	10	11	
N O V E M B E R	14	15	16	17	18	N O V E M B E R
	21	22	23	24 9:30 20240001/02/03/04/07 Rm 148 Cost Recovery Clause - PH PS	25	
	28	29 9:30 Internal Affairs Rm 105	30	31	1	
D E C E M B E R	4	5 9:30 Agenda Rm 148 ← # 20240001/02/03/04/07-EI - Cost Recovery Clause → following Agenda	6 Rm 148	7 Rm 148	8	D E C E M B E R
	11 NARUC - Anaheim, CA Veterans Holiday	12 NARUC - Anaheim, CA	13 NARUC - Anaheim, CA	14	15	
	18	19 9:30 Internal Affairs Rm 105	20	21	22	
J A N U A R Y	25	26	27	28 Thanksgiving Holiday	29 Thanksgiving Holiday	J A N U A R Y
	2	3 9:00 Service Awards Rm 148 9:30 Agenda Rm 148	4	5	6	
	9	10	11	12	13	
F E B R U A R Y	16	17 9:30 Internal Affairs Rm 105	18	19	20	F E B R U A R Y
	23	24	25 Christmas Holiday	26	27	
	30	31	1 New Year's Holiday	2	3	
F E B R U A R Y	6	7 9:30 Agenda Rm 148	8	9	10	F E B R U A R Y
	13	14	15	16	17	
	20 Martin Luther King Holiday	21	22 9:30 Internal Affairs Rm 105	23	24	
F E B R U A R Y	27	28	29	30	31	F E B R U A R Y
	3	4 9:30 Agenda Rm 148	5	6	7	
	10	11	12	13	14	
F E B R U A R Y	17	18 9:30 Internal Affairs Rm 105	19 PURC - Gainesville	20 PURC - Gainesville	21	F E B R U A R Y
	24 NARUC - Washington DC	25 NARUC - Washington, DC	26 NARUC - Washington, DC	27	28	

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