

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for rate increase by Tampa Electric Company : **DOCKET NO. 20240026-EI**
:
:
: **Filed: October 21, 2024**

POST-HEARING BRIEF OF WALMART INC.

Walmart Inc. ("Walmart"), by its attorneys, respectfully submits this Post-Hearing Brief to the Florida Public Service Commission ("PSC" or "Commission") pursuant to Order No. PSC-2024-0096-PCO-EI, issued April 16, 2024, in the above-referenced proceeding. From August 26, 2024, through August 30, 2024, the Commission conducted a Hearing on Tampa Electric Company's ("TECO" or "Company") Petition for Rate Increase ("Petition"). In its Amended Prehearing Statement, filed August 8, 2024, Walmart incorporated by reference the June 6, 2024, Direct Testimony of its Senior Director, Utility Partnerships, Steve W. Chriss that was filed by the Florida Retail Federation ("FRF"), of which Walmart is a member. Further, Walmart actively participated in the Hearing.

I. BACKGROUND

Walmart incorporates by reference background of this case as set forth in the Post-Hearing Briefs of the Office of Public Counsel ("OPC") and FRF. As to factual information pertinent to Walmart in particular, Walmart operates 386 retail units, nine Distribution Centers, two Fulfillment Centers, and employs over 118,000 associates in Florida.¹ In the fiscal year ending

¹ Walmart's Petition to Intervene (Aug. 6, 2024), ¶ 5; Walmart Opening Statement, Transcript ("Tr."), Vol. 1, p. 59, lines 19-21.

2024, Walmart purchased over \$8.5 billion worth of goods and services from Florida-based suppliers, supporting over 82,000 supplier jobs.² Walmart is also a large commercial customer of TECO, owning and operating approximately 36 retail stores, a distribution center, and related facilities in the Company's service territory.³ Collectively, Walmart's facilities in TECO's service territory consume over 140.3 million kWh of electricity annually primarily on TECO's Time-of-Day General Service – Demand ("GSDT") Schedule.⁴

The cost of electric utility service is a significant element of Walmart's operation costs, as it is for other members of the FRF, which cost will be impacted by the outcome in this case.⁵ In fact, if the Commission grants TECO's requested relief as filed in this case, it will have a *significant and detrimental* financial impact on all of its customers, as expressed by both the OPC and the varied intervening parties during the Hearing. The revenue impact of TECO's proposed ROE alone would result in a *\$94.4 million increase over TECO's approved ROE in its last rate case* for Test Year 2025 ("TY 2025"), and a *\$78.9 million increase from TECO's currently approved ROE trigger mid-point* for TY 2025.⁶ Walmart sets forth its positions as to particular Issues in the following section.

² Walmart's Petition to Intervene (Aug. 6, 2024), ¶ 5; Walmart Opening Statement, Tr, Vol. 1, p. 59, lines 21-25.

³ Walmart's Petition to Intervene (Aug. 6, 2024), ¶ 5; Walmart Opening Statement, Tr., Vol. 1, p. 60, lines 1-5; Chriss Testimony, Tr., Vol. 13, p. 3092, lines 7-19.

⁴ Walmart's Petition to Intervene (Aug. 6, 2024), ¶ 5; Walmart Opening Statement, Tr., Vol. 1, p. 60, lines 5-9.

⁵ Walmart's Petition to Intervene (Aug. 6, 2024), ¶ 6; Walmart Opening Statement, Tr., Vol. I, p. 60, lines 10-13; Chriss Testimony, Tr., Vol. 13, p. 3094, lines 3-14.

⁶ Chriss Testimony, Tr., Vol. 13, p. 3098, lines 10-17.

II. ISSUES AND POSITIONS

A. Issues for Which Walmart Takes Its Independent Position in This Docket

1. Issue 18 – Should TECO's proposed Solar Projects be included in the 2025 projected test year? What, if any, adjustments should be made?

In accordance with Walmart's significant and company-wide renewable energy goals set forth in the Direct Testimony of Steve W. Chriss in Docket No. 20240014-EG, Walmart supports renewable energy projects to the extent those projects are prudent, cost-effective and are relevant to meet TECO's and TECO's customers' renewable energy goals and needs.⁷

2. Issue 20 – Should TECO's proposed Energy Storage projects be included in the 2025 projected test year? What, if any, adjustments should be made?

In accordance with Walmart's significant and company-wide renewable energy goals set forth in the Direct Testimony of Steve W. Chriss in Docket No. 20240014-EG, Walmart supports renewable energy projects to the extent those projects are prudent, cost-effective and are relevant to meet TECO's and TECO's customers' renewable energy goals and needs.⁸

3. 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?

TECO's proposed ROE of 11.50%, with a range of 9.90% to 12.49%,⁹ is of particular concern to all customers, and testimony on this Issue was presented by *five separate witnesses opposed TECO's proposal*: Dr. J. Randall Woolridge on behalf of OPC;¹⁰ Christopher C. Walters, on behalf of Federal Executive Agencies ("FEA");¹¹ Jeff Pollock, on behalf of the Florida

⁷ See Ex. Walmart-3 (Comprehensive Exhibit List ("CEL") Ex. 818); Walmart also incorporates by reference evidence and testimony on these Issues by OPC and/or FRF.

⁸ *Id.*

⁹ D'Ascendis Testimony, Tr., Vol. 9, p. 1813, lines 1-3.

¹⁰ Woolridge Testimony, Tr., Vol. 12, pp. 2791-2916.

¹¹ Walters Testimony, Tr., Vol. 13, pp. 2921-3018.

Industrial Power Users Group ("FIPUG");¹² Karl Rabago, on behalf of Florida Rising and League of United Latin American Citizens ("LULAC");¹³ and, Steve Chriss, on behalf of FRF and Walmart.¹⁴ The Intervenors' concerns are warranted, as the revenue impact of TECO's proposed ROE alone would result in a *\$94.4 million increase over TECO's approved ROE in its last rate case for Test Year 2025 ("TY 2025")*, and a *\$78.9 million increase from TECO's currently approved ROE trigger mid-point for TY 2025*.¹⁵

TECO's requested ROE, which represents about 27% of TECO's overall requested rate increase for the 2025 test year,¹⁶ is 155 basis points higher than TECO's last approved midpoint ROE of 9.95%, and 130 basis points higher than the ROE trigger level of 10.20% the Commission approved in 2022.¹⁷ In addition to the size of the requested increase in ROE, approval of TECO's requested ROE would be troubling given TECO's use of cost recovery clauses.¹⁸ Moreover, this very Commission has recognized that the use of a future test year as TECO has proposed exposes utilities to regulatory lag.¹⁹

If the arguments against TECO's proposed ROE raised above are not persuasive enough, consider that among the 118 reported electric utility rate case ROEs authorized by regulatory commissions for investor owned utilities for 2021-2024 to date, the average ROE as of the time

¹² Pollock Testimony, Tr., Vol. 12, pp. 2669-2756.

¹³ Rabago Testimony, Tr., Vol. 11, pp. 2559-2644.

¹⁴ Chriss Testimony, Tr., Vol. 13, pp. 3098-3106.

¹⁵ *Id.*, p. 3098, lines 10-17.

¹⁶ *Id.*, p. 3098, lines 7-15.

¹⁷ *Id.*, p. 3098, lines 3-17 (referencing Direct Testimony of Archie Collins, p. 12, lines 1-24 and p. 12, lines 2-9).

¹⁸ *Id.*, p. 3097, line 15 to p. 3098, line 1.

¹⁹ Chriss Testimony, Tr., Vol. 13, p. 3098, line 20 to p. 3099, line 5.

Mr. Chriss filed his Direct Testimony was 9.5%.²⁰ During the calendar year 2024 thus far, 9.72% is the average authorized ROE nationwide for vertically integrated utilities.²¹ TECO's proposed ROE of 11.5% is clearly excessive in light of broader electric industry trends as set forth in Mr. Chriss' testimony.²² Reducing TECO's proposed ROE to 9.72% would result in a \$108.6 million, or 36.6%, reduction in TECO's proposed revenue requirement, while bringing TECO's ROE in line with nationally approved ROEs.²³

Recognizing that this Commission does not have to accept or be persuaded by what other Commissions approve²⁴, consider what has been approved for investor-owned utilities ("IOUs") in Florida. In fact, TECO's requested ROE is higher than the currently approved 2021 ROE's for both Duke Energy Florida, LLC ("DEF")²⁵ and Florida Power & Light Company ("FPL").²⁶ TECO's requested ROE is also more than 100 basis points higher than the ROE approved by the Commission for DEF in Docket 20240025-EI immediately before the Hearing in this Docket began.²⁷

²⁰ Chriss Testimony, Tr., Vol. 13, p. 3100, line 2 to p. 3101, line 8 and Ex. SWC-4 (CEL Ex. 136); *see also* Ex. OPC-96 (CEL Ex. 321).

²¹ Chriss Testimony, Tr., Vol. 13, p. 3100, line 2 to p. 3101, line 8 and Ex. SWC-4 (CEL Ex. 136); *see also* Ex. OPC-96 (CEL Ex. 321)

²² Chriss Testimony, Tr., Vol. 13, p. 3100, line 2 to p. 3101, line 8 and Ex. SWC-4 (CEL Ex. 136); *see also* Ex. OPC-96 (CEL Ex. 321)

²³ Chriss Testimony, Tr., Vol. 13, p. 3101, line 9 to p. 3102, line 2, and Ex. SWC-5 (CEL Ex. 137).

²⁴ Chriss Testimony, Tr., Vol. 13, p. 3102, lines 3-17.

²⁵ *In re: Petition for limited proceeding to approve 2021 settlement agreement, including general base rate increases, by Duke Energy Florida, LLC*, Docket No. 20210016-EI, Order No. PSC-2021-0202-AS-EI (June 4, 2021), cited in Chriss Testimony Tr., Vol. 13, p. 3099, lines 7-17.

²⁶ *In Re: Petition for rate increase by Florida Power & Light Company*, Docket No. 20210015-EI, Order No. PSC-2021-0446-S-EI (Dec. 2, 2021), cited in Chriss Testimony, Tr., Vol. 13, p. 3099, lines 7-17.

²⁷ TECO witness Collins admitted fielding questions regarding the DEF Settlement Agreement in July 2024 which Intervenor joined or did not object, and further knew that a 10.3% ROE was established. Collins Testimony, Vol. 1, p. 161, line 6 to p. 162, line 7.

TECO witness Dylan D'Ascendis testified in support of TECO's requested ROE. However, his testimony is not convincing.²⁸ During cross-examination, Witness D'Ascendis admitted the following:

- Among the cases in which witness D'Ascendis has provided ROE testimony supported by the same or similar analyses used in this case for TECO, other state commissions have awarded lower ROEs than he recommended, some of which were 100 basis points lower than D'Ascendis' recommendation;²⁹
- Witness D'Ascendis does not necessarily contend that the utilities on Ex. Walmart-4 have not been able to provide safe and reliable service with the ROEs that the various commissions awarded to those companies;³⁰
- Witness D'Ascendis does not contend that any of the utilities on Ex. Walmart-4 have not been able to make all needed investments to provide safe and reliable service with the ROEs that the various commissions awarded those companies, except for potentially a utility (SPS) that sought a rate increase the next year following a settlement³¹; and
- Regardless of how witnesses Woolridge, Walters, Chriss, Pollock, and Rabago analyzed the appropriate ROE (*i.e.*, via evaluation of national and state-wide ROEs and/or performance of modeling), **none of the five "Opposing ROE Witnesses" recommended an ROE above 9.78%.**³²

Significantly, on the issue of ROE, **even TECO's President and CEO Mr. Collins testified in this Hearing that with its originally approved 9.95% 2021 Settlement Agreement ROE, through its currently approved ROE trigger of 10.2% established by the 2021 Settlement Agreement, TECO has had sufficient capital and has been able to make all needed**

²⁸ See generally, D'Ascendis Testimony, Tr., Vol. 9, pp. 1802-2120.

²⁹ D'Ascendis Testimony, Tr., Vol. 9, p. 2015, lines 1-8; Ex. Walmart-4, D'Ascendis ROE Recommendation v. Outcome Chart (CEL Ex. 819), and orders referenced therein: Ex. Walmart-5 (CEL Ex. 820), Ex. Walmart-6 (CEL Ex. 821), Ex. Walmart-7 (CEL Ex. 822), Ex. Walmart-8 (CEL Ex. 823), Ex. Walmart-9 (CEL Ex. 824), Ex. Walmart-10 (CEL Ex. 825), Ex. Walmart-11 (CEL Ex. 826), Ex. Walmart-12 (CEL Ex. 827), and Ex. Walmart-13 (CEL Ex. 828).

³⁰ D'Ascendis Testimony, Tr., Vol. 9, p. 2015, line 18 to p. 2016, line 1.

³¹ *Id.*

³² D'Ascendis Testimony, Tr., Vol. 9, p. 2113, lines 8-13 and p. 2114, lines 4-8.

investments, including O&M expenditures, during the settlement term.³³ It cannot be overstated that if the Commission were to approve a 9.72% ROE instead of TECO's requested 11.50% ROE, it would reduce TECO's revenue requirement by \$108.6 million, or 36.6%.³⁴ In light of the collective evidence presented in favor of an ROE in line with the national averages, coupled with TECO's lack of credible testimony supporting its ROE request and the negative impact the 11.5% ROE would have on TECO's customers, Walmart respectfully requests that this Commission approve an ROE no higher than 9.78%³⁵.

4. Issue 112 – Should TECO's proposed Storm Cost Recovery Provision be approved?

While Walmart has no problem with the rules allowing TECO to defer storm cost collection by excluding the surcharge expenses already recovered in base rates, Walmart does not believe TECO should recover storm costs from demand-metered customers via energy charges or that the storm cost recovery rate design was squarely presented to the Commission here. TECO witnesses Jeff Chronister and Jordan Williams offered the only testimony on this Issue, yet both testimonies were vague as to what TECO is requesting in this Docket.

First, witness Chronister acknowledged that his Direct Testimony describing TECO's proposal to address storm cost recovery "via the method presented in Section 8 of the 2021 Settlement Agreement" in TECO's 2021 rate case, he was simply referring to TECO being allowed to defer storm cost collection that excludes from the surcharge any expenses collected in TECO's

³³ Collins Testimony, Tr., Vol. 2, p. 393, line 22 to p. 395, line 20. Collins' testimony establishes that TECO's current ROE set at 10.2% satisfies the requirements under *Federal Power Comm'n v. Hope Natural Gas Co.*, 370 U.S. 591, 64 S. Ct. 281 (1944) and *Bluefield Water Works and Improvement Co. v. Public Service Comm'n of West Virginia*, 262 U.S. 679, 43 S. Ct. 675 (1923).

³⁴ Chriss Testimony, Tr., Vol. 13, p. 3101, line 9 to p. 3102, line 2, and Ex. SWC-5 (CEL Ex. 137).

³⁵ Pollock Testimony, Tr., Vol. 12, p. 2703, lines 14-17, p. 2708, lines 3-10, and Ex. JP-1 (CEL Ex. 82).

base rates.³⁶ Witness Chronister acknowledged that TECO still has to petition the Commission to recover its storm costs in a separate Docket.³⁷ Witness Chronister agreed that in its most recent Storm Cost Recovery Docket, Docket No. 20230019-EI, TECO agreed to refund over-collected amounts the same way the costs had been collected, via the environmental clause ("ECRC").³⁸ However, witness Chronister referred counsel to witness Williams to confirm TECO's plan for its true up of any under-collected amounts, confirming that his testimony did not refer to TECO's rate design methodology.³⁹

Next, witness Williams agreed that, for No. Docket 20230019-EI, TECO agreed that, for its true-up, it would refund over-collected amounts the same way the costs were collected, and it would recover additional storm costs that had been under-collected via an adjustment to the energy conservation clause, such that demand-metered customers would pay via demand charges.⁴⁰ The way in which TECO is handling the Docket No. 20230019-EI true-up was documented in Commission Order No. PSC-2024-0190-FOF-EI.⁴¹ Witness Williams admitted that, going forward, it is physically possible for TECO to collect storm costs from demand-metered customers via demand charges.⁴² Handling storm cost collections in this manner would be consistent with TECO's use of the energy conservation clause for the true-up in Docket No. 20230019-EI.⁴³ However, witness Williams had no "strong" understanding of TECO's plans for future storm cost

³⁶ Chronister Testimony, Tr., Vol. 16, p. 3612, lines 10-15.

³⁷ *Id.*, p. 3612, lines 16-23.

³⁸ *Id.*, p. 3612, line 25 to p. 3613, line 13.

³⁹ *Id.*, p. 3613, line 14 to p. 3615, line 8.

⁴⁰ Williams Testimony, Tr., Vol. 17, p. 3800, line 10 through 3801 line 13.

⁴¹ *Id.*, p. 3801, lines 14-19

⁴² *Id.*, p. 3801, line 20 to p. 3802, line 3.

⁴³ *Id.*, p. 3802, lines 4-11.

collection on a going forward basis.⁴⁴ Moreover, witness Williams admitted that he did not know the answer to whether TECO's request in this rate case is to have the Commission approve the collection of storm costs via energy charges for all customers or via energy and demand charges depending on customers' rate designs.⁴⁵ Finally, witness Williams admitted that he does not know who would have that information in relation to this rate case.⁴⁶

Given the ambiguity over rate design with respect to future storm cost recovery proceedings in both witness Chronister and Williams' testimony, TECO's request for approval of a storm cost recovery provision can mean no more than approval for rules allowing TECO to defer storm cost collection by excluding the surcharge expenses already recovered in base rates. TECO's 2021 Settlement Agreement will have expired by its terms.⁴⁷ As to any rate design going forward, TECO's testimony cited above supports collection of storm costs via energy charges for energy-metered customers and via demand-charges from demand-metered customers, especially given the fact that TECO can and has collected costs in that manner. If this Commission decides that the storm cost recovery rate design is not an issue in this case because it was not fully presented by TECO's testimony, then Walmart respectfully requests that the Commission expressly state that it is an issue for TECO's next storm cost recovery docket.

B. Issues for Which Walmart's Adopts Other Parties' Positions in This Docket.

Walmart adopts OPC's positions and incorporates herein OPC's arguments and references to record evidence as to the following Issues: 2, 4-12, 15-17, 19, 22, 25-27, 29-38, 40-45, 52, 58-60, 62-67, 87, 94-106, 111, 113, 114. In addition, Walmart adopts and incorporates herein FRF's

⁴⁴ *Id.*, p. 3802, lines 12-15.

⁴⁵ *Id.*, p. 3804, line 19 to p. 3805, line 8.

⁴⁶ *Id.*

⁴⁷ *See, generally*, 2021 Settlement Agreement, CEL Ex. 830.

positions and incorporates herein FRF's arguments and references to record evidence as to the following Issues: 1, 3, 68-74, 78-83, 107-110, 116, 117, 119, 120, 121.

C. Issues for Which Walmart Takes No Position in This Docket.

Walmart takes no position on the following Issues in this Docket: 13, 14, 21, 23, 24, 28, 46-51, 53-57, 61, 75-77, 84-86, 88-93, 115, 118.

III. CONCLUSION

WHEREFORE, Walmart respectfully requests that the Commission:

1. Deny TECO's revenue request, as proposed, and make adjustments to TECO's revenue request as proposed by both OPC and by FRF, and as it sees fit so that TECO's rates are fair, just, and reasonable;
2. Deny TECO's ROE request, as proposed, and authorize an ROE of no higher than 9.78%, the highest ROE proposed by the Intervenors⁴⁸;
3. Approve TECO's Cost of Service Study and Revenue Allocation Methodology as proposed;⁴⁹
4. Approve TECO's proposed solar and battery energy storage projects if the Commission finds them to be prudent, cost effective, and relevant to meet TECO's and TECO's customers' renewable energy goals and needs; and
5. Authorize collection of storm costs from TECO's customers via energy charges for energy-metered customers and via demand-charges from demand-metered customers, or in the alternative, if this Commission decides that the storm cost recovery rate design is not an issue in this Docket because it was not fully presented

⁴⁸ Pollock Testimony, Tr. Vol. 12, pp. 2703 lines 14 through 17, 2708 lines 3 through 10, and Exhibit JP-1 (CEL Ex. 82).

⁴⁹ Chriss Testimony, Tr. Vol. 13, p. 3095 lines 18-21 and pages 3102 line 19 through 3106 line 4.

by TECO's testimony, that the Commission expressly identify storm cost recovery rate design as an issue for TECO's next storm cost recovery docket.

Respectfully submitted,

By /s/ Stephanie U. Eaton

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail to the following parties this 21st day of October, 2024.

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