

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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| In re: Petition for rate increase by Tampa Electric Company.  | ) | Docket No. 20240026-EI |
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| In re: Petition for approval of 2023 Depreciation and Dismantlement Study, by Tampa Electric Company.   | ) | Docket No. 20230139-EI |
|   | ) |                        |
|   | ) |                        |
| In re: Petition to implement 2024 Generation Rate Base Adjustment provisions in Paragraph 4 of the 2021 Stipulation and Settlement Agreement, by, Tampa Electric Company. | ) | Docket No. 20230090-EI |
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Filed: April 24, 2024

**PETITION TO INTERVENE**

Americans for Affordable Clean Energy, Inc. (“AAACE”), Circle K Stores, Inc. (“Circle K”), RaceTrac Inc. (“RaceTrac”), and Wawa, Inc. (“Wawa”) (hereinafter, collectively, “Fuel Retailers” or “Intervenors”), pursuant to Sections 120.569 and 120.57(1), Florida Statutes, and Rule 28-106.205, Florida Administrative Code, hereby file this Petition to Intervene in the above-captioned docket, and in support thereof state as follows:

1. **Party Identification.** The Fuel Retailers/Intervenors for this matter are:

Americans for Affordable Clean Energy, Inc.  
1330 Braddock Place, Suite 501  
Alexandria, VA 22314

Circle K Stores, Inc.  
1130 W. Warner Rd., Building B.  
Tempe, AZ 85284

RaceTrac, Inc.  
200 Galleria Parkway SE, Suite 900  
Atlanta, GA 30339

Wawa, Inc.  
260 W. Baltimore Pike  
Wawa, PA 19063

2. All pleadings, orders, notices, and other communications or filings in this docket should be provided to the following on behalf of the Fuel Retailers:

Floyd R. Self, B.C.S.  
Ruth Vafek, Esq.  
Berger Singerman, LLP  
313 North Monroe Street, Suite 301  
Tallahassee, FL 32301  
Telephone: (850) 521-6727  
Email: fself@bergersingerman.com  
Email: rvafek@bergersingerman.com

3. **Affected Agency.** The affected agency is the Florida Public Service Commission (“PSC” or “Commission”), with a principal place of business at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

4. **Affected Party.** The affected utility in this docket is Tampa Electric Company (“Tampa Electric”).

5. **Statement of Substantial Interests.** The Statement of Substantial Interests for each of the Fuel Retailers is as follows:

- a. **AACE.** AACE is an established nonprofit association of fuel retailers that includes Circle K, RaceTrac, and Wawa, each of which is also intervening in this matter with AACE. AACE’s intervention in this matter is on behalf of its five fuel retailer members in Florida, all of whom are Tampa Electric customers, representing more than 1,500 refueling locations across the state.

AACE members include owners and operators of convenience stores, public travel facilities, and truck stops that provide fuel and other goods, services, and amenities at refueling stations throughout Florida and across the United States, primarily consisting of retail consumer goods, vehicle repair and service products, food, and fuel. In addition, AACE members are among Florida's most sophisticated and forward-thinking fuel retailers. Currently, AACE members provide fuel for all shapes, forms, and types of vehicles found on the nation's roads today. Electric service is instrumental to the ability of the AACE members operating in the Tampa Electric service area to offer any and all of their fuel and other services to Floridians and the larger traveling public. In addition, electric vehicle ("EV") charging for AACE members is just another type of transportation fuel, and the EV charging is totally dependent upon receiving reliable and affordable electric service. Thus, the rates, terms and conditions governing the provision of electricity to AACE members in the Tampa Electric service territory will substantially and materially impact their ability to provide vehicle fueling services generally and especially EV charging services. Even more importantly, as the property owners and operators of sites at which EV charging stations have been or will be deployed, AACE members play a critical role in advancing the public policy goal of developing electricity fueled transportation through private investment, and the decisions in this docket will have a substantial and material impact on the ability of AACE members in the Tampa Electric area to deploy and offer EV charging stations and services.

b. **Circle K.** Circle K’s success in the convenience retailing industry spans more than 60 years, beginning in Texas and growing across the U.S. and internationally. Today, Circle K is the global brand of Alimentation Couche-Tard, Inc. (“Couche-Tard”). Couche-Tard is a global leader in convenience and mobility, operating in 29 countries and territories, with more than 16,700 stores, of which approximately 13,100 offer road transportation fuel. It is one of the largest independent convenience store operators in the United States and it is a leader in the convenience store industry and road transportation fuel retail in Canada, Scandinavia, the Baltics, as well as in Ireland. It also has an important presence in Poland and Hong Kong Special Administrative Region of People’s Republic of China and has recently expanded to Belgium, Germany, Luxembourg, and the Netherlands. More than 150,000 people are employed throughout its network. Circle K is a leading destination for EV charging in Europe, with nearly 2,500 chargers at more than 500 locations. In addition, the company expects to have 200 locations across North America offering EV fast charging services by the end of 2024. Currently, there are approximately 820 Circle K locations in Florida, of which, 70 are located within Tampa Electric’s service territory, with one location currently offering EV charging services. Circle K’s use of electricity makes Circle K a large retail customer of Tampa Electric, paying Tampa Electric substantial amounts for electric service each year. Circle K’s further expansion of EV refueling stations within Tampa Electric’s service territory is dependent, in part, upon the outcome of this docket.

- c. **RaceTrac.** RaceTrac is a family-owned business that has been serving guests since 1934. Together with its franchise-brand RaceWay, RaceTrac operates over 800 convenience stores and employs over 10,000 team members across its footprint. The company has been proudly serving Floridians for almost half a century. Currently, there are 295 stores (249 company-owned RaceTrac stores and 46 franchise-operated RaceWay stores) in Florida, which are supported by over 4,200 team members. Since 2017, RaceTrac has invested about \$92 million each year in the state and plans to invest approximately \$100 million in 2024. RaceTrac has refueling stations located at the most convenient real estate for travelers, including many locations along alternative fuel corridors. Of its refueling stations, 39 are located within Tampa Electric's service territory, making RaceTrac a large retail customer of Tampa Electric, paying Tampa Electric substantial amounts for electric service each year. RaceTrac offers EV charging in areas outside of Tampa Electric's service area and looks to expand its EV charging services in the Tampa Electric area.
- d. **Wawa.** Wawa is a privately held, family-owned company that began as an iron foundry in 1803. As of 2023, Wawa was number 20 on Forbes' list of America's largest private companies. Wawa operates more than 1,040 stores and employs over 46,000 team members across its footprint. Approximately 865 of these locations include motor vehicle refueling stations. The company has been proudly serving Floridians since 2012. Currently, there are 280 stores in Florida, which are supported by over 10,000 team members, and Wawa is continuing to actively expand in Florida. Of its Florida locations, Wawa has

30 locations within Tampa Electric's service territory, 6 of which have EV charging stations, making Wawa a large retail customer of Tampa Electric, paying Tampa Electric substantial amounts for electric service each year. Wawa anticipates adding 25 EV refueling stations within Tampa Electric's service territory over the next 10 years.

6. **Further Information Regarding Substantial Interests of the Fuel Retailers.** In this docket, the Commission will consider Tampa Electric's request to increase rates paid by Tampa Electric customers, including each of the Fuel Retailers. Specifically, in its April 2, 2024, Petition for Rate Increase, Tampa Electric indicates an intention to seek a base rate increase of \$293,634,910, along with another \$2,976,175 in service charges for a total increase of \$296,611,085 to be effective in January 2025. Petition, at 5. The rate increases necessary to increase Tampa Electric's revenues will have a direct and substantial impact on Tampa Electric's customers, including each of the Fuel Retailers and their respective fuel retail centers throughout the Tampa Electric service area. Intervention on this basis alone as customers is demonstrated under Florida law.

7. In addition, Tampa Electric has stated that in developing its peak demand forecast that it has accounted for the impacts of EV charging. *See*, Direct Testimony of Lori Cifuentes, at 19, et. seq. The business of the Fuel Retailers is selling fuel to provide power to vehicles, *see* section 377.707(1), Florida Statutes, and the Fuel Retailers are fuel agnostic given their roles as the primary providers of motor vehicle fuels to the public. With the projected transition of the motor vehicle industry to electricity as a fuel, the Fuel Retailers are currently providing EV charging services at some Florida locations, including some within the Tampa Electric service area as noted above, and a substantial number of AACE members, including and in addition to Circle

K, RaceTrac, and Wawa, currently offer or are in the process of expanding or evaluating for deployment EV charging stations at their retail fuel stores in the Tampa Electric service area and elsewhere in Florida. In this regard, the rates, terms, and conditions of service that Tampa Electric is proposing in this case will have a significant impact on whether the Fuel Retailers can reasonably and economically offer third party EV charging to the public. Thus, the ability of the Fuel Retailers to deploy EV charging on a widescale basis, as they do today for other motor vehicle fuels, will be significantly impacted by this case. Further, whether, and to what extent, the Fuel Retailers can ultimately cost-effectively deploy EV charging will have a significant and material effect on the validity of the demand forecasts of Tampa Electric, given the retail fuel industry's predominate position in the market. Since most residential EV charging is off peak, and a significant part of retail EV charging is on peak, the Fuel Retailers are the best and only intervenors with the expertise to help the Commission probe and assess the validity of Tampa Electric's demand forecasts generally, and specifically with respect to EV charging.

8. As the EV market in Florida continues to develop and grow, it is imperative that there is a robust and affordable electric vehicle charging infrastructure in place to support Floridians and visitors during an evacuation. Fuel Retailers have the footprint, infrastructure, and experience to provide fueling support to motorists during hurricanes or other emergencies. Accordingly, the Fuel Retailers have a substantial interest in ensuring that the rates, terms, and conditions that Tampa Electric is proposing to charge third party EV charging fuel providers are such that they can reasonably and economically offer third party EV charging to the public. On this point, the Florida Legislature has made clear its intent that there be sufficient, reasonably priced fueling locations along evacuation routes. *See* § 252.135(2)(a)1., Fla. Stat.; *see also* § 339.287(1)(e), Fla. Stat. (providing legislative finding that having adequate, reliable charging

stations along the State Highway System will also help with evacuations during hurricanes or other disasters).

9. As the Commission is aware, Tampa Electric currently has an EV charging pilot program first approved in Docket No. 20200220-EI. The day before filing in this docket the documentation supporting its rate case, Tampa Electric proposed to modify, extend, and expand its pilot program in order to “develop Tampa Electric’s competencies to serve the EV market,” “meet customer needs in identified key markets,” and “inform and develop the company’s long-term EV strategy.” Docket No. 20240054-EI, Petition, at 2. Given the various policy ramifications of that expansion request, the Fuel Retailers intend to separately seek intervention in Docket No. 20240054 to address the Tampa Electric’s request. Notwithstanding that separate proceeding regarding future EV charging services by Tampa Electric, there are existing EV chargers in Tampa Electric’s rate base that are at issue in this docket, and there is a specific depreciation schedule both for EV charges Tampa Electric uses internally for its own vehicle fleet and EV chargers under the pilot offered to the public. The continued accounting and operational treatment of Tampa Electric’s own EV charging pilot also substantially affects the interests of the Fuel Retailers.

10. The Tampa Electric Petition also provides that in “[l]ooking ahead to 2025 and beyond, Tampa Electric plans to . . . increase fuel diversity . . . .” Tampa Electric Petition, at 3. House Bill 1645, upon approval by the Governor, also has significant and relevant language regarding fuel diversity. The Fuel Retailers have no issue with Tampa Electric utilizing this legislation to increase the fuel diversity of its electric generation fleet. However, to the extent Tampa Electric intends to use this legislation as a means of expanding its motor vehicle fueling program beyond the currently authorized EV charging program to include hydrogen, renewable



natural gas, or any other type of gas as a motor vehicle fuel, such efforts would also substantially impact the Fuel Retailers as motor vehicle fuel provider rate payers if Tampa Electric's monopoly rate payers are subsidizing such alternative motor vehicle fuels as they are now for its EV charging pilot.

11. Given the status of Circle K, RaceTrac, and Wawa as large retail electric customers of Tampa Electric and the potential impacts to each of the Fuel Retailers, including AACE members in the Tampa Electric service area, as a result of the rate increase, depreciation schedules, and tariff changes proposed by Tampa Electric along with the other issues raised above, each of the Fuel Retailers individually meets the standard for intervention set forth in *Agrico Chemical Company v. Dep't of Env'tl. Reg.*, 406 So. 2d 478, 482 (Fla. 2d DCA 1981). The Commission has a long history of granting intervention to customers in rate proceedings. *See, e.g., In re: Petition for rate increase by Gulf Power Company*, Docket No. 130140-EI, Order No. PSC-13-0419-PCO-EI (Sept. 10, 2013) (granting intervention to large retail customer); *In re: Petition for increase in rates by Florida Power & Light Company*, Docket No. 120015-EI, Order No. PSC-12-0221-PCO-EI (April 26, 2012) (granting intervention to residential customers); *In Re: Petition for Rate Increase by Tampa Electric Company*, Docket No. 080317-EI, Order No. PSC-08-0599-PCO-EI (Sept. 16, 2008) (granting intervention to association representing interests of retail customers). None of the other customers or customer groups that have requested intervention in this docket reflect the same types of business or business interests as the Fuel Retailers, and so they bring a unique and different perspective to this case not reflected by any other intervenor or petitioner for intervention.

12. **Association Standing.** The subject matter of this proceeding is well within AACE's established scope of interest and activity. AACE routinely appears on behalf of its

members' interest in a variety of legislative, regulatory, and judicial proceedings. AACE's mission is to educate the public and advocate for consumer-focused low-carbon transportation energy policies. This mission includes the development and expansion of EV charging station infrastructure and related technology to communities throughout the United States in order to promote clean energy and a reduction in greenhouse gas emissions. While AACE has not previously participated in a proceeding before this Commission, AACE has been granted intervention in proceedings in numerous other states, including Colorado, Georgia, Louisiana, Minnesota, South Carolina, and Texas. The interests of the many members of AACE who are also Tampa Electric customers will be determined by the Commission's decision in this case.

13. Under Florida law, to establish standing as an association representing its members' substantial interests, under *Florida Home Builders Ass'n v. Dep't of Labor and Employment Security*, 412 So. 2d 351, 353-54 (Fla. 1982), an association such as AACE must demonstrate three things: (A) that a substantial number of its members, although not necessarily a majority, are substantially affected by the agency's decisions; (B) that the intervention by the association is within the association's general scope of interest and activity; and (C) that the relief requested is of a type appropriate for an association to obtain on behalf of its members.

14. AACE satisfies all of these associational standing requirements.

- a. A substantial number of AACE's members are located in Tampa Electric's service area and receive electric service from Tampa Electric pursuant to Commission-approved rates that are at issue in this proceeding. In addition, AACE members have a direct interest in EV-related programs implemented by Tampa Electric.

- b. AACE exists to represent its members' interest in various venues, including matters before the Florida Public Service Commission, as demonstrated by AACE's participation in the previously noted regulatory proceedings in other states, which specifically include other state utility regulatory commissions.
- c. Finally, the relief requested by AACE is of the type appropriate for it to receive on behalf of its members pursuant to Rule 28-106.205(1), Florida Administrative Code. AACE seeks to intervene as a party of record with full rights to participate in all of the proceedings in this docket, joining three of its members who are also seeking intervention. AACE members are electric customers who will be affected by the outcome of this proceeding. AACE members purchase electricity from Tampa Electric pursuant to various rate schedules that are at issue in this proceeding. AACE's participation is appropriate to ensure that the rates charged to AACE's members for electric service are fair, just, and reasonable. While some of the larger AACE members with business in the Tampa Electric service area are also individually intervening in this docket, AACE can support those individual companies through this concurrent or joint representation, and AACE can also provide a larger view and perspective to the Commission on behalf of those additional fuel retailers who are also Tampa Electric customers. While AACE, Circle K, RaceTrac, and Wawa shall speak with a single voice in this case, and take a single position on issues, those issues and single positions shall be reflective of all of the AACE members operating in the Tampa Electric service area. To that end, the Fuel Retailers intend to conduct discovery, cross examine witnesses,

raise issues of material fact and law, and take positions based upon what Tampa Electric seeks and how the relief requested in this docket substantially affects AACE's members, all of which are the types of matters that this proceeding is designed to protect.

15. **Notice of Proceeding.** Each of the Fuel Retailers received notice of this docket informally through the monitoring of Commission dockets.

16. **Statement of Position.** Tampa Electric must meet its burden of proof in this matter. The Fuel Retailers intend to conduct discovery and reserve the right to modify its positions based on information obtained during discovery or otherwise.

17. **Disputed Issues of Material Fact.** Fuel Retailers expect that the disputed issues of material fact will continue to be identified and refined in the course of these proceedings. Based upon the Fuel Retailers' review of the proceedings thus far, the disputed issues of material fact currently include, but are not limited to:

- a. Whether the increased base rates proposed by Tampa Electric are supported by competent substantial evidence of record.
- b. Whether the increased base rates proposed by Tampa Electric are fair, just, and reasonable.
- c. Whether Tampa Electric's proposed return on equity and capitalization structure are fair, just, and reasonable.
- d. Whether the depreciation category that combines EV charging assets used by Tampa Electric and for its EV pilot program is appropriate.
- e. Whether the proposed tariffs are appropriate, and not unfairly discriminatory.

- f. Whether the projected test year(s) are more representative than an historic test year.

The Fuel Retailers reserve the right to raise additional issues in accordance with the Commission's rules and the Order Establishing Procedure in this docket.

18. **Statement of Ultimate Facts Alleged and at Issue.** The alleged ultimate facts include, but are not limited to, the following:

- a. Whether Tampa Electric has met its burden to prove that its proposed rates and charges, and its implementing tariffs, are fair, just, and reasonable.
- b. Whether Tampa Electric has met its burden to prove that it is entitled to any rate increases.
- c. Whether Tampa Electric's depreciation schedules are appropriate.
- d. Whether the projected test year(s) are more representative than an historic test year.

19. **Rules and Statutes Justifying Relief.** The rules and statutes that entitle each of the Fuel Retailers to intervene and participate in this case include but are not limited to Sections 120.569, 120.57(1), 366.04, 366.041, 366.05, 366.06, Florida Statutes, House Bill 1645 if it takes effect, and Rules 28-106.201 and 28-106.205, Florida Administrative Code.

20. **Relief Requested.** The Fuel Retailers request that each be permitted to intervene as a full party in this docket. The Fuel Retailers intend to offer a uniform position and present a single case to the Commission.

21. **Statement Required by Rule 28-106.204(3).** Counsel for Fuel Retailers has conferred with counsel for Tampa Electric and is authorized to represent that Tampa Electric takes no position on this intervention. Counsel has also conferred with counsel for the Office of the

Public Counsel who also indicated no position. Undersigned counsel has emailed those other Parties of Record who have sought and been granted intervention, to advise of this Petition and the intent to intervene, and those who have responded have taken no position or have no objection.

**WHEREFORE**, Americans for Affordable Clean Energy, Inc., Circle K Stores, Inc., RaceTrac Inc., and Wawa, Inc. request that the Commission enter an order allowing each company to intervene and participate as a full party in the above-captioned docket.

Respectfully submitted,



Floyd R. Self, B.C.S. (Fla. Bar No. 608025)

Ruth Vafek, Esq. (Fla. Bar No. 34228)

Berger Singerman LLP

313 North Monroe Street, Suite 301

Tallahassee, Florida 32301

Direct Telephone: (850) 521-6727

Email: [fself@bergersingerman.com](mailto:fself@bergersingerman.com)

Email: [rvafek@bergersingerman.com](mailto:rvafek@bergersingerman.com)

## CERTIFICATE OF SERVICE

I hereby certify that I have this day caused to be served a copy of the foregoing document on the following persons via email as follows:

Adria Harper  
Carlos Marquez  
Timothy Sparks  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850  
[aharper@psc.state.fl.us](mailto:aharper@psc.state.fl.us)  
[cmarquez@psc.state.fl.us](mailto:cmarquez@psc.state.fl.us)  
[tsparks@psc.state.fl.us](mailto:tsparks@psc.state.fl.us)  
[discovery-gcl@psc.state.fl.us](mailto:discovery-gcl@psc.state.fl.us)  
Florida Public Service Commission/OGC

Jon C Moyle, Jr.  
Karen A. Putnal  
c/o Moyle Law Firm  
118 N. Gadsden Street  
Tallahassee, FL 32301  
[imovle@movlelaw.com](mailto:imovle@movlelaw.com)  
[kputnal@moylelaw.com](mailto:kputnal@moylelaw.com)  
[mqualls@movlelaw.com](mailto:mqualls@movlelaw.com)  
Florida Industrial Power Users Group

Mr. Robert Scheffel Wright  
John LaVia, III  
Gardner, Bist, Wiener, Wadsworth, Bowden,  
Bush, Dee, LaVia & Wright, P. A.  
1300 Thomaswood Drive  
Tallahassee, FL 32308  
[shef@gbwlegal.com](mailto:shef@gbwlegal.com)  
[ilavia@gbwlegal.com](mailto:ilavia@gbwlegal.com)  
Florida Retail Federation

Nihal Shrinath #  
2101 Webster Street, Suite 1300  
Oakland, CA 94612  
[nihal.shrinath@sierraclub.org](mailto:nihal.shrinath@sierraclub.org)  
Sierra Club

J. Jeffrey Whalen  
Malcolm N. Means  
Virginia Ponder  
Ausley Law Firm  
Post Office Box 391  
Tallahassee, Florida 32302  
[jwhalen@ausley.com](mailto:jwhalen@ausley.com)  
[mmeans@ausley.com](mailto:mmeans@ausley.com)  
[vponder@ausley.com](mailto:vponder@ausley.com)  
Tampa Electric Company

Walt Trierweiler  
Patricia Christensen  
c/o The Florida Legislature  
111 West Madison Street, Room 812  
Tallahassee, FL 32399-1400  
[trierweiler.walt@leg.state.fl.us](mailto:trierweiler.walt@leg.state.fl.us)  
[Christensen,patty@leg.state.fl.us](mailto:Christensen,patty@leg.state.fl.us)  
Office of Public Counsel

Bradley Marshall  
Jordan Luebke  
111 S. Martin Luther King Jr. Blvd.  
Tallahassee, FL 32301  
[bmarshall@earthjustice.org](mailto:bmarshall@earthjustice.org)  
[iluebke@earthjustice.org](mailto:iluebke@earthjustice.org)  
Florida Rising and League of United Latin  
American Citizens of Florida  
Earthjustice

William C. Garner  
Southern Alliance for Clean Energy  
3425 Bannerman Road, Unit 105, No. 414  
Tallahassee, Florida 32312  
[bgarner@wcglawoffice.com](mailto:bgarner@wcglawoffice.com)

Leslie R. Newton  
Ashley N. George  
Thomas Jernigan  
Ebony Payton  
AFLOA/JAOE-ULF SC  
139 Barnes Drive, Suite 1  
Tyndall Air Force Base, Florida 32403  
[Leslie.Newton.1@us.af.mil](mailto:Leslie.Newton.1@us.af.mil)  
[Ashlev.George.4@us.af.mil](mailto:Ashlev.George.4@us.af.mil)  
[Thomas.jernigan.3@us.af.mil](mailto:Thomas.jernigan.3@us.af.mil)  
[Ebony.payton.ctr@us.af.mil](mailto:Ebony.payton.ctr@us.af.mil)

Sari Amiel  
50 F. Street NW, Eighth Floor  
Washington, DC 20001  
[Sari.amiel@sierraclub.org](mailto:Sari.amiel@sierraclub.org)  
Sierra Club

This 24<sup>th</sup> day of April 2024.



Floyd R. Self