

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for a limited proceeding to
approve third SoBRA, by Tampa Electric
Company.

DOCKET NO. 20190136-EI
ORDER NO. PSC-2019-0411-PHO-EI
ISSUED: October 11, 2019

PREHEARING ORDER

Pursuant to Order No. PSC-2019-0406-PCO-EI, the Prehearing Conference originally scheduled for October 8, 2019, was cancelled due to the parties reaching a comprehensive proposed stipulation to all issues in this docket. The parties further agree to consent to the admission of all prefiled testimony and exhibits in this docket without cross-examination. This order is being issued for the purposes of confirming the issues proposed for settlement, specifying prefiled testimony exhibits to be entered, confirming the names of witnesses, and resolving other procedural matters.

SCHEDULED APPEARANCES:

JAMES D. BEASLEY, J. JEFFRY WAHLEN and MALCOLM N. MEANS,
ESQUIRES, Ausley McMullen, P.O. Box 391, Tallahassee, Florida, 32302
On behalf of Tampa Electric Company.

JON C. MOYLE, JR., and KAREN PUTNAL, ESQUIRES, Moyle Law Firm,
P.A., 118 North Gadsden Street, Tallahassee, Florida, 32312
On behalf of the Florida Industrial Power Users Group.

J.R. KELLY and CHARLES REHWINKEL, ESQUIRES, Public Counsel and
Deputy Public Counsel, Office of the Public Counsel c/o The Florida Legislature,
111 W. Madison Street, Room 812, Tallahassee, Florida, 32399
On behalf of the Citizens of the State of Florida.

KURT SCHRADER and WALT TRIERWEILER, ESQUIRES, Senior Attorneys,
Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee,
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On behalf of the Florida Public Service Commission.

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PREHEARING ORDER

I. CASE BACKGROUND

Tampa Electric Company's (TECO or Tampa Electric) petition for a limited proceeding to approve its 2017 Amended and Restated Stipulation and Settlement Agreement (2017 Settlement) was approved by the Commission on November 27, 2017, by Order No. PSC-2017-0456-S-EI.¹ Paragraph 6(b) of the 2017 Settlement allows TECO to petition the Commission for cost recovery of up to 150 megawatts (MW) of solar generation in 2020.

TECO's first solar rate base adjustment (SoBRA) was approved by Order No. PSC-2018-0288-FOF-EI, issued June 5, 2018.² TECO's second SoBRA was approved by Order No. PSC-2018-0571-FOF-EI, issued December 7, 2018.³

On June 28, 2019, TECO filed a petition for a limited proceeding seeking approval for its third solar base rate adjustment. In its petition, TECO seeks cost recovery approval for the Wimauma Solar Project and the Little Manatee River Solar Project pursuant to paragraph 6 of the 2017 Settlement. TECO states that both projects are expected to go into service on or before January 1, 2020. The Office of Public Counsel (OPC) and the Florida Industrial Power Users Group (FIPUG) have intervened in this matter. On October 2, 2019, TECO filed proposed stipulations in this docket.⁴ The filing asserts that TECO and OPC have reached proposed stipulations on their basic position and all issues in this docket, and that FIPUG takes no position on these stipulations. TECO filed a minor revision to these proposed stipulations on October 8, 2019, which was agreed to by OPC and upon which FIPUG takes no position.

This matter is set for an administrative hearing on October 17, 2019.

II. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, F.A.C., this Prehearing Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

¹ Order No. PSC-2017-0456-S-EI, issued November 27, 2017, in Docket No. 20170210-EI, *In re: Petition for limited proceeding to approve 2017 amended and restated stipulation and settlement agreement, by Tampa Electric Company.*

² Order No. PSC-2018-0288-FOF-EI, issued June 5, 2018, in Docket No. 20170260-EI, *In re: Petition for limited proceeding to approve first solar base rate adjustment (SoBRA), effective September 1, 2018, by Tampa Electric Company.*

³ Order No. PSC-2018-0571-FOF-EI, issued December 7, 2018, in Docket No. 20180133-EI, *In re: Petition for limited proceeding to approve second solar base rate adjustment (SoBRA), effective January 1, 2019, by Tampa Electric Company.*

⁴ Doc. No. 09167-2019.

III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapter 366, Florida Statutes (F.S.). This hearing will be governed by said Chapter and Chapters 25-6, 25-22, and 28-106, F.A.C., as well as any other applicable provisions of law.

IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Information for which proprietary confidential business information status is requested pursuant to Section 366.093, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Section 119.07(1), F.S., pending a formal ruling on such request by the Commission or pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Section 366.093, F.S. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, F.S., to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, F.S., at the hearing shall adhere to the following:

- (1) When confidential information is used in the hearing that has not been filed as prefiled testimony or prefiled exhibits, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents and with the confidential information highlighted. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- (2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Office of Commission Clerk's confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed

with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C., if continued confidentiality of the information is to be maintained.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

The witnesses have been excused from the hearing and the parties have agreed to the admission of all prefiled testimony and exhibits of the witnesses listed in Section VI without cross-examination. Therefore, the prefiled witness testimony and associated exhibits will be entered into the record of the hearing as though read.

VI. ORDER OF WITNESSES

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Mark D. Ward	TECO	1, 2, 3, 4, 6
Jose A. Aponte	TECO	1, 2, 4, 6
William R. Ashburn	TECO	1, 5, 6

VII. BASIC POSITIONS

TECO/FIPUG/OPC: *Proposed Stipulation, See Section X*

STAFF: Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions stated herein.

VIII. ISSUES AND POSITIONS

ISSUE 1: *Proposed Stipulation, See Section X*

ISSUE 2: *Proposed Stipulation, See Section X*

ISSUE 3: *Proposed Stipulation, See Section X*

ISSUE 4: *Proposed Stipulation, See Section X*

ISSUE 5: *Proposed Stipulation, See Section X*

ISSUE 6: *Proposed Stipulation, See Section X*

ISSUE 7: *Proposed Stipulation, See Section X*

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
	<u>Direct</u>		
Jose A. Aponte	TECO	JAA-1	Demand and Energy Forecast; Fuel Price Forecast; Revenue Requirements for Third SoBRA; Revenue Requirements for Third SoBRA with LMR Land as Purchase; Cost-effectiveness Test for Third SoBRA
William R. Ashburn	TECO	WRA-1	Development of Third SoBRA Base Revenue Increase by Rate Class; Base Revenue by Rate Schedule; Rollup Base Revenue by Rate Class for Third SoBRA; Typical Bills Reflecting Third SoBRA Base Revenue Increase; Determination of Fuel Recovery Factor for Third SoBRA; Redlined Tariffs Reflecting Third SoBRA Base Revenue Increase; Clean Tariffs Reflecting Third SoBRA Base Revenue Increase
Mark D. Ward	TECO	MDW-1	Wimauma Solar Project Specifications and Projected Costs; Little Manatee River Solar Project Specifications and Projected Costs

X. PROPOSED STIPULATIONS

As referenced in Section VIII, the parties have reached proposed stipulations on their basic positions and all issues in this docket. TECO and OPC have reached proposed stipulations on all issues; FIPUG takes no position on these stipulations. Thus, the stipulations in this case reflect Type 2 Stipulations, which are stipulations where at least one party takes no position.

BASIC POSITION

STIPULATION: Tampa Electric seeks approval of its Third Solar Base Rate Adjustment ("SoBRA") consistent, and in accordance with the 2017 Agreement. The 2017 Agreement is a carefully negotiated agreement—unique to Tampa Electric—that reflects a delicate balance of gives and takes among the parties, and which contains a collection of individual provisions that, absent the others, would likely not be acceptable to some or all of the parties if presented on a stand-alone basis. Paragraph 6, which authorizes a series of SoBRAs, is one such provision. Paragraph 9, which required Tampa Electric to make a one-time tax reform revenue requirement reduction of over \$100 million effective January 2019 is another. There are many others.

The Parties to this docket have conducted extensive formal and informal discovery into the company's proposed Third SoBRA, whether it conforms to the unique aspects of the company's SoBRAs as intended by the parties and to ensure that the company met its burden of proof. Absent the 2017 Agreement and its significant benefits to customers, OPC and FIPUG would not normally agree to the base rate increases proposed by the company in the manner presented in this docket. However, because of the customer benefits contained in the 2017 Agreement and based on the prefiled testimony and discovery responses provided in this docket, the company has proved by a preponderance of the evidence that: (1) the two projects in the company's Third SoBRA satisfy the cost-effectiveness test specified in the 2017 Agreement and (2) the projected installed cost of each project is under the \$1,500 per kW_{ac} installed cost cap established in the 2017 Agreement.

Accordingly, the Commission should: (1) accept and adopt the stipulations of the parties on Issues 1 through 7, below, and (b) approve the Petition and the two proposed projects which comprise Tampa Electric's Third SoBRA pursuant to the 2017 Agreement approved by the Commission in Order No. PSC-2017-0456-S-EI. The Commission should also approve the annual revenue requirement of \$26,596,000 for the two projects comprising the Third SoBRA, as well as the proposed base rate increases needed to collect the estimated annual revenue requirement for the two solar projects in the Third SoBRA. The parties intend that doing so will have no precedential value beyond the 2017 Agreement and this docket.

ISSUE 1: Are the 2020 SoBRA projects proposed by TECO eligible for treatment pursuant to paragraph 6 of the 2017 Agreement?

STIPULATION: Yes. The 2020 SoBRA projects totaling 149.3 MW proposed by TECO meet all of the eligibility requirements for treatment pursuant to paragraph 6 of the 2017 Agreement.

ISSUE 2: Are the 2020 SoBRA projects proposed by TECO cost effective pursuant to subparagraph 6(g) of the 2017 Agreement?

STIPULATION: Yes. Paragraph 6 of the 2017 Settlement Agreement was intended by the parties to give Tampa Electric an opportunity to build 550 MW of cost-effective solar generation (plus an additional 50 MW if certain requirements are met) over a period of time. The total capacity was divided into three tranches (with an optional fourth) and staged or allocated to future time periods to accommodate orderly construction and to phase in and moderate the rate impact to retail customers. During the negotiations, the company disclosed its plans to purchase the solar modules for the entire 600 MW and then finalized the purchase in 2017. Although the specifics of the cost-effectiveness test contemplated in the 2017 Settlement Agreement are not spelled out in paragraph 6, the way in which the company has apportioned solar capacity value and value of other deferred capacity in its cumulative present value of revenue requirement ("CPVRR") calculation is consistent with the way the parties discussed the solar additions in paragraph 6 of the 2017 Settlement Agreement and will have no precedential value beyond Tampa Electric's solar base rate adjustments and the 2017 Settlement Agreement. The cost-effectiveness test in this case is unique to Tampa Electric.

Based on the company's plans to build at least 550 MW of solar and as described in the answer to Staffs Interrogatory No. 3, the two projects covered by the Third SoBRA lower the company's projected system CPVRR as compared to such CPVRR without the solar projects; therefore, the projects covered by the Third SoBRA satisfy the cost-effectiveness test in the 2017 Agreement. Without objection from Tampa Electric, the parties and the Commission have reserved or may reserve their rights to take appropriate action if at least 550 MW is not built out.

ISSUE 3: Are the projected installed costs of each of the 2020 SoBRA projects proposed by TECO less than or equal to the Installed Cost Cap of \$1,500 per kW_{ac} pursuant to subparagraph 6(d) of the 2017 Agreement?

STIPULATION: Yes. The projected installed costs of the two projects are as follows:

<u>Project Name</u>	<u>Projected Installed Cost (per kW_{ac})</u>
Wimauma Solar	\$1,479
LMR Solar	\$1,410

These installed costs are lower than the \$1,500 per kW_{ac} Installed Cost Cap pursuant to subparagraph 6(d) of the 2017 Agreement.

ISSUE 4: What are the estimated annual revenue requirements associated with TECO's 2020 SoBRA projects?

STIPULATION: The estimated annual revenue requirement including the incentive specified in subparagraph 6(m) of the 2017 Agreement associated with Tampa Electric's 2020 SoBRA projects is \$26,596,000. This amount is calculated using the projected installed costs of the two projects and in accordance with the revenue requirement cost recovery provisions of the 2017 Agreement.

ISSUE 5: What are the appropriate base rates needed to collect the estimated annual revenue requirement for the solar projects in the 2020 SoBRA?

STIPULATION: The appropriate base rates needed to collect the estimated annual revenue requirement for the solar projects in the 2020 SoBRA are those reflected in the redlined and clean tariffs set forth as Documents Nos. 6 and 7 of witness Ashburn's Exhibit No. ____ (WRA-1), which are incorporated herein by reference.

ISSUE 6: Should the Commission approve the tariffs for TECO reflecting the base rate increases for the 2020 projects determined to be appropriate in these proceedings?

STIPULATION: Yes. For all the reasons provided in the company's Petition, and in the supporting 2017 Agreement, complete with amended tariff sheets and the other appendices filed with the company's Petition, the Commission should approve the revised tariffs for Tampa Electric reflecting the base rate increases for the 2020 projects comprising the company's Third SoBRA effective with the first meter reading in January 2020.

ISSUE 7: Should the docket be closed?

STIPULATION: Yes. Once all issues in this docket are resolved, the docket should be closed.

XI. PENDING MOTIONS

TECO currently has three pending motions for a temporary protective order in this docket, filed, respectively, on August 12, September 4, and September 12, 2019.

XII. PENDING CONFIDENTIALITY MATTERS

TECO currently has one pending confidentiality request in this docket, filed June 28, 2019.

XIII. POST-HEARING PROCEDURES

If no bench decision is made, each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 75 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of this Prehearing Order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 75 words, it must be reduced to no more than 75 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, F.A.C., a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages, inclusive of attachments, and shall be filed at the same time.

XIV. RULINGS

Opening statements, if any, shall not exceed three minutes per party.

It is therefore,

ORDERED by Commissioner Donald J. Polmann, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Donald J. Polmann, as Prehearing Officer, this 11th day of October, 2019.



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

KMS

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

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

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

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code.

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Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.