

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: ~~April 23~~ May 20, 2026

TO: Office of Commission Clerk (Teitzman)

FROM: Office of the General Counsel (Crawford) *JSC*
Division of Engineering (Brown) *TB*
Office of Consumer Assistance (Plescow) *AK*

RE: Docket No. 20260014-EI – Complaint by Juan Merchan and Gonzalo Lever against Tampa Electric Company.

AGENDA: 05/0506/02/26 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Payne

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On May 13, 2024, Mr. Juan Merchan (Mr. Merchan) filed Informal Complaint No. 1444515E, challenging Tampa Electric Company's (TECO) relocation of a pole and guy wires in front of his property. The pole and guy wires complained of were formerly in front of an adjacent property. TECO reconfigured (~~but did not move~~) and moved the pole, and relocated the guy wires to accommodate access to a new driveway at the adjacent property. Mr. Merchan alleged that TECO's relocation of the pole and guy wires was an unreasonable and discriminatory exercise of utility discretion. Mr. Merchan further alleged that the relocation inhibited his ingress and egress from his own property, and gave undue preference to the adjacent property from which the guy wires were relocated.

After a thorough review, including a site visit by Commission engineering staff, the Office of Consumer Assistance (OCA) staff informed Mr. Merchan that the relocated pole and guy wires were properly in TECO's public right of way (ROW). Mr. Merchan expressed disagreement with this conclusion and the matter was referred to the Commission's Process Review Team (PRT) for review, in accordance with Rule 25-22.032, Florida Administrative Code (F.A.C.). On November 5, 2025, Commission staff advised Mr. Merchan that his informal complaint had been reviewed by the PRT, and it appeared that TECO did not violate Commission statutes, rules, or orders in its handling of this matter. Staff advised Mr. Merchan that if he disagreed with the complaint conclusion, he could file a petition for initiation of formal proceedings for relief against TECO.

On January 28, 2026, Mr. Merchan and Mr. Gonzalo Lever¹ (Petitioners) filed a formal complaint against TECO alleging the same material facts as contained in Mr. Merchan's informal complaint. The Petitioners' formal complaint again alleges that TECO's relocation of guy wires from an adjacent property to the front of Petitioners' property was an unreasonable and discriminatory exercise of utility discretion. Petitioners maintained that the relocation of the pole and guy wires presents undue preference to the neighboring property. On March 11, 2026, Petitioners filed an amended formal complaint (Amended Complaint) restating and clarifying the issues of material fact and legal basis for their claims.

On April 2, 2026, TECO filed a response to the Petitioners' formal complaint (Response). TECO states that the Amended Complaint does not allege any facts that would support finding that TECO violated its tariff or any applicable statutes, rules, or orders of the Commission. TECO further denied any such violations of applicable statutes, rules, or orders of the Commission.

This recommendation addresses the appropriate disposition of the Petitioners' complaint against TECO. The Commission has jurisdiction over this matter pursuant to Section 366.04, Florida Statutes (F.S.).

¹ Mr. Gonzalo Lever is the TECO customer of record at the Petitioners' property. While the informal complaint was pursued by Mr Merchan, Mr. Lever was included in correspondence throughout the informal complaint process and has co-signed onto the formal complaint that initiated this docket.

Discussion of Issues

Issue 1: What is the appropriate resolution of the Petitioners' complaint?

Recommendation: Staff recommends that the Petitioners' formal complaint be denied. It does not appear that TECO violated its Commission-approved tariff or any statutes, rules, or orders of the Commission in its relocation of the pole and guy wires within its right of way. (Crawford)

Staff Analysis:

Legal Standard

Pursuant to Rule 25-22.036(2), F.A.C., a complaint is appropriate when a person complains of an act or omission by a person subject to Commission jurisdiction that affects the complainant's substantial interests and that is in violation of a statute enforced by the Commission, or of any Commission rule or order.

Formal Complaint

In their complaint, the Petitioners assert that TECO's exercise of discretion in relocating the pole and guy wires was unreasonable and discriminatory in violation of Section 366.03, F.S.² The Petitioners further allege that TECO violated Tariff Sheet No. 5.090, Section 2.3, because the relocation of the pole and guy wires presents undue preference for the adjacent property owner from which the wires were relocated.³

The Petitioners state that TECO presented three options for resolution of this matter:

1. Maintain the current pole and line relocation;
2. Replace the existing pole and wires with a self-supporting pole⁴ in TECO's ROW at the Petitioners' expense; or
3. Replace the existing pole with a self-supporting pole at TECO's expense in an easement to be provided by Mr. Lever.

The Petitioners rejected all three options. The Petitioners ask that the Commission direct TECO to reconfigure the pole and wires in a non-obstructive position at TECO's sole expense without imposing any new easement or costs on the Petitioners.

² Section 366.03, F.S., provides that a public utility shall furnish reasonably sufficient, adequate, and efficient service upon terms as required by the Commission, and no public utility shall make or give any undue or unreasonable preference or advantage to any person or locality, or subject the same to any undue or unreasonable prejudice or disadvantage in any respect.

³ TECO Tariff Sheet No. 5.090, Section 2.3, addresses the placement of utility equipment on private property outside of a public ROW.

⁴ A self-supporting pole is designed to stand independently, resisting horizontal loads such as wind or tension, without requiring guy wires or external anchors.

Response

In its Response, TECO denies that it violated its tariff or any statutes, rules, or Commission orders. TECO states that it reconfigured the pole and relocated the guy wires to provide access to a new residential driveway adjacent to the Petitioners' property, and that TECO reviewed its options and found the installation in front of the Petitioners' property was the most efficient and cost-effective solution. TECO asserts that the relocation was consistent with company- and industry-standard construction and engineering practices. TECO confirms that it attempted to work with Petitioners to resolve this matter but that the parties failed to come to an agreement.

TECO denies that it acted with undue prejudice in violation of Section 366.03, F.S. TECO states that Section 366.03, F.S., applies to utility rates, not the location of utility facilities. TECO states that even if Section 366.03, F.S., were to apply, TECO's actions did not constitute undue preference or impose undue prejudice. TECO further denies that Section 2.3 of Tariff Sheet No. 5.090 is applicable because Section 2.3 applies to facilities on property not designated as a public ROW while the pole and wires in this case are in a public ROW.

Analysis

Based on the information provided, it does not appear that TECO violated a statute, rule, order, or applicable provision of TECO's Commission-approved tariff. TECO properly reconfigured and relocated its transmission pole and ~~relocated~~ its guy wires within its ROW. A staff site inspection confirmed that the reconfigured and relocated pole and ~~relocated~~ guy wires do not inhibit ingress or egress from the Petitioners' property and appear to meet all applicable safety standards.

Section 366.03, F.S., states that "[n]o public utility shall make or give any undue or unreasonable preference or advantage to any person or locality, or subject the same to any undue or unreasonable prejudice or disadvantage in any respect." Staff does not believe that TECO acted with undue or unreasonable preference in this case, nor that TECO acted with undue or unreasonable prejudice towards the Petitioners. TECO relocated its pole and guy wires in order to accommodate construction of a driveway on the adjacent property, which is not unreasonable. The Petitioners claim that TECO's proposal of relocating the pole and guy wires at the Petitioners' expense, or requiring the Petitioners to grant an easement for a new pole, was unreasonable. However, staff does not believe it is unreasonable for TECO to have a policy of requiring customers to pay for equipment relocation for aesthetic purposes. Furthermore, staff does not believe that the relocation of the pole and guy wires in front of the Petitioners' property constitutes undue preference for the adjacent property or undue prejudice against the Petitioners.

Tariff Sheet No. 5.090, Section 2.3, addresses the placement of utility equipment on private property outside of a public ROW. This is inapplicable to the complaint because the relocation of the pole and guy wires complained of are within TECO's public ROW. Therefore, staff does not believe that TECO violated its Commission-approved tariff in its handling of this matter. Staff does not believe that TECO's relocation of the pole and guy wires violated a statute, rule, order, or applicable provision of TECO's Commission-approved tariff, and that the complaint should therefore be denied.

Conclusion

Staff recommends that the Petitioners' formal complaint be denied. It does not appear that TECO violated its Commission-approved tariff or any statutes, rules, or orders of the Commission in its relocation of its pole and guy wires within its ROW.

Issue 2: Should this docket be closed?

Recommendation: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (Crawford)

Staff Analysis: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order.