

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Tampa Electric Company.	DOCKET NO. 20240026-EI
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 base rate adjustment provisions in paragraph 4 of the 2021 stipulation and settlement agreement, by Tampa Electric Company.	DOCKET NO. 20230090-EI ORDER NO. PSC-2024-0183-PCO-EI ISSUED: June 4, 2024

ORDER GRANTING IN PART AND DENYING IN PART
OFFICE OF PUBLIC COUNSEL’S EXPEDITED MOTION TO ENLARGE DISCOVERY

On April 16, 2024, the Florida Public Service Commission (“Commission”) issued an Order Establishing Procedure and Consolidating Dockets, Order No. PSC-2024-0096-PCO-EI, which established controlling dates and procedures for Docket No. 20240026-EI. That Order provides that the total number of interrogatories, including all subparts, issued by any one party shall be limited to 500.

On May 17, 2024, the Office of Public Counsel (“OPC”) filed an Expedited Motion to Enlarge Discovery.¹ OPC states that it was informed by Tampa Electric Company (“TECO”) on May 15, 2024, that OPC had exceeded the 500 interrogatory maximum by approximately 125–150 interrogatories. OPC contends it has endeavored to be as proactive and efficient as possible in propounding interrogatories upon TECO. OPC argues that to adequately represent the citizens of Florida it vitally needs the information requested in pending interrogatory responses as well as the ability to send future interrogatories. OPC alleges that its ability to build its case will be harmed if it is not permitted to serve additional interrogatories in this matter. OPC therefore requests that the interrogatory limit be raised from 500 to 1,000. OPC represents that it conferred with the parties and TECO does not object to increasing the interrogatory, including subparts, maximum for OPC to 750–800.²

On May 21, 2024, TECO timely filed a response to OPC’s motion.³ TECO asserts that the basic construct of this case is not new or unique because its 2021 rate case also involved one test year and two subsequent year adjustments. TECO notes that the ratepayers will ultimately

¹ *In re: Petition for rate increase by Tampa Elec. Co.*, Docket No. 20240026-EI, Document No. 03292-2024 (filed May 17, 2024) (“Citizens’ Expedited Motion to Enlarge Discovery.”).

² OPC represents that Florida Rising, Inc., League of United Latin American Citizens of Florida, and Sierra Club support this motion. OPC states it has not received a position from Florida Industrial Power Users Group, Federal Executive Agencies, or Florida Retail Federation as of the filing of this motion.

³ *In re: Petition for rate increase by Tampa Elec. Co.*, Docket No. 20240026-EI, Document No. 03406-2024 (filed May 21, 2024) (“Tampa Electric Company’s Response to Citizens’ Expedited Motion to Enlarge Discovery.”).

bear the cost of discovery and thus cautions this Commission against an overbroad enlargement of discovery. TECO argues that a maximum of 750–800 interrogatories, including subparts, is sufficient for OPC.

Rule 1.340(a) of the Florida Rules of Civil Procedure limits parties to 30 interrogatories, including subparts, except upon motion for good cause shown. The Commission permits parties to exceed that number when the scope of a proceeding is complex in nature. Matters related to discovery are addressed on a case-by-case basis in light of the particular circumstances.⁴ Given the volume and complexity of information to be analyzed in this docket, an increase to the interrogatory maximum appears appropriate. However, OPC has not demonstrated that the facts here warrant the entire additional 500 interrogatories requested. This proceeding involves a petition for permanent base rate increase using one test year and a request for two subsequent year adjustments. OPC recognizes that ratepayers ultimately bear the cost of discovery. Furthermore, OPC acknowledges that its current request for relief is based in part on speculation as OPC is unsure how many additional interrogatories it ultimately would need to be prepared for final hearing. Although OPC has not met its burden of persuasion for an additional 500 interrogatories, it has demonstrated good cause for some enlargement of discovery to occur. An increase of 250 interrogatories here strikes an appropriate balance between the desire for more information and the cost to ratepayers. Therefore, OPC will be permitted to issue 250 additional interrogatories, bringing its interrogatory maximum up to 750.

Based on the foregoing, it is

ORDERED by Commissioner Gary F. Clark, as Prehearing Officer, that the Office of Public Counsel's Expedited Motion to Enlarge Discovery is GRANTED IN PART and DENIED IN PART as set forth herein. The Office of Public Counsel shall be limited to 750 interrogatories, including all subparts. It is further

ORDERED that all aspects of the Order Establishing Procedure and Consolidating Dockets, Order No. PSC-2024-0096-PCO-EI, not inconsistent with this Order shall remain in full force and effect.

⁴ See *In re: Petition for rate increase by Peoples Gas Sys., Inc.*, *In re: Petition for approval of 2022 depreciation study*, by Peoples Gas Sys., Inc., *In re: Petition for approval of depreciation rate and subaccount for renewable natural gas facilities leased to others*, by Peoples Gas Sys., Inc., Docket Nos. 20230023-GU, 20220219-GU, 20220212-GU, Order No. PSC-2023-0128-PCO-GU (Fla. PSC Dec. 27, 2023) (authorizing 400 interrogatories per party in docket with one test year); *In re: Petition for rate increase by Tampa Elec. Co.*, *In re: Petition for approval of 2020 depreciation and dismantlement study and capital recovery schedules*, by Tampa Elec. Co., Docket Nos. 20210034-EI, 20200264-EI, Order No. PSC-2021-0172-PCO-EI (Fla. PSC May 14, 2021) (authorizing 500 interrogatories per party in docket with one test year and two subsequent year adjustments); *In re: Petition for rate increase by Fla. Power & Light Co.*, Docket No. 20210015-EI, Order No. PSC-2021-0116-PCO-EI (Fla. PSC Mar. 24, 2021) (authorizing 750 interrogatories per party in docket with two test years).

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By ORDER of Commissioner Gary F. Clark, as Prehearing Officer, this 4th day of June,
2024.



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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

CMM

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural, or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas, or telephone utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural, or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.