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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 FILED: October 21, 2024

THE FLORIDA RETAIL FEDERATION'S POST-HEARING BRIEF AND STATEMENT OF ISSUES AND POSITIONS

The Florida Retail Federation (the "FRF" or "Federation"),[1] pursuant to the Order Establishing Procedure ("OEP") in this docket, Order No. PSC-2024-0096-PCO-EI, issued on April 16, 2024, and subsequent instructions from the Commission, hereby submits the Federation's Post-Hearing Brief and Statement of Issues and Positions.

SUMMARY

Tampa Electric Company is obligated and required by Florida law to provide safe and reliable service to its customers at fair, just, reasonable, and non-discriminatory rates that will produce revenues sufficient to fulfill its obligation to serve, but that are not excessive to

[1] In this Post-Hearing Brief and Statement of Issues and Positions, the following additional abbreviations are used: the Florida Public Service Commission is referred to as the "Commission" or simply as the "PSC"; the Citizens of the State of Florida, represented by the Office of Public Counsel, are referred to as "Citizens" or "OPC"; the League of United Latin American Citizens of Florida is referred to as "LULAC"; the Florida Industrial Power Users Group is referred to as "FIPUG"; Florida Rising, Inc. is referred to as "Florida Rising"; the Federal Executive Agencies are referred to as "FEA"; and Wal-Mart, Inc. is referred to as "Walmart." "TECO," "Tampa Electric," and "Company" refer to Tampa Electric Company. Citations to the hearing transcript are in the form "TR (page number)," with the name of the witness preceding the TR cite where appropriate. Citations to hearing exhibits are in the form "EXH (Exhibit number), (page number)." Citations to the Florida Statutes are to the 2024 edition.

customers. Fla. Stat. §§ 366.03, 366.04(5)&(6), 366.06(1)&(2), and 366.07. Correspondingly, the Commission's mandate in public utility rate cases is to approve rates that enable the utility to meet its obligation to provide safe and reliable service at rates that are sufficient for the utility but not excessive from the perspective of its customers. The dictionary definition of "sufficient" is "enough." *Merriam-Webster's Collegiate Dictionary* (11th ed. 2020) (available at https://www.merriam-webster.com/dictionary/sufficient). The definition of "excessive" is "exceeding what is necessary." *Merriam-Webster's Collegiate Dictionary* (11th ed. 2020) (available at https://www.merriam-webster.com/dictionary/excessive). In the current proceeding, Tampa Electric's president, Archie Collins, has properly acknowledged that a utility should be authorized to recover the amount of revenues that is sufficient to enable it to provide safe and reliable service, but not "a penny more." TR 196.

Notwithstanding Mr. Collins' recognition of the fundamental principles of sufficiency and excess, in these proceedings, TECO has asked the Commission to authorize it to charge its customers an additional $1.11 Billion in base rate revenues over the period 2025 through 2027 – increases of $287 million per year starting in 2025, an additional $92 million per year starting in 2026, and yet another $65 million per year starting in 2027. The overwhelming preponderance of the evidence in this case demonstrates that Tampa Electric's rate increase requests are excessive and that, if granted, TECO's rates will be unfair, unjust, and unreasonable because they will be vastly excessive compared to what TECO ***needs*** to provide safe and reliable service. Competent, substantial evidence in the record demonstrates that TECO can provide safe and reliable service for the next three years with increases of no more than $36.7 million per year in 2025, no more than $54.651 million per year in 2026, and no more than $20.890 million per year in 2027; these increases would provide TECO with approximately $240 million in total

additional base revenues over the 2025-2027 period. Rates producing these revenues would be "***sufficient***" to enable TECO to provide safe and reliable service; in contrast, TECO's proposed rates and revenues would be ***excessive***, unjust, unfair, and unreasonable. (As explained further in the body of this Brief, these values reflect minor refinements from testimony and exhibits in the record of the case, notably the testimony and exhibits of the Citizens' witness Lane Kollen and of the Federal Executive Agencies' witness Brian Andrews regarding adjustments to TECO's depreciation expense.)

Further extensive evidence supports the conclusion that Tampa Electric's parent company, Emera Corporation, is driving the TECO rate case bus. Emera is Tampa Electric's sole shareholder. TR 191. All of the dividends paid by Tampa Electric ultimately flow to Emera. TR 3566-67.

Tampa Electric provides retail electric service to 834,144 customers. TR 1500. Together, all of Emera's utility subsidiaries serve about 2.5 million customers, TR 335, of whom about 1.5 million are electric customers. TR 392. Far out of reasonable proportion, TECO is asking the Florida Public Service Commission to allow its Florida subsidiary, Tampa Electric, to generate more than 54 percent of total Emera revenues from only 33.6 percent of total Emera retail customers, TR 335, in order to generate additional profits and earnings for the parent in order to shore up the parent's stressed credit ratings. Yet TECO has the audacity to claim to be concerned about the "affordability" of its service to its customers; the clear evidence indicates that TECO's concern regarding affordability is that its customers might not be able to afford to pay their bills.

The most egregious – though far from the only – flaw in TECO's over-reaching request is its requested rate of return on common equity, or "ROE," of 11.50 percent. The testimony of the

Company's president confirms that, from 2022 continuing through 2024, TECO has been able to obtain needed capital, to make all necessary investments, and to cover all necessary expenses to provide safe and reliable service with an authorized ROE of 10.20 percent and with achieved ROEs less than that, TR 395; moreover, interest rates have already begun to decline and are projected to decline further, TR 2940, such that TECO's required ROE is not as great as it was in 2023 or 2024. Thus, the absolute maximum ROE that the Commission should even consider is 10.20 percent. Beyond that, however, the preponderance of the competent, substantial evidence in the record supports an ROE significantly less than 10.0 percent; the FRF recommends the ROE of 9.50 percent that is supported by the Citizens' witness Professor Randall Woolridge. Setting TECO's ROE at this level would save TECO's customers $378 million over the next three years, consistent with the State's express energy policy goal of energy affordability and also consistent with the State's express goal of supporting economic growth by keeping money in the pockets and accounts of Florida electric customers rather than providing excessive returns to TECO's parent or being spent on unnecessary expenses and investments. If Tampa Electric argues that it will spend some of that money in Florida, that argument is a red herring: the earnings will not go to Floridians, and the Company can make all necessary investments and recover all necessary expenses with the much more reasonable ROE and rate increases supported by the Citizens, the FRF, and other parties who represent customers. A utility only needs a high enough ROE to obtain capital necessary to make investments; anything above the minimum required ROE is unnecessary. In practical terms, if the utility can obtain needed capital with an ROE of 9.50 percent or 10.20 percent, anything greater than that is simply unnecessary excess profit to the utility's shareholder.

No utility needs an excessive rate of return on equity – a utility simply needs a return that is sufficient to attract equity capital, and the only objective standard is the return required to attract capital in an arm's-length transaction with an unrelated investor. The overwhelming evidence in this case demonstrates that a utility with TECO's capital structure and financial risk profile can obtain needed equity capital with an ROE in the range of 9.50 percent (Woolridge, TR 2867, 2909-10 and Rábago, TR 2567), 9.60 percent (Walters, TR 2928), and 9.72 percent (the recent average ROE approved for vertically integrated U.S. electric utilities, *see* Chriss, TR 3100-01 and EXH 136, page 2; *see also* Pollock, TR 2675 and EXH 82). TECO does not ***need*** an ROE of even 10.0 percent, let alone the 10.20 percent that it is currently earning and that enables it to make all necessary investments and recover all necessary expenses to provide safe and reliable service. TR 393-395.

Beyond TECO's request for grossly excessive amounts of its customers' money for excessive profits to support its Canadian owners, the Company has also understated future sales, which inflates the Company's request, overstated depreciation expense, overstated other operating and maintenance expenses, and overstated rate base in 2025 by moving future investments forward into the 2025 test year.

The overall result of the foregoing adjustments is that the Commission should approve rate increases of no more than $36.7 million per year in 2025, no more than $54.651 million per year per year in 2026, and no more than $20.890 per year in 2027. These increases would provide Tampa Electric an additional $240 million over the next three years and would enable Tampa Electric to fulfill its obligation to provide safe and reliable service at the lowest possible cost. Significantly, with respect to the public interest, these increases would fulfill the Commission's statutory mandate to set fair, just, and reasonable base rates to be paid by Tampa

Electric's customers for the next three years – enhancing the affordability of TECO's service by saving customers approximately $870 million over that period, and further fulfill the State's policy of supporting economic growth in Florida by keeping approximately $870 million of customer money in the pockets and accounts of Florida electric customers instead of sending it to TECO's Canadian parent.

On behalf of its members who receive electric service from Tampa Electric Company, and vicariously on behalf of all of TECO's customers whose substantial interests are being determined in this case, the Florida Retail Federation prays that the Commission will authorize Tampa Electric to increase its rates by no more than $36.7 million in 2025, by no more than $54.651 million in 2026, and by no more than $20.890 million in 2027.

THE FLORIDA RETAIL FEDERATION'S BRIEF ON SPECIFIC ISSUES

In this part of its Brief and Post-Hearing Statement, the FRF addresses the following critical issues: the rate of return on equity (Issue 39), the total revenue and rate increases to be authorized for Tampa Electric for 2025, 2026, and 2027 (Issues 69 and 107), and the affordability of Tampa Electric's service in light of the State's energy policy goals set forth by the Legislature in Section 377.601, Florida Statutes (Issue 119).

I. TAMPA ELECTRIC'S REQUESTED RATE OF RETURN ON EQUITY OF 11.50 PERCENT IS EXCESSIVE, AND THE COMMISSION MUST SET TECO'S ROE AT A LEVEL SUFFICIENT TO ENABLE IT TO OBTAIN CAPITAL NECESSARY TO PROVIDE SAFE AND RELIABLE SERVICE.

This section of the Brief addresses the rate of return on equity issue (Issue 39). The core principle of utility rate-setting law is that rates must be fair, just, reasonable, non-discriminatory, and sufficient to compensate the utility charging them but not excessive from the perspective of customers who must pay them. Indeed, these are the fundamental requirements of the PSC's rate

regulation statutes. *See* §§ 366.06(2) & §366.07, Fla. Stat. As developed herein, Tampa Electric Company has petitioned the Commission to approve rates that are unfair, unjust, and unreasonable because the requested rates would charge customers approximately $870 million more over the period 2025-2027 than TECO needs to provide safe and reliable service. The most egregious of TECO's numerous excessive and unnecessary requests is its request for a rate of return on common equity of 11.50 percent. This section of the FRF's Brief explains exactly why and how TECO's request is excessive and provides the FRF's recommendation as to the most appropriate ROE to be used for setting TECO's rates in this case.

The generally applicable standard for fair returns for regulated utilities is that articulated by the United States Supreme Court in two landmark cases, commonly known as *Hope* and *Bluefield*.[2] Recognizing that "the ratemaking process . . . , i.e., the fixing of 'just and reasonable' rates, involves a balancing of the investor and the consumer interests," the Supreme Court stated that the return to the regulated utility's investors is to be "commensurate with returns on investments in other enterprises having corresponding risks." *Hope*, 320 U.S. at 603. In *Bluefield*, often cited in the same sentence with *Hope*, the Supreme Court set the frame of reference within which, or in comparison to which, the proper return is to be evaluated:

> A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding, risks and uncertainties, but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures.

Bluefield, 262 U.S. at 692-93.

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[2] *Fed. Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591 (1944); *Bluefield Waterworks & Improvement Co. v. Pub. Serv. Comm'n*, 262 U.S. 679 (1923).

The Florida Statutes and Florida Supreme Court precedent recognize a closely related yet finer point: that regulated utilities are to charge rates, and accordingly earn returns, that are neither insufficient for the utility nor excessive from the customers' perspective. For example, Section 366.06(2), Florida Statutes, charges the Commission to consider whether the utility's "rates are insufficient to yield reasonable compensation for the services rendered" or "that such rates yield excessive compensation for services rendered," and if the rates are either insufficient or excessive, the Commission is to determine the just and reasonable rates to be charged for the utility's service. (Emphasis added.) To the same effect and result, Section 366.07, Florida Statutes, provides that whenever the Commission finds that the "rates . . . charged or collected by any public utility for any service . . . are unjust, unreasonable, insufficient, excessive, or unjustly discriminatory," the Commission is to "fix the fair and reasonable rates . . . to be imposed . . . in the future." (Emphasis added.)

The Florida Supreme Court recognized the balance between utility interests and customer interests, and the resolution that rates are to be neither insufficient for the utility nor excessive for its customers, in *United Tel. Co. v. Mayo*, 345 So. 2d 648, 653 (Fla. 1977), where the Court stated,

> The rate of return which public utility companies may be allowed to earn is a question of vital importance to both rate payers and investors. . . . That return cannot be set so low as to confiscate the property of the utility, nor can it be made so high as to provide greater than a reasonable rate of return, thereby prejudicing the consumer.

Thus, for rates to be fair, just, and reasonable, the returns afforded the utility pursuant to those rates must also be fair, just, and reasonable. The key elements determining a utility's returns are the allowed rate of return on equity and the amount of the utility's capital that is provided by equity investments, measured as a percentage of the utility's capital structure known as the "equity ratio." *See, e.g.*, Woolridge, TR 2819. The ROE determines the return on the equity investment,

and the equity ratio measures how much of the utility's capital structure earns that rate. The higher the ROE, the greater the utility's returns, and the higher the equity ratio, the greater the utility's returns. Woolridge, TR 2823 Evidence in the record supports the conclusion that TECO's proposed equity ratio of 54.0 percent is significantly high relative to other utilities and also relative to TECO's risk. Woolridge, TR 2819. Professor Woolridge also observes in his testimony that the "proxy groups" (comparison groups against which TECO's returns are compared) used both by TECO's witness Dylan D'Ascendis and by Professor Woolridge have significantly lower equity ratios than TECO's proposed 54.0 percent. TR 2817-18. The average equity ratio of Mr. D'Ascendis's proxy group utilities is 40.1 percent, TR 2817-19, and the average equity ratio for Professor Woolridge's proxy group is 40.9 percent. TR 2817. (Similarly, witness Walters' proxy group has an equity ratio of 40.5 percent. TR 2951.) Even so, Professor Woolridge recognizes that the two factors are closely interrelated, i.e., a higher ROE with a lower equity ratio will generate as much revenue as a lower ROE with a higher equity ratio, *see* TR 2822-23, and that proper net results for both the utility and its customers can be achieved by adjusting either measure. Professor Woolridge opted to propose an ROE recognizing TECO's relatively high equity ratio, but not to recommend a lower equity ratio. TR 2797-98. Based on this same recognition, the FRF bases its ROE recommendation on the premise that TECO's equity ratio will be 54.0 percent.

The critical point is that the Commission's governing statutes require that rates and returns be neither insufficient for the utility nor excessive for its customers, and in these proceedings, the overwhelming preponderance of competent, substantial evidence demonstrates that TECO does not ***need*** an ROE any greater than its currently authorized ROE of 10.20 percent. Following the basic principle that rates must be sufficient for the utility to provide safe and reliable service but not excessive to customers, TECO should get the return that it needs, but as president Collins

agreed, not "a penny more." Collins, TR 196. The direct evidence in this case shows clearly that TECO has been able to provide safe and reliable service and make all necessary investments and recover all necessary expenses to do so for the past three years, continuing through 2024, with an authorized ROE that started at 9.95 percent in January 2022 and then increased to the current 10.20 percent level later in 2022. Collins, TR 394. The direct evidence further shows that TECO was able to make all necessary investments and expenditures to provide safe and reliable service for this period with ROEs generally less than 10.20 percent. Collins, TR 393-95; *see also*, TECO"s Earnings Surveillance Reports, EXH 811 at 2, ROE for the period ending June 2023 was 9.93 percent; EXH 812 at 2, ROE for the period ending December 2023 was 10.03 percent; and EXH 813 at 2, ROE for the period ending May 2024 (last available at the time of the hearing) was 9.55 percent. Mr. Collins agreed that TECO has been able to obtain all necessary capital during this period. TR 395. Even TECO's cost of capital witness D'Ascendis agreed that TECO has been able to raise sufficient capital with its current 10.20 percent ROE over the settlement period 2022 through 2024. TR 2090-91. Mr. Collins further agreed that TECO's achieved ROEs "over the last couple of years have been between nine-and-a-half and low 10, 10 plus percent." TR 395.

Beyond *Hope* and *Bluefield*: Safe and Reliable Service at Lowest Cost, "Not a Penny More"

Applying the comparable industry standard of *Hope* and *Bluefield* would suggest that leaving TECO's ROE at its current level of 10.20 percent could be appropriate.[3] The FRF

[3] Duke Energy Florida's currently authorized ROE is 10.10 percent. In re: Petition for Limited Proceeding to Implement Return on Equity Trigger Provision of 2021 Settlement Agreement, by Duke Energy Florida, LLC, Docket No. 20220143-EI, Order No. PSC-2022-0357-FOF-EI, (Fla. P.S.C., October 21, 2022) at 3. Florida Power & Light Company's currently authorized ROE is 10.80 percent. In re: Petition for Rate Increase by Florida Power & Light Company, Docket No. 20210015-EI, Order No. PSC-2022-0358A-FOF-EI (Fla. P.S.C., October 24, 2022) at 3. Florida Public Utilities Company's currently authorized ROE is 10.25 percent. In re: Petition requesting approval of an AFUDC rate by Florida Public Utilities Company, Docket No. 20220210-EI, Order No. PSC-2023-0140-PAA-EI (Fla. P.S.C., April 21, 2023) at 6. The currently authorized

believes, however, that additional legal requirements and evidence should lead the Commission to approve 9.50 percent as the appropriate, fair, just, and reasonable ROE for TECO in this case. Those factors include the Commission's overarching statutory mandate to regulate in the public interest, including the consideration of energy affordability[4] expressly required by the statutes; the appropriate application of the "preponderance of the evidence" standard applicable in utility rate cases; the closely related facts that many U.S. utilities operate successfully with ROEs below 10.0 percent; and the fact that U.S. interest rates, and accordingly required returns, are already declining and are projected to decline well into 2025. TR 2940. Moreover, the Commission must recognize the fact that ***Tampa Electric Company itself*** is a low-risk utility, TR 2074, EXH 177, and that it is, in fact, the risk issues of its parent, Emera Corporation, that are driving TECO's grossly excessive ROE request.

The evidentiary standard for Commission rate case proceedings is that, in order to justify an increase in rates, it is the utility's burden to demonstrate by a preponderance of the evidence that its current rates fail to compensate the utility for its prudently incurred expenses and provide a reasonable return. *South Florida Natural Gas Co. v. Public Service Com'n*, 534 So. 2d 695, 697 (Fla. 1988). The Court's full statement is as follows:

> We find that, under the commission's rate-setting authority, a utility seeking a change must demonstrate that the present rates are unreasonable, see section 366.06(1), Florida Statutes (1985), and show by a preponderance of the evidence that the rates fail to compensate the utility for its prudently incurred expenses and fail to produce a reasonable return on its investment.

ROE for Peoples Gas System, a sister company of TECO also owned by Emera Corporation, is 10.15 percent. In re: Petition for Rate Increase by Peoples Gas System, Inc., Docket No. 20230023-GU, Order No. PSC-2023-0388-FOF-GU (Fla. P.S.C., December 27, 2023) at 64.

[4] The issue of energy affordability and related public interest issues are discussed in Section II of the FRF's Brief, *infra*.

Beyond Mr. Collins' testimony confirming that TECO has been able for the 2022-2024 settlement period to make all necessary investments and expenditures necessary to provide safe and reliable service with an authorized ROE of 10.20 percent, TR 395, the preponderance of the additional ROE evidence in the record of this case demonstrates that TECO does not need even that amount. Specifically, competent substantial evidence shows that other U.S. utilities are able to provide service with significantly lower ROEs than TECO's 10.20 percent (and simultaneously, with lower equity ratios than TECO's 54.0 percent). For example, the average earned ROE for the proxy group of utilities used by TECO's witness D'Ascendis is 9.48 percent, and his proxy group has an average equity ratio of 40.1 percent. TR 2818. The average earned ROE of the utilities in Professor Woolridge's proxy group is 9.36 percent, with an average equity ratio of 40.9 percent. TR 2817. The FEA's witness Walters relied on the same proxy group developed by Mr. D'Ascendis, TR 2953, which has an average earned ROE of 9.48 percent. The average ROE recently – in 2024 up to the time of filing testimony in this case – approved by regulatory authorities for vertically integrated electric utilities in the U.S. is 9.72 percent. Chriss, TR 3100-01, EXH 136. FIPUG's witness Jeff Pollock provided Exhibit 82, which lists the authorized return on equity for 52 vertically integrated electric utilities in rate cases decided in 2023 and 2024. Of these 52 utilities, only five have an authorized ROE greater than 10.00 percent, three in California, one in Alaska (the highest at 11.45 percent) and one in North Carolina at 10.10 percent. Two have ROEs of 10.00 percent. The other 45 utilities all have ROEs between 9.25 percent and 9.90 percent. The overall average for the 2023-2024 period is 9.78 percent. *Id.*

Further, Mr. Collins believes that another Emera electric utility, Nova Scotia Power, has an ROE of 9.0 percent. TR 336.

The differences in the revenue requirement and rate impacts of setting TECO's rates using a lower ROE are dramatic – a lower ROE in the range supported by the evidence would save TECO's customers hundreds of millions of dollars over the 2025-2027 period. Each 100 basis points – or one full percentage point – of ROE would have an impact of approximately $63.19 million per year on TECO's revenue requirements. Collins, TR 401 (agreeing that the $63 million figure is "more accurate" than $60 million) Applying this revenue impact value, the difference in the cost to TECO's customers between TECO's requested 11.50 percent and Professor Woolridge's recommended 9.50 percent is approximately $126 million per year, which would result in an extra $378 million of TECO customers' money flowing to TECO and then upstream to Emera over the 2025-2027 period. The difference between TECO's excessive 11.50 percent and the recent national average of 9.72 percent, Chriss, TR 3100-3101, is $112 million per year, or $336 million over the 2025-2027 period. Even the difference between 11.50 percent and TECO's current 10.20 percent – 130 basis points – would cost TECO's customers an extra $82 million per year, or $246 million, nearly a quarter of a billion dollars, over the next three years. Further, the difference between TECO's requested 11.50 percent and the current authorized 9.0 percent ROE for Emera's Scotia Power would be $157 million per year, or approximately $471 million – nearly half a billion dollars – over the 2025-2027 period.

Further, competent substantial evidence in the record demonstrates that capital costs, as evidenced by interest rates, have already declined in 2024 and are projected to continue declining well into 2025. For example, Mr. D'Ascendis acknowledged that the 30-year U.S. Treasury bond yield has declined this year. TR 2055. Declining interest rates indicate overall lower returns

required for investor capital,[5] and thus general capital market conditions and expectations warrant a lower ROE for TECO going forward. Record evidence shows that the current yield curve for U.S. Treasury securities is "inverted," meaning that yields on shorter-term securities are higher than yields on longer-term securities;" this in turn "means that investors do not expect interest rates to remain where they are and expect that they should decline." Woolridge, TR 2807. Witness Walters' testimony, Table CCW-4, at TR 2940, shows that Blue Chip Financial Forecasts projects the Federal Funds rate, the 30-year Treasury bond rate, and the GDP Price Index will all decrease from the Second Quarter of 2024 through the Third Quarter of 2025 (the last quarter covered by the projections in Table CCW-4). In turn, this evidence supports a Commission decision that TECO's ROE should be set lower than its current rate, because its current ROE has been demonstrably sufficient, during higher-interest-rate conditions, to raise sufficient capital to make all necessary investments and cover all expenses necessary to provide safe and reliable service. Collins, TR 394-95.

Finally, the Commission must recognize that Tampa Electric itself is a relatively low-risk utility, Woolridge TR 2797, 2799; Walters, TR 2949-50; D'Ascendis, TR 2074, referring to an S&P Global Ratings Score Snapshot, EXH 177. The Commission must further recognize that a plethora of risk-mitigating factors all support a lower ROE for TECO. Favorable, risk-reducing factors enjoyed by TECO include: TECO's higher equity ratio, Woolridge, TR 2797, 2817-28, 2825; (2) the high percentage of its total revenues recovered through cost recovery clauses, Chriss, TR 3097-98; (3) the use of a projected test year, which reduces risk, Chriss, TR 3097; (4) the PSC's policy of allowing a return on construction work in progress, even before it is used and

[5] Consider the fact that the "trigger" provisions in some utility settlements, including the 2021 TECO settlement, are pegged to Treasury bond rates.

useful, Pollock, TR 2708; and (5) the availability of securitization for storm restoration costs and other extraordinary costs, Pollock, TR 2708.

However, a fair and objective interpretation of relevant evidence is that Emera, TECO's parent and sole shareholder, is at least leaning hard on TECO to seek substantially above-normal profits – cash – to shore up Emera's weak credit. Although Mr. Collins acknowledged that over the past several years, Emera at the parent level has been under financial stress related to potentially having its bond rating downgraded below investment grade level, TR 165-66 & 167-68, he denies any correlation between TECO's request for rate increases and that concern. TR 168. Other record evidence, however, demonstrates that his denial is not credible. For example, a June 15, 2023, S&P Global Ratings Score Snapshot described Tampa Electric as "low-risk," noted that one of Tampa Electric's key risks included pressure on credit metrics from capital programs over the next several years. TR 2074; EXH 177, MPN E3443. The S&P Snapshot report also observed that the negative outlook for TECO reflected the negative outlook of Emera, which itself had a minimal financial cushion from its downgrade threshold and the possibility that financial measures could weaken further due to regulatory risks. TR 2074-75; EXH 177, MPN E3445. Similarly, a Moody's credit opinion report for TECO from December 2023, concluded that Tampa Electric's credit rating is constrained due to Emera's weak credit profile and high debt load. TR 2075; EXH 177, MPN E3454. The Moody's report also concluded that Emera's high debt put financial pressure on Tampa Electric and that Emera will potentially need Tampa Electric to upstream dividends to service Emera's debt. TR 2075; EXH 177, MPN E3454. Further, in an analyst call following the public announcement of the recent settlement of the Duke Energy Florida rate case earlier this year, Greg Blunden, the CFO of Emera, indicated to investors that Tampa Electric's

pending rate case would be a contributor to giving Emera a cushion towards its cash flow metric issues. TR 166-67; EXH 249, MPN F2.1-4283.

Considering Emera's tenuous, stressed financial position, the Commission must recognize that, following the observation articulated in the Moody's report, it is likely that any excessive returns approved by the Commission – where excessive means greater than the minimum amount necessary to enable the Company to make needed investments – would be "upstreamed" as dividends to Emera, TECO's sole shareholder. TECO's customers should not even be asked by TECO, let alone required by Commission approval of excessive returns and rates, to pay rates greater than absolutely necessary to enable TECO to provide safe and reliable service. The Commission must rein in the Company's excessive request to protect TECO's customers.

In summary, taking all legal principles and competent substantial evidence into account, the Commission should find that an ROE of 9.50 percent is fully justified by the preponderance of the competent substantial evidence of record in this case, including TECO's low-risk status, and that it will enable TECO to continue to provide safe and reliable service. At most, the Commission must recognize that TECO does not need an ROE even as high as its currently authorized 10.20 percent and make its decision accordingly.

II. GUIDED BY ITS MANDATE TO REGULATE PUBLIC UTILITIES IN THE PUBLIC INTEREST AND BY THE STATE'S ENERGY POLICY GOALS CLEARLY ARTICULATED BY THE FLORIDA LEGISLATURE, THE COMMISSION SHOULD REJECT ALL OF TECO'S REQUESTS THAT ARE NOT NECESSARY FOR THE COMPANY TO PROVIDE SAFE AND RELIABLE SERVICE.

This section of the FRF's Brief addresses the ultimate issue in these proceedings, namely what revenues should be approved and what rates Tampa Electric should be allowed to charge its

customers for safe and reliable service. The following discussion encompasses Issue 69 regarding TECO's proposed 2025 increases, Issue 107 regarding TECO's proposed 2026 and 2027 increases, and Issue 119 regarding the application of the State's energy policy goals pursuant to Section 377.601, Florida Statutes.

A. Tampa Electric's Overall Revenues for 2025-2027

The statutory criteria for fair, just, and reasonable utility rates require that rates be neither excessive to customers nor insufficient to the utility. Fla. Stat. §§ 366.06(2) & 366.07. In other words, the statute directs the Commission to approve rates that provide the utility with **enough** revenues – but no more than that – to enable it to make all necessary investments and all necessary expenses to provide safe and reliable service. As Mr. Collins agreed, the Company's appropriate revenues are those needed to provide safe and reliable service but not "a penny more than what you [TECO] absolutely need to serve your customers." TR 196.

Incorporating adjustments submitted after its original filing, Tampa Electric has asked the PSC to approve revenue increases of $287.9 million in 2025, $92.4 million in 2026, and $65.5 million in 2027. All in, these increases would thus take $1.11 Billion from TECO's customers over the next three years. If approved, these increases will harm the public interest of Florida and Floridians, and they are directly contrary to the State's energy policy goals of ensuring an affordable energy supply and supporting economic growth. In the public interest, and to promote the Legislature's goals, the Commission should reject every dollar that is not necessary for Tampa Electric to provide safe and reliable service. The FRF recommends that the 2025 increase be no more than $36.7 million per year, calculated as follows (numbers rounded):

TECO Proposed Revenue Increase for 2025	$ 287.9 million
FRF Adjustments to Revenue Requirements:	
Reduce ROE to 9.50%	$ 123.8 million
Reduce Expenses & Rate Base Rev. Req'ts per OPC[6]	$ 96.0 million
Reduce Depreciation Expense per FEA (TR 3024-25)	$ 31.4 million
Total Recommended Adjustments	$ 251.2 million
Allowable 2025 Increase: $287.9 MM - $251.2 MM =	$ 36.7 million

Applying additional adjustments recommended by OPC to the Company's requested Subsequent Year Adjustments ("SYA"), the FRF recommends that, if approved, any 2026 SYA be limited to $54.7 million, and that, if approved, any 2027 SYA be limited to $20.9 million. Together, the revenue increases supported here total to approximately $240 million. (This is the sum of $36.7MM x 3 = $110.1MM; $54.7MM x 2 = $109.4MM; and $20.9MM.) The difference between the Company's total requested revenue increases over three years, $1,110 million, and $240 million, is $870 million.

B. Florida's Energy Policy Goals: Energy Affordability

The overarching mandate of Chapter 366 is regulation of public utilities in the public interest. Fla. Stat. § 366.01. The Florida Supreme Court has recognized that the "determination of what is in the public interest rests exclusively with the Commission," *Sierra Club v. Brown*, 243 So. 3d 903, 910 (Fla. 2018) (citation omitted). Even so, and even though the term is used fairly often in Commission proceedings, the Court noted that "the exact definition of that

[6] These adjustments are reflected in Attachment 1 to the FRF's Brief. The attachment is a table of adjustments prepared by the Office of Public Counsel, and is used with permission.

standard is somewhat opaque," and that "the Commission has not provided a clear recitation of its public interest standard." *Id.* *Sierra Club* involved an appeal of a settlement agreement, but the Court cited an earlier PSC order as providing a "more tangible definition." The Commission's order related to its evaluation of a petition by Gulf Power Company of the costs and prudence of an environmental compliance proposal; there, the Commission said the following: "In this case, we find that the phrase 'in the public interest,' means the cost and effect on rates and services provided by Gulf Power Company to its ratepayers." *Id.* (*citing In re: Petition for Approval of Plan to Bring Generating Units Into Compliance with the Clean Air Act by Gulf Power Company*, Docket No. 19921155-EI, Order No. PSC-1993-1376-FOF-EI at 15).

There are natural tensions between a utility company's interests in profits and its customers' interests in having safe and reliable service at the lowest fair price.[7] The proper balance exists where the utility has sufficient – enough – resources and revenues to make all necessary investments and expenditures to provide safe and reliable service, including a reasonable return, but no more than that. This is really a straightforward application of the statutory criteria that rates are to be ***sufficient*** for the utility's needs ***but not excessive*** from the customers' perspective[8] – i.e., enough but "not a penny more" than necessary for the utility to provide safe and reliable service.

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[7] The Florida Supreme Court recognized this critical balance in *United Tel. Co. v. Mayo*, 345 So. 2d 648, 653 (Fla. 1977), where the Court stated,

> The rate of return which public utility companies may be allowed to earn is a question of vital importance to both rate payers and investors. . . . That return cannot be set so low as to confiscate the property of the utility, nor can it be made so high as to provide greater than a reasonable rate of return, thereby prejudicing the consumer.

[8] *See* Fla. Stat. §§ 366.06(2) & 366.07.

This application of straightforward ratemaking equity – fairness, justness, and reasonableness – has been further enhanced by the Florida Legislature in section 377.601, Florida Statutes, enacted in 2024:

> (1) The purpose of the state's energy policy is to ensure an adequate, reliable, and cost-effective supply of energy for the state in a manner that promotes the health and welfare of the public and economic growth. The Legislature intends that governance of the state's energy policy be efficiently directed toward achieving this purpose.
>
> (2) For the purposes of subsection (1), the state's energy policy must be guided by the following goals:
>
> (a) Ensuring a cost-effective and affordable energy supply.
>
> * * *
>
> (f) Supporting economic growth.

"Legislative intent is the polestar that guides [a court's] analysis regarding statutory interpretation." *Sand Lake Hills Homeowners Assoc., Inc. v. Busch*, 210 So. 3d 706, 709 (Fla. 5th DCA 2017). "The plain meaning of a statute is always the starting point in statutory interpretation." *GTC, Inc. v. Edgar*, 967 So. 2d 781, 785 (Fla. 2007). The "plainness or ambiguity of statutory language is determined by reference to the language itself, the specific context in which the language is used, and the broader context of the statute as a whole." *Conage v. United States*, 346 So. 3d 594, 598 (Fla. 2022) (*citing Robinson v. Shell Oil Co.*, 519 U.S. 337, 341 (1997)).

The plain meaning of "affordable" is "able to be afforded: having a cost that is not too high." *Merriam-Webster's Collegiate Dictionary* (11th ed. 2020) (available at https://www.merriam-webster.com/dictionary/affordable). The FRF strongly believes that, in the

context of an electric utility rate case,[9] the phrase "an affordable energy supply" as a key element of state energy policy can only be understood to mean with reference to the ability of Florida electric customers – residential, commercial, industrial, and institutional – to "afford" their electric service.[10] This construction is fully consistent with the PSC's conceptual definition in the *Gulf Power* environmental compliance docket cited above, *i.e.*, that "the phrase 'in the public interest,' means the cost and effect on rates and services provided by Gulf Power Company to its ratepayers." Neither the Florida Retail Federation nor any other party in this case opposes Tampa Electric having sufficient revenues and funding to support the investments and expenses that are necessary for TECO to provide safe and reliable service, but the FRF and all of the parties representing customers in this proceeding object to TECO having any more than the amounts necessary for TECO to provide safe and reliable service at the lowest possible cost. Excessive returns and unnecessary expenditures, whether on capital investments or operating and maintenance expenses, reduce the affordability of service to all customers and price some customers out of the market altogether. *See, e.g.*, EXH 832, MPN F2.1-3946, a letter from a TECO customer who stated:

> I am writing to express my deep concern regarding the recent proposal by TECO Electric to raise electricity costs. As a loyal customer and member of the community, I believe such an increase would impose significant financial burdens on many households and businesses, especially in the current economic climate. The prospect of higher electricity bills is alarming, particularly for individuals and families already struggling to make ends meet. With the cost of living steadily rising, any additional expenses, such as increased utility bills, could push many families over the edge financially.

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[9] The plain language of the statute, "a cost-effective and affordable energy supply," must also refer to all Floridians' energy needs for all purposes, e.g., transportation.

[10] Obviously, and to the same point, supporting economic growth can only be understood to mean with respect to supporting economic growth in Florida.

The affordability of electric service – which is a necessity in every practical sense – is obviously critical to the public interest. It is particularly significant to utility customers; in this case, abundant record evidence demonstrates that a substantial number of TECO's customers are struggling to afford their electric bills.

Many TECO customers testified in customer service hearings that they are struggling to pay their electric bills. *See, e.g.*, Transcript of June 13, 2024 Service Hearing ((DN 07426-2024) at 36, 38, 40, 49-51, 55, 65-67, 79-80; *see also* the numerous similar statements in Exhibit 832, *e.g.*, at MPN F2.1-3390, 3410, 3477, 3506, 3597, 3775-76, and 3959.

The Company recognizes that its recent rate increases have outstripped inflation, creating a challenge for customers and putting pressure on the competitiveness of TECO's prices. TR 296-97 TECO's senior management has recognized the seriousness of the issue. For example, senior management made a presentation to the TECO Board during the pendency of this rate case – at the Board's June 2024 meeting – in which they presented a document titled "The Affordability Challenge." TR 293. The Company recognizes that its proposed capital investments were outpacing growth, thereby putting upward pressure on rates. TR 294. Still in the June Board meeting, Mr. Collins testified that among a "number of points" that management was "trying to make to the board was, one of them is distressed customers." TR 296. Mr. Collins further testified that "High utility bills, on top of other household inflationary costs, puts stress on customers and leads to higher bad debt expense and increases the frequency of disconnections, which can lead to social pressure." TR 296. Mr. Collins' testimony and additional documentary evidence shows that TECO recognized that, by 2023, it was already facing an affordability crisis when it was in the early planning stages of this rate case. TR 229-31, EXH 837.

The affordability challenge from TECO's perspective, however, appears to have been its potential impact on its revenues. The lack of concern for its customers was starkly evidenced by the testimony of Tampa Electric's Vice President of Customer Experience, Karen Sparkman. In her prefiled direct testimony, Ms. Sparkman testified that "providing safe, reliable, and affordable electricity" is an important element of "an excellent customer experience." TR 430. Further, in her cross-examination by the Public Counsel's attorney, she read from a document, in the hearing record as Exhibit 438, that was presented to the TECO Board in July 2023 and which stated, "These higher bills are occurring at a time when much of the financial assistance monies available following COVID have disappeared, putting pressure on customer's ability to pay, increasing the risk of bad debt, and increasing the noise surrounding rates and bills." TR 516-17. Contrary to common economic sense, however, when asked whether she would agree that if TECO's bills were to increase in 2025, 2026, and 2027, as proposed by TECO, the number of customers unable to pay their bills would increase, she would not agree. Ms. Sparkman went on to basically assert that it's up to customers whether they pay their TECO bills:

> I -- bills are going up in 20 -- next year, and maybe the year after that. And, you know, as a customer, and how I prioritize my own household, I am not going to struggle to pay my bill.
>
> So I think it's really about customers and their households, and how they are prioritizing their responsibilities in their households. And so I don't know that I can make such a statement just based on bills going up.

TR 522.

In other words, Ms. Sparkman gave an evasive answer contrary to common economic sense – which indicates that if bills go up, more customers will be unable to pay them – and went on with startling insensitivity to compare her situation to that of many less fortunate TECO customers. Ms. Sparkman's base salary for 2025 is $284,395, Exhibit 171, MPN E2346; it's fairly obvious that she doesn't struggle to pay her electric bills. If this is the attitude of the

Company's Vice President of Customer Experience, it is difficult to give any credence to the suggestion that the Company cares about its customers' ability to pay their bills for any reason other than the impact on TECO's revenues.

C. Florida Energy Policy and the Public Interest in Supporting Economic Growth

Section 366.01, Florida Statutes, declares that the regulation of public utilities is in the public interest and that the statutes are to be liberally construed for that purpose. Regarding the State's policy goal of supporting economic growth, which nearly everyone would agree is in the public interest, it is facially obvious that taking the vast majority of a billion dollars out of the pockets and accounts of individual Floridians and Florida businesses (many of whom are members of the FRF) to be delivered unnecessarily as earnings to TECO's single shareholder or spent on other unnecessary expenses will only limit economic growth. If Tampa Electric argues that it will spend some of that money in Florida, that argument is a red herring: the earnings will not go to Floridians, and the Company can make all necessary investments and recover all necessary expenses with the much more reasonable rate increases supported by the Citizens, the FRF, and other parties who represent customers.

Finally, the Company has attempted to mislead the Commission and its customers by having its president testify that its "typical 1,000 kWh residential customer bill in 2025" would "still be among the lowest in Florida." Collins, TR 110. This gratuitous and self-serving assertion is based on a grossly incomplete comparison. It is incomplete because it only compares TECO to the three other **investor-owned** utilities – with no reference to either Florida's municipal utilities or electric cooperatives. The Commission can look to its own published reports and other publicly available information to judge how misleading the unqualified assertion of the Company's president is as compared to **all** electric utilities in the state. Time

will tell whether TECO's residential 1,000 kWh bill will even be one of the two lowest in Florida, and how close it will be to the 1,000 kWh bill of the lowest-cost utility and to the other investor-owned utilities.

In summary, in the public interest and consistent with the State's specific policy goal of ensuring energy affordability, both Tampa Electric Company and the Commission must do everything they can to keep TECO's rates as low as possible, consistent with providing TECO with sufficient revenues to continue to provide safe and reliable service.

CONCLUSIONS

Pursuant to its governing statutes and established regulatory law and policy, the Florida Public Service Commission should approve the minimum revenues and rates for Tampa Electric Company that are sufficient to enable TECO to provide safe and reliable service to its retail customers in Florida. Tampa Electric has failed to meet its burden of showing that "a utility seeking a change must demonstrate that the present rates are unreasonable . . . and show by a preponderance of the evidence that the rates fail to compensate the utility for its prudently incurred expenses and fail to produce a reasonable return on its investment."[11] TECO has failed to meet its burden of justifying its proposed revenues and rates: the overwhelming weight – the preponderance – of competent substantial evidence of record demonstrates that TECO will have

[11] *South Florida Natural Gas Co. v. Public Service Com'n*, 534 So. 2d 695, 697 (Fla. 1988). The Court's full statement is as follows:

> We find that, under the commission's rate-setting authority, a utility seeking a change must demonstrate that the present rates are unreasonable, see section 366.06(1), Florida Statutes (1985), and show by a preponderance of the evidence that the rates fail to compensate the utility for its prudently incurred expenses and fail to produce a reasonable return on its investment.

sufficient revenues to provide safe and reliable service to its customers with increases of no more than $36.7 million per year in 2025, no more than $54.7 million per year in 2026, and no more than $20.9 million per year in 2027.

These increases and resulting rates would provide TECO with total additional base rate revenues of $240.3 million over the next three years; they are fair, just, and reasonable because they are <u>sufficient for the Company</u> to make all investments and all expenses necessary for TECO to fulfill its obligation to provide safe and reliable service but are <u>not excessive to customers</u>. These increases are also consistent with the State's energy policy goals, because they will result in rates that are dramatically more affordable for TECO's customers than the rates proposed by the Company, and equally significantly, they will keep more than $870 million of Floridians' money in the pockets and accounts of Florida electric customers, which will support and strengthen the health and growth of Florida's economy.

In the public interest, and following its statutory mandates and Florida Supreme Court precedent, the Commission must only allow revenue and rate increases that are necessary to provide sufficient revenues to enable the Company to provide safe and reliable service, but "not a penny more." The Commission must recognize that the vast preponderance of the evidence in these proceedings supports at most the increases stated above. The revenue and rate increases supported by the FRF fairly balance the interests of TECO in having sufficient revenues to provide safe and reliable service and the interests of TECO's customers in receiving this necessary service at fair, just, and reasonable rates; although the rates resulting from the FRF's recommendations may still be high, they are fair and as affordable as is consistent with TECO's providing safe and reliable service. In the present circumstances facing TECO's customers in the real world, the Commission must recognize the affordability crisis already facing TECO's

customers and reject all of the Company's proposals that exceed what it ***needs*** to provide safe and reliable service. The Commission must further recognize that, in the real world in which TECO's customers are struggling, the Company's rates in 2025 are likely to be much higher than its proposed $161 per residential 1,000 kWh because of the impacts of Hurricanes Helene and Milton. Although the impacts of storm restoration costs on TECO's 2025 rates cannot be known with certainty at this time, the Commission is all too keenly aware of the rate impacts of storm restoration efforts on Florida's utilities and their customers; TECO acknowledged "the significant damage to Tampa Electric's system from Hurricanes Helene and Milton" in a recent filing in this docket.[12] In the public interest, the Commission must not allow increases greater than those stated above, which are fully supported by the preponderance of the evidence.

THE FLORIDA RETAIL FEDERATION'S POST-HEARING STATEMENT OF ISSUES AND POSITIONS

ISSUES

2025 TEST PERIOD AND FORECASTING

ISSUE 1: **Is TECO's projected test period for the twelve months ending December 31, 2025, appropriate?**

FRF: *Considered on a stand-alone basis, TECO's projected test year – the 12 months ending December 31, 2025 – is consistent with PSC practice. The PSC must recognize that using a projected test year reduces risks faced by the utility, TECO in this case, and this reduced risk must be reflected in the ROE used to set rates. Moreover, the Commission must ensure that forecasts for the test year are accurate and appropriate.*

[12] In re: Petition for Rate Increase by Tampa Electric Company, Tampa Electric Company's Response to OPC's Amended Motion for Extension of Time to File Post-Hearing Brief (filed October 14, 2024) at 1. Publicly well-known facts such as hurricane damage and the likely impact of restoration costs on a utility and its customers are not subject to dispute because they are within the territorial jurisdiction (and unfortunately, the direct experience) of the Commission, and it is therefore appropriate for the Commission to take official notice of them. *See* Fla. § Stat. 90.202(11).

ISSUE 2: **Are TECO's forecasts of customers, KWH, and KW by revenue and rate class, appropriate?**

FRF: *No. TECO's forecasts understate customer growth and sales, which in turn understates the revenues that TECO can reasonably be expected to receive over the 2025-2027 period. TECO's forecasts consistently understate the utility's actual results and are further biased by inappropriate out-of-model adjustments.*

ISSUE 3: **What are the inflation, customer growth, and other trend factors that should be approved for use in forecasting the test year budget?**

FRF: *The inflation, customer growth, sales growth, and other trend factors used in forecasting for TECO's test year budget are those recommended by OPC's witnesses.*

QUALITY OF SERVICE

ISSUE 4: **Is the quality of electric service provided by TECO adequate?**

FRF: *TECO's quality of service as measured by standard reliability metrics satisfies minimum quality of service standards, and there is no evidence that TECO has violated the National Electrical Safety Code.*

DEPRECIATION AND DISMANTLEMENT STUDY

ISSUE 5: **Should currently prescribed depreciation rates and provision for dismantlement of TECO be revised?**

FRF: *Yes, in part. TECO's presently approved 35-year depreciation life of solar assets should be retained. The service life for battery energy storage assets should be increased to 20 years as proposed by the Company. Dismantlement of solar and battery facilities should not include environmental and site restoration costs.*

ISSUE 6: **What should be the implementation date for new depreciation rates and the provision for dismantlement?**

FRF: *New depreciation and dismantlement rates should be implemented at the same time as any new base rates approved by the Commission in the rate case.*

ISSUE 7: **What depreciation parameters and resulting depreciation rates for each depreciable plant account should be approved?**

FRF: *The appropriate depreciation life for solar assets is 35 years. The appropriate depreciation life for battery storage assets is 20 years, not 10 years as originally proposed by TECO. The appropriate depreciation lives for other depreciable plant accounts are those recommended by FEA witness Andrews.*

ISSUE 8: **Based on the application of the depreciation parameters and resulting depreciation rates that the Commission approves, and a comparison of the theoretical reserves to the book reserves, what are the resulting imbalances?**

FRF: *No position.*

ISSUE 9: **What, if any, corrective reserve measures should be taken with respect to the imbalances identified in Issue 8?**

FRF: *Any reserve imbalances should be corrected using the remaining life method.*

ISSUE 10: **Should the current amortization of investment tax credits (ITCs) and flow back of excess deferred income taxes (EDITs) be revised to reflect the approved depreciation rates?**

FRF: *Yes. Additionally, amortization of ITCs and EDITs should reflect the tax treatment of solar assets with a 35-year depreciation life and ITC treatment for battery storage assets with a 20-year depreciation life. The ITCs earned each year should be deferred pursuant to the Inflation Reduction Act, but the deferred ITCs should be amortized over three years.*

ISSUE 11: **What annual accrual for dismantlement should be approved?**

FRF: *Approximately $10.325 million. The annual accrual for dismantlement should exclude post-test-year cost and expense escalations for dismantlement, which reduces revenue requirements by $7.110 million. Dismantlement expense should also be reduced by $2.614 million to remove solar site restoration environmental costs. Further, the dismantlement cost should be reduced by $0.955 million to reflect continuation of the currently approved 35-year service life for solar facilities.*

ISSUE 12: **What, if any, corrective dismantlement reserve measures should be approved?**

FRF: *Any imbalances in dismantlement reserves should be amortized or flowed back over the useful lives of the assets to which the reserves apply.*

2025 RATE BASE

ISSUE 13: **Has TECO made the appropriate adjustments to remove all non-utility activities from Plant in Service, Accumulated Depreciation, and Working Capital in the 2025 projected test year? What, if any, adjustments should be made?**

FRF: *No.*

ISSUE 14: **Should TECO's proposed Future Environmental Compliance Project be included in the 2025 projected test year? What, if any, adjustments should be made?**

FRF: *No. TECO has not met its burden to show that this project is necessary to provide safe and reliable service.*

ISSUE 15: **Should TECO's proposed Research and Development Projects be included in the 2025 projected test year? What, if any, adjustments should be made?**

FRF: *No. The Company has not met its burden to show that these projects are necessary to provide safe and reliable service.*

ISSUE 16: **Should TECO's proposed Customer Experience Enhancement Projects be included in the 2025 projected test year? What, if any, adjustments should be made?**

FRF: *No. The Commission should deny TECO recovery of its proposed revenue requirements for what it styles its "customer digitalization" 'enhancements' ($4.4 million) and its "optional customer programs" 'enhancements' ($4.9 million). These proposed activities are unnecessary to provide safe and reliable service and are unwanted by TECO's customers.*

ISSUE 17: **Should TECO's proposed Information Technology Capital Projects be included in the 2025 projected test year? What, if any, adjustments should be made?**

FRF: *No. The Company has not met its burden to show that these projects are necessary to provide safe and reliable service to Tampa Electric's customers.*

ISSUE 18: **Should TECO's proposed Solar Projects be included in the 2025 projected test year? What, if any, adjustments should be made?**

FRF: *The FRF supports the addition of solar generating resources to Florida's power supply grid, provided that such resources satisfy the normal standards of cost-effectiveness, reasonableness, and prudence of the utility's investment. These principles require that TECO's solar assets be depreciated over 35 years, and fair ratemaking policy requires that TECO only be allowed to recover costs associated with its solar facilities beginning when each facility achieves commercial service status.*

ISSUE 19: **Should TECO's proposed Grid Reliability and Resilience Projects be included in the 2025 projected test year? What, if any, adjustments should be made?**

FRF: *No position.*

ISSUE 20: **Should TECO's proposed Energy Storage projects be included in the 2025 projected test year? What, if any, adjustments should be made?**

FRF: *The FRF supports the addition of battery energy storage resources to Florida's power supply grid, provided that such resources satisfy the normal standards of cost-effectiveness, reasonableness, and prudence of the utility's investment. These principles require that battery storage assets be depreciated over 20 years, not 10 years as originally proposed by TECO, and fair ratemaking policy requires that TECO only be allowed to begin recovery when each facility achieves commercial service status.*

DISCUSSION

The addition of battery energy storage resources will support reliability of the Florida energy supply grid, particularly as Florida, the Nation, and the world transition to electric supply dominated by renewable energy resources, particularly solar. These benefits do not give Tampa Electric or any utility license to construct facilities that do not satisfy normal standards of cost-effectiveness, reasonableness and prudence of the utility's investment, and proper ratemaking that includes recovery consistent with how and when costs are incurred. Tampa Electric's proposal to depreciate battery storage assets over ten years is not proper ratemaking for assets that will last twenty years; the Commission should set depreciation expense for battery assets based on a

twenty-year life. Additionally, the Commission should only allow recovery of costs for battery storage assets to begin when those assets achieve commercial in-service status; this will ensure that customers pay for what they receive.

On August 22, 2024, the Company updated their revenue requirement request to reflect a 20-year depreciation life for battery storage assets instead of their initial proposal of a 10-year service life for the battery storage asset.[13] This 20-year service life for battery storage facilities is appropriate.

ISSUE 21: **Should TECO's proposed Corporate Headquarters project be included in the 2025 projected test year? What, if any, adjustments should be made?**

FRF: *No position.*

ISSUE 22: **Should TECO's proposed South Tampa Resilience project be included in the 2025 projected test year? What, if any, adjustments should be made?**

FRF: *No position.*

ISSUE 23: **Should TECO's proposed Bearss Operations Center project be included in the 2025 projected test year? What, if any, adjustments should be made?**

FRF: *No position.*

ISSUE 24: **Should TECO's proposed Polk 1 Flexibility project be included in the 2025 projected test year? What, if any, adjustments should be made?**

FRF: *No. The Company has not met its burden of demonstrating that this project is necessary to provide safe and reliable service.*

ISSUE 25: **What amount of Plant in Service for the 2025 projected test year should be approved?**

FRF: *Agree with OPC.*

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[13] EXH 835; Document No. 08609-2024, PSC Docket No. 20240026-EI, *In Re: Petition for rate increase by Tampa Electric Company*

ISSUE 26: **What amount of Accumulated Depreciation for the 2025 projected test year should be approved?**

FRF: *Agree with OPC*

ISSUE 27: **What amount of Construction Work in Progress for the 2025 projected test year should be approved?**

FRF: *Agree with OPC.*

ISSUE 28: **What amount or level of Property Held for Future Use for the 2025 projected test year should be approved?**

FRF: *No position.*

ISSUE 29: **What amount of unfunded Other Post-retirement Employee Benefit (OPEB) liability and any associated expense should be included in rate base?**

FRF: *Agree with OPC.*

ISSUE 30: **What level of TECO's fuel inventories should be approved?**

FRF: *No position.*

ISSUE 31: **What amount of Working Capital for the 2025 projected test year should be approved?**

FRF: *No position.*

ISSUE 32: **What amount of rate base for the 2025 projected test year should be approved?**

FRF: *Rate base for the 2025 test year should be no more than $9.8 billion.*

2025 COST OF CAPITAL

ISSUE 33: **What amount of accumulated deferred taxes should be approved for inclusion in the capital structure for the 2025 projected test year?**

FRF: *The amount of accumulated deferred taxes that should be included in the capital structure for the 2025 projected test year is $980.855 million.*

ISSUE 34: **What amount and cost rate of the unamortized investment tax credits should be approved for inclusion in the capital structure for the 2025 projected test year?**

FRF: *The amount and cost rate of the unamortized investment tax credits that should be included in the capital structure for the 2025 projected test year is $178.098 million at a cost rate of 7.18%.*

ISSUE 35: **What amount and cost rate for customer deposits should be approved for inclusion in the capital structure for the 2025 projected test year?**

FRF: *The amount and cost rate for customer deposits that should be included in the capital structure for the 2025 projected test year is $99.195 million at a cost rate of 2.41%.*

ISSUE 36: **What amount and cost rate for short-term debt should be approved for inclusion in the capital structure for the 2025 projected test year?**

FRF: *The correct amount of short-term debt is $376.625 million with a cost rate of 3.90%.*

ISSUE 37: **What amount and cost rate for long-term debt should be approved for inclusion in the capital structure for the 2025 projected test year?**

FRF: *The correct amount of long-term debt is $3,536.333 million with a cost rate of 4.53%.*

ISSUE 38: **What equity ratio should be approved for use in the capital structure for ratemaking purposes for the 2025 projected test year?**

FRF: *TECO's equity ratio of 54.0 percent is above the national average. The FRF does not oppose this equity ratio if the Commission takes account of the Company's above-average equity ratio by setting rates using an ROE no greater than 9.72 percent, which is the recent national average ROE approved for vertically integrated electric utilities.*

ISSUE 39: **What authorized return on equity (ROE) should be approved for use in establishing TECO's revenue requirement for the 2025 projected test year?**

FRF: * The most appropriate ROE for Tampa Electric is 9.50 percent. This rate will provide Tampa Electric with the ability to raise sufficient equity capital to make all necessary investments to provide safe and reliable service to its customers. Moreover, consistent with State energy policy, setting TECO's rates with a 9.50 percent ROE will make TECO's service more affordable for its customers and will support Florida's economic growth.*

DISCUSSION

As discussed in Section I of the FRF's Brief, the overwhelming preponderance of the evidence demonstrates that Tampa Electric can make all investments and all expenditures necessary to provide safe and reliable service with an ROE less than 10.0 percent. Considering that many utilities, including those in Mr. D'Ascendis's proxy group, provide service with ROEs that average below 9.50 percent, and considering the numerous risk-mitigating factors favorable to TECO, the most appropriate ROE for setting TECO's revenues and rates in this case is 9.50 percent. Under no circumstances should the Commission even consider an ROE greater than 10.20 percent, because such a rate is more than TECO ***needs*** to provide safe and reliable service to its customers.

ISSUE 40: **What capital structure and weighted average cost of capital should be approved for use in establishing TECO's revenue requirement for the 2025 projected test year?**

FRF: *The most appropriate capital structure is that used by Dr. Randall Woolridge in developing his rate of return recommendations, as set forth in Table 1 of his direct testimony. The most appropriate overall weighted average cost of capital is 6.38 percent.*

DISCUSSION

The most significant component of the capital structure is the equity ratio, i.e., the percentage of capital provided by common equity (stockholders). TECO's current and proposed

equity ratio of 54.0 percent is higher than average; in fact, it is significantly higher than the average equity ratio – 40.1 percent – of the utilities in the proxy group that TECO's witness D'Ascendis used for comparison purposes. Notably, witness Woolridge's proxy group had a very similar equity ratio of 40.9 percent.

If the Commission were to approve an ROE of 10.20 percent and the same capital structure, the appropriate weighted average cost of capital would be 6.72 percent.

2025 NET OPERATING INCOME

ISSUE 41: **Has TECO correctly calculated the revenues at current rates for the 2025 projected test year?**

FRF: *No. TECO's sales forecast is significantly understated. The Commission should increase 2025 test year retail revenues by at least $12.3 million.*

ISSUE 42: **What amount of Total Operating Revenues should be approved for the 2025 projected test year?**

FRF: *This should be a fall-out calculation based on TECO's proposed 2025 revenues less the OPC's sales forecast adjustments and less the ROE, depreciation expense, other expense, and rate base-related revenue reductions recommended by the FRF and OPC.*

ISSUE 43: **What amount of O&M expense associated with Polk Unit 1 has TECO included in the 2025 projected test year? Should this amount be approved and what, if any, adjustments should be made?**

FRF: *No position.*

ISSUE 44: **What amount of O&M expense associated with Big Bend Unit 4 has TECO included in the 2025 projected test year? Should this amount be approved and what, if any, adjustments should be made?**

FRF: *No position.*

ISSUE 45: **What amount of generation O&M expense should be approved for the 2025 projected test year?**

FRF: *The Commission should set rates based on normalizing TECO's planned generation maintenance expense in the 2025 test year and reduce TECO's 2025 revenue requirement by $12.430 million.*

ISSUE 46: **What amount of transmission O&M expense should be approved for the 2025 projected test year?**

FRF: *No position.*

ISSUE 47: **What amount of distribution O&M expense should be approved for the 2025 projected test year?**

FRF: *No position.*

ISSUE 48: **Has TECO made the appropriate test year adjustments to remove fuel revenues and fuel expenses recoverable through the Fuel Adjustment Clause?**

FRF: *No position.*

ISSUE 49: **Has TECO made the appropriate test year adjustments to remove conservation revenues and conservation expenses recoverable through the Conservation Cost Recovery Clause?**

FRF: *No position.*

ISSUE 50: **Has TECO made the appropriate test year adjustments to remove capacity revenues and capacity expenses recoverable through the Capacity Cost Recovery Clause?**

FRF: *No position.*

ISSUE 51: **Has TECO made the appropriate test year adjustments to remove environmental revenues and environmental expenses recoverable through the Environmental Cost Recovery Clause?**

FRF: *No position.*

ISSUE 52: **Has TECO made the appropriate test year adjustments to remove all storm hardening revenues and expenses recoverable through the Storm Protection Plan Cost Recovery Clause?**

FRF: *No position.*

ISSUE 53: **What amount of salaries and benefits, including incentive compensation, should be approved for the 2025 projected test year?**

FRF: *Tampa Electric's Long Term Incentive Plan (LTIP) provides incentives to executives to increase costs and rates paid by TECO's customers so as to benefit the financial performance of TECO and its parent and sole shareholder, Emera Corporation, as distinguished from incentivizing performance metrics that benefit customers, such as safety and reliability. The Commission should remove $7.170 million in LTIP compensation expense from the Company's authorized revenue requirements.*

ISSUE 54: **Does TECO's pension and OPEB expense properly reflect capitalization credits in the 2025 projected test year? If not, what adjustments, if any should be made?**

FRF: *No. The Commission should reduce pension and OPEB costs to reflect the credit for the portions of the costs that will be capitalized. The effect is a reduction of $0.489 million in the revenue requirement for the reduction in pension expense and a reduction of $0.806 million in the revenue requirement for the reduction in OPEB expense to reduce the requested amounts for the capitalized portions.*

ISSUE 55: **What cost allocation methodologies and what amount of allocated costs and charges with TECO's affiliated companies should be approved for the 2025 projected test year?**

FRF: *The Commission should require TECO to use a Headcount allocation factor instead of the Net Income allocation factor. The Commission should reduce the Corporate Support Allocations from Emera to Tampa Electric by $0.858 million related to the dissolved TSI and the shared service allocation from Tampa Electric to TECO by $5.457 million to reflect unsupported corporate overhead.*

ISSUE 56: **What amount of Directors and Officers Liability Insurance expense for the 2025 projected test year should be approved?**

FRF: *The Commission should allocate half the cost, or $0.151 million, of Directors & Officers ("D&O") Liability Insurance premium costs and half, or $0.376 million, of the cost of the Board of Directors expense. This will properly allocate the costs and benefits provided by these expenses between the shareholder and the regulated utility.*

ISSUE 57: **What amount of Economic Development expense for the 2025 projected test year should be approved?**

FRF: *No position.*

ISSUE 58: **What amount and amortization period for TECO's rate case expense for the 2025 projected test year should be approved?**

FRF: *Rate case expense should be amortized over three years.*

ISSUE 59: **What amount of O&M Expense for the 2025 projected test year should be approved?**

FRF: *This is generally a fall-out issue. The Commission should make all of the adjustments to TECO's O&M expenses recommended by the OPC's witnesses reflected in Attachment 1 to the FRF's Brief.*

ISSUE 60: **What amount of depreciation and dismantlement expense for the 2025 projected test year should be approved?**

FRF: *This is generally a fall-out issue. The Commission should make all of the adjustments to TECO's depreciation and dismantlement expenses recommended by the OPC's witnesses reflected in Attachment 1 to the FRF's Brief, and also the adjustments to TECO's depreciation expense recommended by FEA witness Brian Andrews.*

ISSUE 61: **What amount of Taxes Other Than Income Taxes for the 2025 projected test year should be approved?**

FRF: *No position.*

ISSUE 62: **What amount of Parent Debt Adjustment is required by Rule 25-14.004, Florida Administrative Code, for the 2025 projected test year?**

FRF: *No position.*

ISSUE 63: What amount of Production Tax Credits should be approved and what is the proper accounting treatment for the 2025 projected test year?

FRF: *The amount of PTC credits should be updated to reflect the increase in the 2025 PTC rate from $2.75 per kilowatt-hour to $3.00 per kilowatt-hour which became effective January 1, 2024. This 2025 PTC rate change decreases Tampa Electric's proposed revenue requirement by $4,917,948.*

ISSUE 64: What treatment, amounts, and amortization period for the Production Tax Credits that were deferred in 2022-2024 should be approved for the 2025 projected test year?

FRF: *TECO's deferred PTC balance should be increased by $3.437 million in carrying costs to a total of $44.587 million, grossed-up for income taxes to $59.844 million (total Tampa Electric) and $59.634 million (jurisdictional). Adding the carrying charges reduces approximately $0.887 million in the 2025 revenue requirement, assuming TECO's proposed 10-year amortization period. The Deferred PTCs should be amortized over three years, resulting in an additional revenue requirement reduction of $13.182 million.*

ISSUE 65: What treatment and amount of the Investment Tax Credits pursuant to the Inflation Reduction Act should be approved for the 2025 projected test year?

FRF: *The Commission should treat the ITCs, and set TECO's rates, as if Tampa Electric elected and will continue to elect out of the normalization requirements. This will reduce base revenue requirements by $3.493 million and reduce the CETM revenue requirement by $0.100 million due to the reduction in the cost of capital by including the new ITCs since 2022 as cost-free capital instead of at the weighted average cost of capital.*

DISCUSSION

The Company's failure to elect out of the normalization requirements only harms customers in favor of its own self-interest. TR 2319. Witness Kollen testified that "opting out" of normalization is an annual election and the Company has not yet filed its 2023 federal income tax return or its 2024, 2025, 2026, or 2027 federal income tax returns. TR 2320. The Company stated that if the Commission required, they would elect out of normalization for the energy storage ITCs.

TR 3253. The Commission should reflect the ITCs as if Tampa Electric elected and will continue to elect out of the normalization requirements. TR 2320. If the Company is unwilling to elect out of the normalization requirements each year, then the Commission should reduce the Company's authorized ROE or another appropriate measure to protect customers from TECO's pursuing this path of self-interest and self-dealing at the expense of, and harm to, its customers. TR 2320. The effects of the first recommendation are a reduction of $3.493 million in the revenue requirement and a reduction of $0.100 million in the CETM revenue requirement due to the reduction in the cost of capital by including the new ITCs since 2022 as cost-free capital in the capital structure instead of including the new ITCs at the weighted average cost of capital. TR 2320. The Commission should also direct Tampa Electric to defer the ITCs pursuant to the Inflation Reduction Act earned each year, but to amortize the deferred ITCs over a three-year amortization period. TR 2320.

ISSUE 66: **What amount of Income Tax expense should be approved for the 2025 projected test year?**

FRF: *Fall-out issue.*

ISSUE 67: **What amount of Net Operating Income should be approved for the 2025 projected test year?**

FRF: *Fall-out issue.*

2025 REVENUE REQUIREMENTS

ISSUE 68: **What revenue expansion factor and net operating income multiplier, including the appropriate elements and rates, should be approved for the 2025 projected test year?**

FRF: *The appropriate revenue expansion factor is 1.34364.*

ISSUE 69: **What amount of annual operating revenue increase for the 2025 projected test year should be approved?**

FRF: *No more than $36.7 million per year.*

DISCUSSION

As explained in Section II of the FRF's Brief, Tampa Electric Company is fundamentally obligated, and the Commission is statutorily required, to do everything they can to ensure that Tampa Electric has sufficient revenues – but "not a penny more" than the amount necessary – for TECO to provide safe and reliable service to its customers. In its request for the Commission's authority for TECO to take an additional $1.11 Billion of its customers' money over the next three years, TECO has overstated the ROE, its depreciation expense, a number of operating and maintenance expenses, and several rate base items totaling to approximately $870 million in excess revenues over the 2025-2027 period. The Company's requests are excessive by any objective standard, they are contrary to the public interest, and if approved, they will result in rates that are unfair, unjust, and unreasonable. Moreover, TECO's proposed revenues and rates are contrary to the State's energy policy goals of ensuring an affordable energy supply for Florida and Floridians and of supporting Florida's economic growth.

The revenue and rate increases supported by the FRF of $36.7 million per year in 2025 will provide TECO with sufficient revenues to provide safe and reliable service, and the Commission should approve this amount for 2025.

2025 COST OF SERVICE AND RATES

ISSUE 70: **Is TECO's proposed separation of costs and revenues between the wholesale and retail jurisdictions appropriate?**

FRF: *The FRF does not oppose TECO's jurisdictional separation cost of service study.*

ISSUE 71: **What is the appropriate methodology to allocate production costs to the rate classes?**

FRF: *The FRF does not oppose TECO's proposed cost of service study.*

ISSUE 72: **What is the appropriate methodology to allocate transmission costs to the rate classes?**

FRF: *The FRF does not oppose TECO's proposed cost of service study.*

ISSUE 73: **What is the appropriate methodology to allocate distribution costs to the rate classes?**

FRF: *The FRF does not oppose TECO's proposed cost of service study.*

ISSUE 74: **How should any change in the revenue requirement approved by the Commission be allocated among the customer classes?**

FRF: *The FRF does not oppose TECO's proposed revenue allocation methodology for allocating any increase or decrease in revenue requirements to rate classes.*

ISSUE 75: **Should the proposed modifications to the delivery voltage credit be approved?**

FRF: *The FRF does not oppose TECO's proposed cost of service study or its proposed revenue allocation methodology.*

ISSUE 76: **What are the appropriate service charges (initial connection, reconnect for nonpayment, connection of existing account, field visit, temporary overhead and underground, meter tampering)?**

FRF: *The FRF does not oppose TECO's proposed cost of service study or its proposed revenue allocation methodology.*

ISSUE 77: **Should the modifications to the emergency relay power supply charge be approved?**

FRF: *The FRF does not oppose TECO's proposed cost of service study or its proposed revenue allocation methodology.*

ISSUE 78: **What are the appropriate basic service charges?**

FRF: *The FRF does not oppose TECO's proposed cost of service study or its proposed revenue allocation methodology.*

ISSUE 79: **What are the appropriate demand charges?**

FRF: *The FRF does not oppose TECO's proposed cost of service study or its proposed revenue allocation methodology.*

ISSUE 80: **What are the appropriate energy charges?**

FRF: *The FRF does not oppose TECO's proposed cost of service study or its proposed revenue allocation methodology.*

ISSUE 81: **What are the appropriate Lighting Service rate schedule charges?**

FRF: *The FRF does not oppose TECO's proposed cost of service study or its proposed revenue allocation methodology.*

ISSUE 82: **What are the appropriate Standby Services (SS-1, SS-2, SS-3) rate schedule charges?**

FRF: *The FRF does not oppose TECO's proposed cost of service study or its proposed revenue allocation methodology.*

ISSUE 83: **Should the proposed modifications to the time-of-day periods be approved?**

FRF: *The FRF does not oppose TECO's proposed cost of service study or its proposed revenue allocation methodology.*

ISSUE 84: **Should the proposed modifications to the Non-Standard Meter Rider tariff (Tariff Sheet No. 3.280) be approved?**

FRF: *The FRF does not oppose TECO's proposed cost of service study or its proposed revenue allocation methodology.*

ISSUE 85: **Should the proposed tariff modifications to the Budget Billing Program (Fifth Revised Tariff Sheet No. 3.020) be approved?**

FRF: *The FRF does not oppose TECO's proposed cost of service study or its proposed revenue allocation methodology.*

ISSUE 86: **Should the proposed tariff modifications regarding general liability and customer responsibilities (Fifth Revised Tariff Sheet No. 5.070 and Original Tariff Sheet No. 5.081) be approved?**

FRF: *No position.*

ISSUE 87: **Should the proposed tariff modifications to Contribution in Aid of Construction (Fifth Revised Tariff Sheet No. 5.105) be approved?**

FRF: *The FRF does not oppose TECO's proposed cost of service study or its proposed revenue allocation methodology.*

ISSUE 88: **Should the proposed tariff modifications to the Economic Development Rider (Third Revised Tariff Sheet Nos. 6.720, 6.725, 6.730) be approved?**

FRF: *The FRF does not oppose TECO's proposed cost of service study or its proposed revenue allocation methodology.*

ISSUE 89: **Should the proposed modifications to LS-1 (Eleventh Revised Tariff Sheet No. 6.809) regarding lighting wattage variance be approved?**

FRF: *The FRF does not oppose TECO's proposed cost of service study or its proposed revenue allocation methodology.*

ISSUE 90: **Should the proposed LS-2 Monthly Rental Factors (Original Tariff Sheet No. 6.845) be approved?**

FRF: *The FRF does not oppose TECO's proposed cost of service study or its proposed revenue allocation methodology.*

ISSUE 91: **Should the proposed termination factors for long-term facilities (Fifth Revised Tariff Sheet No. 7.765) be approved?**

FRF: *The FRF does not oppose TECO's proposed cost of service study or its proposed revenue allocation methodology.*

ISSUE 92: **Should the non-rate related tariff modifications be approved?**

FRF: *No position.*

ISSUE 93: **Should the Commission give staff administrative authority to approve tariffs reflecting Commission approved rates and charges?**

FRF: *Yes.*

2026 AND 2027 SUBSEQUENT YEAR ADJUSTMENTS (SYA)

ISSUE 94: **What are the considerations or factors that the Commission should evaluate in determining whether an SYA should be approved?**

FRF: *The FRF agrees with the Citizens that subsequent year adjustments should only be allowed where compelling circumstances exist to support such post-rate-case rate increases. Among other things, the Commission should evaluate whether any proposed SYA is truly representative of future circumstances, and whether it is necessary to enable the utility to have sufficient revenues, but not a penny more, to enable the utility to provide safe and reliable service to its customers.*

ISSUE 95: **Should the Commission approve the inclusion of TECO's proposed Solar Projects in the 2026 and 2027 SYA? What, if any, adjustments should be made?**

FRF: *The FRF supports the addition of solar generating resources to Florida's power supply grid, provided that such resources satisfy the normal standards of cost-effectiveness, reasonableness, and prudence of the utility's investment. These principles require that TECO's solar assets be depreciated over 35 years, and fair ratemaking policy requires that TECO only be allowed to recover costs associated with its solar facilities beginning when each facility achieves commercial service status.*

ISSUE 96: **Should the Commission approve the inclusion of TECO's proposed Grid Reliability and Resilience Projects in the 2026 and 2027 SYA? What, if any, adjustments should be made?**

FRF: *The FRF agrees with the Citizens that the Commission should deny inclusion of these projects in any 2026 or 2027 SYAs because they are usual, non-extraordinary projects of a type that is not appropriate for inclusion in SYAs.*

ISSUE 97: **Should the Commission approve the inclusion of TECO's proposed Polk 1 Flexibility Project in the 2026 SYA? What, if any, adjustments should be made?**

FRF: *The FRF agrees with the Citizens that the Commission should not include recovery of this project in the 2026 SYA unless TECO can demonstrate a need for the generation and the project's revenue requirements, if demonstrably needed and prudent, would cause TECO to fall below its approved earnings range in 2026.*

ISSUE 98: **Should the Commission approve the inclusion of TECO's proposed Energy Storage Projects in the 2026 SYA? What, if any, adjustments should be made?**

FRF: *The FRF supports the addition of battery energy storage resources to Florida's power supply grid, provided that such resources satisfy the normal standards of cost-effectiveness, reasonableness, and prudence of the utility's investment. These principles require that battery storage assets be depreciated over 20 years, not 10 years as proposed by TECO, and fair ratemaking policy requires that TECO only be allowed to begin recovering those costs when each facility achieves commercial service status.*

ISSUE 99: **Should the Commission approve the inclusion of TECO's proposed Bearss Operations Center Project in the 2026 SYA? What, if any, adjustments should be made?**

FRF: *The FRF agrees with OPC on this issue.*

ISSUE 100: **Should the Commission approve the inclusion of TECO's proposed Corporate Headquarters Project in the 2026 SYA? What, if any, adjustments should be made?**

FRF: * The FRF agrees with OPC on this issue.*

ISSUE 101: **Should the Commission approve the inclusion of TECO's proposed South Tampa Resilience Project in the 2026 and 2027 SYA? What, if any, adjustments should be made?**

FRF: *No position.*

ISSUE 102: **Should the Commission approve the inclusion of TECO's proposed Polk Fuel Diversity Project in the 2026 and 2027 SYA? What, if any, adjustments should be made?**

FRF: *The FRF agrees with OPC on this issue.*

ISSUE 103: **What overall rate of return should be used to calculate the 2026 and 2027 SYA?**

FRF: *If the Commission approves any SYA for 2026 or 2027, the appropriate overall rate of return is 6.38 percent, based on the FRF's recommended ROE of 9.50 percent.*

ISSUE 104: **Should the SYA for 2026 and 2027 reflect additional revenues due to customer growth? What, if any, adjustments should be made?**

FRF: *Yes. If the Commission allows a 2026 SYA, the additional forecasted revenues due to customer growth should be increased by at least $7.994 million. If the Commission allows a 2027 SYA, additional forecasted revenues due to customer growth should be increased by at least $6.123 million.*

ISSUE 105: **Should the Commission approve the inclusion of TECO's proposed incremental O&M expense associated with the SYA projects in the 2026 and 2027 SYA?**

FRF: *Not as requested by TECO. If the Commission allows an SYA for 2026 or 2027, or both, the Commission should, at a minimum, subtract all variable O&M cost savings that TECO estimated in its cost-effectiveness calculations for the projects. Otherwise, the actual cost impacts of the projects will be overstated and customers will overpay for the projects.*

ISSUE 106: **Should the depreciation expense and Investment Tax Credits amortization used to calculate the proposed 2026 and 2027 SYA be adjusted to reflect the Commission's decisions on depreciation rates and ITC amortization for the 2025 projected test year?**

FRF: *Yes, if the Commission approves an SYA for either 2026 or 2027, then the Commission's decisions regarding depreciation rates and ITC amortization for the 2025 test year should be reflected in the revenues and rates approved for 2026 or 2027.*

ISSUE 107: What annual amount of incremental revenues should be approved for recovery through the 2026 and 2027 SYA?

FRF: *If the Commission allows an SYA for 2026 or 2027, or both, the Commission should approve an increase of no more than $54.651 million per year for 2026 and an increase of no more than $20.890 million per year for 2027.*

ISSUE 108: What rate design approach should be used to develop customer rates for the 2026 and 2027 SYA?

FRF: *The FRF does not oppose TECO's proposed cost of service study or its proposed revenue allocation methodology.*

ISSUE 109: When should the 2026 and 2027 SYA become effective?

FRF: *If approved, any 2026 SYA should become effective for service rendered on the first day of the first billing cycle of January 2026, and any 2027 SYA should become effective for service rendered on the first day of the first billing cycle of January 2027.*

ISSUE 110: Should TECO be required to file its proposed 2026 and 2027 SYA rates for Commission approval in September 2026 and 2027, respectively, reflecting then current billing determinants?

FRF: *Yes.*

OTHER

ISSUE 111: Should TECO's proposed Corporate Income Tax Change Provision be approved?

FRF: *No. The FRF agrees with OPC's analysis and positions on this issue.*

ISSUE 112: Should TECO's proposed Storm Cost Recovery Provision be approved?

FRF: *No. While the FRF supports timely recovery of storm restoration costs subject to equally timely and thorough Commission review, including a point of entry for parties to contest any utility claims for cost recovery, TECO's proposed Storm Cost Recovery Provision is based on settlement terms, not Commission precedent, and diverges from even the terms in TECO's 2021 settlement. Accordingly, the Commission should not approve TECO's proposal as filed.*

ISSUE 113: **Should TECO's proposed Asset Optimization Mechanism be approved, and what, if any, modifications should be made?**

FRF: *No. The FRF agrees with OPC that the Company's proposal is unlawful because it violates the terms of the existing TECO 2021 settlement agreement approved by the Commission in Order No. PSC-2021-0423-S-EI, which settlement agreement, adopted by the Commission, by its own terms prohibits any party from asserting it as precedent.*

ISSUE 114: **What are the appropriate updated Clean Energy Transition Mechanism factors and when should they become effective?**

FRF: *The CETM revenues should be reduced by $1.828 million in 2025 to reflect OPC's positions on ROE of 9.5% and inclusion of the battery storage related ITCs at a zero cost of capital.*

ISSUE 115: **Should the proposed Senior Care Program (Original Tariff Sheet No. 3.310) and associated cost recovery be approved?**

FRF: *The FRF does not oppose the proposed Senior Care program tariff. However, the Commission must note that this offering is simply a vehicle for Tampa Electric's customers to contribute to lower rates for senior citizens with a demonstrable need, as the program is funded from base rates. Other than serving as a collection and distribution agent, TECO is not contributing financially to the benefitted customers.*

ISSUE 116: **Should TECO be required to perform any studies or analysis relating to the retirement of Polk Unit 1 and/or Big Bend Unit 4, including early retirement dates, environmental compliance costs, and/or procurement of alternative resources?**

FRF: *Regardless whether the PSC requires TECO to perform any studies or analyses relating to potential early retirements of Polk Unit 1 or Big Bend Unit 4, in the current regulatory environment, it would be imprudent for TECO not to be conducting such studies and analyses on a regular basis far enough in advance to enable it to make prudent retirement decisions based on regulatory and market developments.*

DISCUSSION

In the current regulatory environment, and as evidenced by the attention given to the potential early retirement of Polk Unit 1 or Big Bend Unit 4 in these proceedings, TECO should be monitoring and studying potential early retirements of these units on a regular basis. Such studies or analyses should be conducted far enough in advance of any potential regulatory or economic changes that might accelerate their retirement dates to enable TECO to make the best decision regarding the units' futures. Failure to conduct appropriate studies in a timely way, and then – by hypothesis – not being able to achieve an optimally timely retirement could have adverse economic impacts on customers, and if such were to occur, it would be improper for customers to bear any resulting costs.

ISSUE 117: **What is the appropriate effective date for TECO's revised 2025 rates and charges?**

FRF: *Any change in rates for the 2025 test year should be effective for service rendered on the first day of the first billing cycle of January 2025.*

ISSUE 118: **Has the Commission considered TECO's performance pursuant to Sections 366.80–366.83 and 403.519, Florida Statutes, when establishing rates?**

FRF: *No position.*

ISSUE 119: **What considerations should the Commission give the affordability of customer bills and how does TECO's rate increase impact ratepayers in this proceeding?**

FRF: *The Commission should give serious consideration and accord great weight to the affordability of TECO's service to its residential and business customers. In the public interest, the only reasonable balancing of affordability and service reliability is that TECO, and any public utility, should provide safe and reliable service at the lowest possible cost to its customers.*

DISCUSSION

As discussed within Section II of the FRF's Brief, the fundamental mandate of Chapter 366, Florida Statutes, is regulation of public utilities in the public interest. Sections 366.06(2) and 366.07, Florida Statutes, make clear that a public utility's rates are to be neither insufficient for the utility nor excessive to customers. The proper balance exists where the utility has sufficient revenues to enable it to provide safe and reliable service to its customers, but "not a penny more." In this rate case, giving effect both to the foregoing provisions of Chapter 366 and the Legislature's declaration that the State's energy policy is to ensure an "affordable energy supply," the Commission must recognize that any excess profit to the utility or any unnecessary expenditures, whether on capital or expenses, reduces the affordability of electric service to all customers, thereby violating the statutory ratemaking standards, harming the public interest, and running contrary to the State's declared energy policies.

In summary, in the public interest and consistent with the State's specific policy goal of ensuring energy affordability, both Tampa Electric Company and the Commission must do everything they can to keep TECO's rates as low as possible, consistent with providing TECO with sufficient revenues to continue to provide safe and reliable service.

ISSUE 120: **Should TECO be required to file, within 90 days after the date of the final order in this docket, a description of all entries or adjustments to its annual report, rate of return reports, and books and records which will be required as a result of the Commission's findings in this rate case?**

FRF: *Yes.*

ISSUE 121: **Should this docket be closed?**

FRF: *When a final Commission order has been issued and either (a) all appeals of such order (or orders) have been finally resolved, or (b) the time for filing any further appeal has passed, this docket should be closed.*

Respectfully submitted this 21st day of October, 2024.

/s/ Robert Scheffel Wright
Robert Scheffel Wright
Florida Bar No. 966721
schef@gbwlegal.com
John T. LaVia, III
Florida Bar No. 853666
jlavia@gbwlegal.com
Gardner, Bist, Bowden, Dee, LaVia,
Wright, Perry & Harper, P.A.
1300 Thomaswood Drive
Tallahassee, Florida 32308
(850) 385-0070 Telephone
(850) 385-5416 Facsimile

Attorneys for the
Florida Retail Federation

ATTACHMENT 1

TAMPA ELECTRIC COMPANY
DOCKET NO. 20240026-EI
REVENUE REQUIREMENTS RECOMMENDED BY OPC
BASE RATES FOR TEST YEAR ENDING DECEMBER 31, 2025
AND BASE RATE CHANGES FOR 2026 AND 2027 SYAs
($MILLIONS)

TAMPA ELECTRIC COMPANY
REVENUE REQUIREMENT RECOMMENDED BY OPC - BASE RATES
DOCKET NO. 20240026-EI
TEST YEAR ENDING DECEMBER 31, 2025
($ MILLIONS)

	Jurisdictional Adjustment After Gross Up
Requested Base Rate Increase per TEC Filing	**296.611**
Operating Income Adjustments:	
Less: July 24, 2024 TEC Filing Adjustments	($1.089)
Less: Agust 1, 2024 TEC Filing Adjustments	
Less: August 22, 2024 TEC Filing Adjustments	($7.541)
Requested Base Rate Increase After TEC Filing Adjustments	**$287.981**
Increase Revenues Related to Load Growth	(12.298)
Normalize Planned Generation Maintenance Expense for Major Outages	(9.992)
Remove Capitalized and Other Portion of Pension Expense	(0.489)
Remove Capitalized and Other Portion of Active Employee OPEB Expense	(0.806)
Remove Long Term Incentive Plan (LTIP) Expense Tied to Financial Performance	(7.170)
Remove SERP Expense	(0.107)
Reduce Affiliate Transaction Expense	(6.313)
Remove 50% of D&O Insurance Expense to Share with Shareholders	(0.151)
Remove 50% of Board of Directors Expenses to Share with Shareholders	(0.376)
Remove Depreciation Expense Related to Distribution Feeder Hardening Plant Reduction	(0.147)
Reduce Depreciation Expense by Using Approved 35 Year Service Life for Solar Generating Assets	(9.519)
Reduce Dismantlement Expense to Exclude Cost and Expense Escalations After the End of the Test Year	(7.110)
Reduce Dismantlement Expense By Removing Solar Site Restoration Environmental Costs	(2.614)
Reduce Dismantlement Expense By Using Approved 35 Year Service Life for Solar Generating Assets	(0.955)
Remove Depreciation Expense Related to Customer Experience Projects	(0.830)
Include Deferred Carrying Costs on Deferred Production Tax Credits through Dec 31, 2024	(0.460)
Amortize Deferred Production Tax Credits Incl Deferred Carrying Costs Over Three Years	(13.845)
Amortize Deferred Investment Tax Credits Pursuant to IRA Over Three Years (Grossed Up)	(12.607)
Increase Income Tax Expense to Amortize Pre 2022 Solar ITCs Over 35 Versus 30 Years (Grossed Up)	1.636
Rate Base Adjustments:	
Remove Spare Power Transfomers	(0.362)
Remove Distribution Feeder Hardening Plant	(0.356)
Remove Accumulated Depreciation Related to Customer Experience Projects	0.416
Remove Customer Experience Projects	(6.247)
Reduce Accumulated Depreciation to Reflect Solar Service Life of 35 Years	0.440
Reflect Changes in Production Tax Credit Regulatory Liability Balance - Carrying Charges	(0.427)
Reflect Changes in Production Tax Credit Regulatory Liability Balance - Amortization	0.663
Capital Structure and Rate of Return Adjustments:	
Adjust Cost of Capital to Reflect Zero Cost ITCs for Battery Storage Assets	(6.087)
Set Return on Equity at 9.5%	(123.785)
Total OPC Adjustments	**(219.898)**
OPC Recommended Maximum Base Rate Increase	**68.083**
Requested Levelized Revenue Increase for CETM per TEC Filing	**1.769**
Adjust Cost of Capital to Reflect Zero Cost ITCs on Battery Storage Assets	(0.175)
Set Return on Equity at 9.5%	(3.422)
OPC Recommended Change in Levelized CETM Rates	**(1.828)**

TAMPA ELECTRIC COMPANY
REVENUE REQUIREMENT RECOMMENDED BY OPC
BASE RATES CHANGE FOR 2026 AND 2027 SYAs
DOCKET NO. 20240026-EI
TEST YEAR ENDING DECEMBER 31, 2026
($ MILLIONS)

	2026 SYA	2027 SYA
Base Rate Change for 2026 and 2027 SYAs per TEC Filing	**100.075**	**71.848**
Less: July 24, 2024 TEC Filing Adjustments	(0.079)	0.422
Less: Agust 1, 2024 TEC Filing Adjustments	(4.739)	(3.262)
Less: August 22, 2024 TEC Filing Adjustments	(2.844)	(3.534)
	92.413	**65.474**
Revenue Requirement Adjustments:		
Remove Grid Grid Reliability & Resilience Projects	(4.546)	(28.247)
Reflect Additional Revenue Due to Customer Growth During SYA Periods	(7.994)	(6.123)
Remove Incremental O&M Expense	(6.981)	(3.463)
Reflect Longer Service Lives for the Solar and Battery Projects	(5.957)	(1.612)
Reflect 3 Year Amortization for Solar Battery Storage ITCs	(2.792)	-
Adjust COC to Reflect Zero Cost Solar Battery Storage ITCs	(0.267)	(0.144)
Set Return on Equity at 9.5%	(9.224)	(4.995)
Total OPC Adjustments	**(37.761)**	**(44.584)**
OPC Recommended Maximum 2026 and 2027 SYA Rate Changes	**54.651**	**20.890**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Electronic Mail this 21st day of October, 2024, to the following:

Adria Harper
Carlos Marquez
Timothy Sparks
Office of the General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
Aharper@psc.state.fl.us
Cmarquez@psc.state.fl.us
Tsparks@psc.state.fl.us

J. Wahlen/V. Ponder/M. Means
P.O. Box 391
Tallahassee FL 32302
(850) 224-9115
(850) 222-7952
jwahlen@ausley.com
mmeans@ausley.com
vponder@ausley.com

Walt Trierweiler / Charles Rehwinkel
Patty Christensen / Austin Watrous
Mary Wessling / Octavio Ponce
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400
Trierweiler.walt@leg.state.fl.us
Rehwinkel.charles@leg.state.fl.us
Christensen.patty@leg.state.fl.us
Watrous.austin@leg.state.fl.us
Wessling.mary@leg.state.fl.us
Ponce.octavio@leg.state.fl.us

Nihal Shrinath
Sierra Club
2101 Webster Street, Suite 1300
Oakland, CA 94612
Nihal.shrinath@sierraclub.org

Sari Amiel
Sierra Club
50 F St. NW, Eighth Floor
Washington DC 20001
Sari.amiel@sierraclub.org

Leslie Newton / Ashley George /
Thomas Jernigan / Ebony Payton
Federal Executive Agencies
139 Barnes Drive, Suite 1
Tyndall AFB FL 32403
ebony.payton.ctr@us.af.mil
thomas.jernigan.3@us.af.mil
leslie.newton.1@us.af.mil
ashley.george.4@us.af.mil

B. Marshall/J. Luebkemann/
H. Lochan
Earthjustice (FL Rising & League of United Latin American Citizens of FL)
111 S. Martin Luther King Jr. Blvd.
bmarshall@earthjustice.org
jluebkemann@earthjustice.org
hlochan@earthjustice.org
flcaseupdates@earthjustice.org

Paula K. Brown
Tampa Electric Company
P.O. Box 111
Tampa, FL 33601-0111
regdept@tecoenergy.com

Jon C. Moyle, Jr./Karen A. Putnal
Florida Industrial Power Users Group
c/o Moyle Law Firm
Tallahassee, FL 32301
jmoyle@moylelaw.com
kputnal@moylelaw.com

Floyd R. Self / Ruth Vafek
Berger Law Firm (AACE, Circle K, RaceTrac, Wawa)
313 North Monroe Street, Suite 301
Tallahassee, FL 32301
fself@bergersingerman.com
rvafek@bergersingerman.com

/s/ ***Robert Scheffel Wright***
ATTORNEY