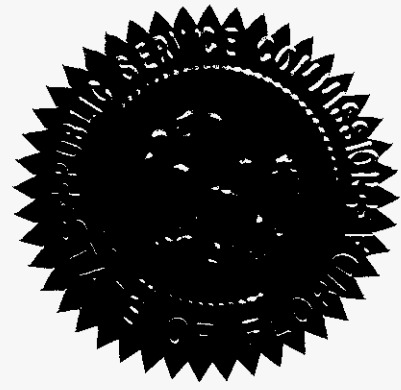


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 080317-EI

In the Matter of:

PETITION FOR RATE INCREASE BY
TAMPA ELECTRIC COMPANY.



PROCEEDINGS: AGENDA CONFERENCE
 ITEM NO. 13

BEFORE: CHAIRMAN MATTHEW M. CARTER, II
 COMMISSIONER LISA POLAK EDGAR
 COMMISSIONER KATRINA J. McMURRIAN
 COMMISSIONER NANCY ARGENZIANO
 COMMISSIONER NATHAN A. SKOP

DATE: Tuesday, April 7, 2009

PLACE: Betty Easley Conference Center
 Room 148
 4075 Esplanade Way
 Tallahassee, Florida

REPORTED BY: LINDA BOLES, RPR, CRR
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P R O C E E D I N G S

1
2 CHAIRMAN CARTER: With that, staff and
3 Commissioners, we now move to Item 13. And staff has an
4 oral modification, so we'll recognize staff to do that
5 and put us in the proper posture, Commissioners. And,
6 again, Commissioners, before we go into any discussion,
7 I want to kind of work with staff on some things here on
8 this area here to kind of get us into a proper posture.
9 Staff, you're recognized.

10 MS. DRAPER: Elizabeth Draper with the staff.
11 Item 13 is staff's recommendation on the final rates in
12 TECO's petition for a rate increase. Staff needs to
13 make an oral modification to correct an error on Pages
14 19 and 20 of the recommendation.

15 CHAIRMAN CARTER: Okay.

16 MS. DRAPER: On both those pages the emergency
17 relay power supply charge is shown as .57 dollars per
18 KW. The correct number is .56 dollars per KW. That
19 concludes the oral modification. I'm handing it over to
20 Mr. Young for some comments.

21 CHAIRMAN CARTER: Mr. Young, you're
22 recognized.

23 MR. YOUNG: Thank you, Mr. Chairman.

24 Commissioners, Keino Young, legal staff.
25 Commissioners, as you're aware, FIPUG filed an objection

1 to the Commission granting its staff authority to
2 administratively approve TECO's IST and SBI tariffs on
3 Friday. FIPUG also asked that the Commissioners
4 require, that the Commission require TECO to file a new
5 cost of service study and leave the IS rates you
6 approved on the March Agenda Conference open to new
7 customers. TECO filed a response to FIPUG's objection
8 yesterday. Staff recommends that you take no action at
9 this time on FIPUG's objection because we believe that
10 the objection is premature and not contemplated by our
11 procedural rules.

12 FIPUG is not precluded, by taking no action at
13 this time FIPUG is not precluded from raising these
14 matters in a motion for reconsideration after the
15 Commission, after the Commission has issued a final
16 order in this case. All the parties, at that time all
17 the parties to this case would then have an opportunity
18 to respond and staff would have an opportunity, staff
19 will have time to carefully analyze the issues and
20 present a substantive recommendation for your
21 consideration. Thank you.

22 CHAIRMAN CARTER: Commissioners, before we
23 move further I think that we need to dispose of staff's
24 recommendation. And I do think from a timing standpoint
25 and a due process standpoint staff is correct that we

1 probably need to just move forward and not even deal
2 with these issues that came in on Friday and yesterday.

3 Commissioner Skop, you're recognized.

4 COMMISSIONER SKOP: Thank you, Mr. Chairman.
5 I couldn't agree more.

6 CHAIRMAN CARTER: Was that a motion, sir?

7 COMMISSIONER SKOP: Yes.

8 CHAIRMAN CARTER: That to adopt staff's
9 recommendation not to deal with the information that was
10 submitted on Friday and on yesterday because they will
11 have ample opportunity to do it later on; secondly, that
12 there's some due process ramifications of us getting
13 into it now.

14 COMMISSIONER ARGENZIANO: So this is just a
15 motion on --

16 CHAIRMAN CARTER: On just that information.

17 COMMISSIONER ARGENZIANO: The FIPUG request.

18 CHAIRMAN CARTER: Yes. And the company's
19 response.

20 COMMISSIONER EDGAR: I'll second.

21 CHAIRMAN CARTER: You want, you want staff to
22 go through the discussion?

23 COMMISSIONER ARGENZIANO: Yes.

24 CHAIRMAN CARTER: Staff, would you kind of
25 just bring Commissioner Argenziano up to speed on the,

1 on the basis for this?

2 MR. YOUNG: Not a problem, sir.

3 Madam Commissioner, FIPUG filed a motion, one,
4 stating that, and trying not to get into the weeds of
5 the objection because we believe there can be some
6 procedural concerns, we have some procedural concerns,
7 but they filed an objection stating that the, because of
8 the change, because the changes in tariffs are
9 substantive rather than ministerial, that is an improper
10 delegation of authority to our, to Commission staff.

11 COMMISSIONER ARGENZIANO: Well, is it?

12 MR. YOUNG: Instead -- because this, because
13 of our procedural rules and the other parties have not
14 been given the opportunity to respond to this, and there
15 are other parties to the docket, we're a little hesitant
16 in terms of talking and discussing this objection at
17 this time. We ask that you not take action at this
18 time. And upon a motion of reconsideration, if FIPUG
19 files a motion of reconsideration, we can discuss it
20 more in depth and give you our recommendation.

21 COMMISSIONER ARGENZIANO: Well, let me ask you
22 this, what happens if I were to feel that it is an
23 inappropriate delegation of power and vote the other
24 way? What does that do legally, if it's not the
25 appropriate time?

1 MR. YOUNG: If it's not the appropriate time,
2 I think then you give other parties a possible claim for
3 appellate purposes, a possible appellate appeal,
4 appealable issue.

5 The reason why we say that is because of the
6 procedural posture that we're in. This is a posthearing
7 procedure. Again, that's limited to Commission and
8 staff. If you discuss this issue at this time, then
9 other parties to the docket, there are other parties to
10 the docket who are foreclosed from presenting their
11 arguments that can, who are possibly adversely affected
12 by your decision if you take this up at this time. And
13 that's why we're recommending that you take no action at
14 this time.

15 COMMISSIONER ARGENZIANO: Well, on the other
16 hand then, if I feel that it is improper delegation,
17 then I remain quiet and allow an improper delegation of
18 authority. Am I right?

19 MR. YOUNG: I'm a little hesitant to say that.
20 I think if FIPUG feels that it's improper delegation of
21 authority, then they can bring the motion, they can
22 bring the same objection up. They do not waive their
23 rights to bring this objection up on a motion for
24 reconsideration, and thus it would be before you at that
25 time.

1 COMMISSIONER ARGENZIANO: Mr. Chair, I need
2 five minutes, please.

3 CHAIRMAN CARTER: Okay. Commissioner Skop.

4 COMMISSIONER SKOP: Thank you, Mr. Chair.
5 When we come back from break, if staff could be prepared
6 to discuss the holding, or the court's holding in
7 *Citizens v. Wilson*, 567 So.2d 889, please.

8 CHAIRMAN CARTER: Okay. We're on recess.

9 (Recess taken.)

10 CHAIRMAN CARTER: We are back on the record,
11 and I'm trying to figure out where we were when we left.

12 Staff, you're recognized.

13 MR. YOUNG: Thank you, sir.

14 Just to clarify certain things, Commissioners,
15 today -- the reason why we say that FIPUG'S motion is
16 premature is because today you will be voting on the
17 rate design. The only thing staff is asking for is
18 authority to ensure that the tariffs comply with your
19 decisions today. That is it. That's the reason why we
20 think that FIPUG's motion is premature, because you have
21 not voted on the rate design -- in terms of the rate
22 design and the conditions set for the rate design.
23 That's why we believe the motion is premature.

24 As relates to whether you can grant staff,
25 whether you can make a decision today whether to grant

1 staff authority to ensure that the -- in terms of to
2 administratively approve the tariffs, that's Issue 101,
3 and you can either agree -- you can either vote up or
4 down whether you want to grant staff that authority to
5 ensure that -- the administrative authority to ensure
6 that the tariffs comply with your decision here today.

7 CHAIRMAN CARTER: Thank you.

8 Commissioner Skop.

9 COMMISSIONER SKOP: Thank you.

10 Just a question of staff as to Issue 101, and
11 Issue 101 only, with respect to that issue being in play
12 before the Commission, what is controlling case law with
13 respect to that delegation authority?

14 MR. YOUNG: Well, the controlling case law
15 says that the Commission can delegate its authority to
16 staff to administratively approve a tariff, and that is
17 based on -- if you want, I can give you a background on
18 the case history and then go into the holding.

19 COMMISSIONER SKOP: That would probably be
20 good.

21 MR. YOUNG: All right.

22 Well, in that case Tampa Electric filed a
23 petition for approval of a supplemental service rider
24 for interruptible services. The proposed rider offered
25 an incentive for a discount to those interruptible

1 customers who increased their energy consumption above a
2 specified billing energy threshold. The Commission
3 staff recommended a denial of their petition. After
4 discussion on the matter at the agenda conference, the
5 Commission approved the staff's recommendation to deny,
6 but indicated that it would approve a revised tariff
7 if -- approve the revised tariff, and not to go in depth
8 in terms of the tariffs.

9 At the time, a TECO representative indicated
10 that TECO would file a revised tariff meeting the
11 Commission's requirements which would have an effective
12 date of January 1st, 1989. The key point of that case
13 is that the court held that we -- and specifically
14 stating, it says, "Further, we do not believe that the
15 Commission improperly delegated to its staff the
16 authority to approve the revised supplemental service
17 rider."

18 The Commission specified the conditions for
19 approval, which you would do here today in terms of the
20 rate design. You will specify the conditions for
21 approval, and staff will carry out that condition to
22 ensure that the tariff complies with your conditions you
23 set here today.

24 CHAIRMAN CARTER: Thank you.

25 Commissioners?

1 Commissioner Argenziano.

2 COMMISSIONER ARGENZIANO: Well, who has
3 reviewed what is in front of us today?

4 MS. KUMMER: Commissioners, technical staff
5 has reviewed all of the -- the compliance cost study
6 which the company filed and the rate design, we have
7 gone through all of those to ensure that they are
8 consistent with the decisions made on the March 17th
9 agenda.

10 COMMISSIONER ARGENZIANO: So then we're just
11 going to be voting on what is in front of us, not that
12 we have studied it or really looked at it. You guys
13 have looked at it.

14 MS. KUMMER: Yes, ma'am, we certainly have.
15 And, yes, you would be approving the actual rates today.
16 We have not approved rates administratively for some
17 20 years.

18 COMMISSIONER ARGENZIANO: Mr. Chairman, just
19 some other questions. Is the staff -- does the staff
20 have any discretionary component whatsoever in any kind
21 of decision?

22 MS. KUMMER: There is a certain amount of
23 discretion in rate design. It's a matter of discretion
24 how you allocate the revenue increase. That's presented
25 to you in this recommendation, as well.

1 COMMISSIONER ARGENZIANO: Okay.

2 MS. KUMMER: And at issue in -- well, I don't
3 know if we want to go into FIPUG or not. There is a
4 certain amount of discretion in rate design, and that's
5 why we bring the rates back to you for your final
6 approval.

7 COMMISSIONER ARGENZIANO: Okay. Well, then
8 that is my problem with it. There is discretion allowed
9 to the staff, and I won't go into it further. Let's
10 just move on and I'll --

11 CHAIRMAN CARTER: Yes, that's the problem is
12 getting into an issue that is premature at best for us,
13 because we haven't settled the rates yet.

14 Mr. Young.

15 MR. YOUNG: Mr. Chairman, Madam Commissioner,
16 that's what you're voting on today in terms of the
17 amount of discretion that you would give staff, you want
18 to give staff in terms to ensure that the tariffs comply
19 with your decision today. So if you want to increase in
20 terms of the discretion, you can; if you want to limit
21 the discretion, you can.

22 COMMISSIONER ARGENZIANO: It really comes down
23 to individual Commissioners.

24 MR. YOUNG: Yes, ma'am.

25 MS. KUMMER: And I would offer if you have any

1 questions about any specific rate, we'll be happy to
2 address those.

3 COMMISSIONER ARGENZIANO: Sure. Thank you.

4 CHAIRMAN CARTER: Okay. Did you want to say
5 something, Ms. Helton?

6 MS. HELTON: I'm not sure if I say something
7 if it will add or --

8 CHAIRMAN CARTER: All right. Then let's don't
9 say anything.

10 Commissioner Skop.

11 COMMISSIONER SKOP: Mr. Chairman, just a quick
12 question of staff. With respect to Issues 101 and 102,
13 I mean, the remaining issues --

14 CHAIRMAN CARTER: Hang on, Commissioner. Let
15 me kind of barge in before you go forward. What we have
16 before us, Commissioners, is a motion and a second that
17 we accept staff's recommendation not to get into this
18 matter, but to proceed with the case because this matter
19 is premature. So we have a motion by Commissioner Skop,
20 a second by Commissioner Edgar, so let's kind of go
21 ahead and finish that discussion before we actually get
22 into the case.

23 Commissioner McMurrian, you're recognized.

24 COMMISSIONER McMURRIAN: I guess I was just
25 going to ask the question, Chairman, is that something

1 that needs to be voted on. But I guess it's okay if we
2 do. I mean, that's the way I feel about it, but I just
3 didn't know if it was something that we actually needed
4 to treat as a formal motion.

5 CHAIRMAN CARTER: I think so, Commissioner.

6 COMMISSIONER McMURRIAN: I mean, it was styled
7 as an objection. And so to me I didn't know if it
8 needed an actual vote by us, but that's fine if we do.

9 COMMISSIONER ARGENZIANO: Mr. Chair.

10 CHAIRMAN CARTER: Commissioner Argenziano.

11 COMMISSIONER ARGENZIANO: Before we go on, I
12 will just make on the record my problems that I see that
13 there may be more substantive issues that I would rather
14 be involved in than allowing staff to go ahead and do.
15 And because I have that gray area, that is where my
16 concern lies is just more authority to staff than I
17 would like at this moment.

18 CHAIRMAN CARTER: Okay. And as we get into
19 proceeding further with the actual case, that's where we
20 will determine whether or not -- what discretion we will
21 give to staff, because we will be actually voting on the
22 rates ourselves. And at that point in time then you
23 will actually have some -- there will actually be some
24 rates and some authority and whatever discretion we
25 may -- or as Mr. Young said, to increase or decrease

1 whatever discretion that we may give staff on that.

2 So, Commissioners, any further discussion, or
3 debate, or questions on the motion before us? Any
4 concerns? Hearing none, all those in favor, let it be
5 known by the sign of aye.

6 (Simultaneous aye.)

7 CHAIRMAN CARTER: All those opposed, like
8 sign.

9 COMMISSIONER ARGENZIANO: Aye.

10 CHAIRMAN CARTER: Show it done.

11 Staff, you may proceed in introducing the
12 case.

13 MS. DRAPER: Commissioners, Issue 101 is what
14 are the appropriate demand charges for all the rate
15 classes, and they are shown in Schedule 3 that is
16 attached to the recommendation, and the same actually
17 for Issue 102, the appropriate standby service charges,
18 and Issue 107, what are the appropriate energy charges,
19 and they are all summarized in Schedule 3, Pages 1
20 through 10 of the recommendation.

21 CHAIRMAN CARTER: Okay. Commissioner Skop,
22 you're recognized.

23 COMMISSIONER SKOP: Thank you, Mr. Chairman.

24 With respect to the issues before us today,
25 those are basically fallout issues resulting from the

1 Commission's previous vote on, I believe the 17th, is
2 that correct?

3 MS. DRAPER: That's correct.

4 COMMISSIONER SKOP: Thank you.

5 CHAIRMAN CARTER: Okay. You may proceed. You
6 just introduced 101, wasn't it?

7 MS. DRAPER: 101, 102, and 107. 108 is
8 essentially not a fallout issue. The Commission
9 approved the stipulation on how to address all the
10 changes in the cost-recovery clauses, and what TECO has
11 done is recalculated the cost-recovery clauses based on
12 the Commission vote in various other cost of service and
13 rate design issues.

14 CHAIRMAN CARTER: Commissioners, any
15 questions?

16 COMMISSIONER ARGENZIANO: (Inaudible.
17 Microphone off.)

18 CHAIRMAN CARTER: What we're doing is
19 introducing the issues so we can kind of get into it,
20 and I think this will probably be appropriate as we have
21 staff introduce the issues, then we can go through them
22 and determine where we are in our process.

23 MS. KUMMER: Commissioners, new Issue 114A
24 addresses the step increase which was approved by the
25 Commissioners at the March 17th agenda. Staff is

1 recommending that it be allocated based on the cost of
2 service study approved in this docket similar to other
3 similar costs.

4 CHAIRMAN CARTER: Okay. Now, Commissioners,
5 we're in discussion. Let's do this. Let me ask a
6 question.

7 Connie, could you just go over that 114A, just
8 kind of lay it out a little bit.

9 Commissioners, we can start wherever you want
10 to start, but since she just kind of laid that -- that
11 is dealing with the step increase. If it's appropriate,
12 we can go there.

13 Ms. Kummer, you're recognized.

14 MS. KUMMER: On 114A we are simply
15 recommending that -- the step increases are primarily
16 demand costs. We are recommending that they be
17 allocated the same way demand costs were recommended and
18 the increase is going in effect in May, and that the
19 credits, associated credits be adjusted likewise to
20 maintain the relationship between the base rates and
21 credits. This is the method which was approved in the
22 GBRA adjustments for Florida Power and Light.

23 CHAIRMAN CARTER: Commissioner Skop.

24 COMMISSIONER SKOP: Thank you, Mr. Chairman.
25 And I just want to clarify one point. And, again, it's

1 a subtle but important one with respect to this.
2 Previously when staff had put in the requirement with
3 respect to the step increase that it conditioned upon,
4 that the plants placed in service or the assets placed
5 in service would be required as well as need to be in
6 service by 31 December of 2009. During the discussion
7 when I asked the pointed question what happens if that
8 slips a day or two, staff indicated that they would work
9 with the company appropriately to address those issues
10 as they arose. But I just wanted to make sure, again,
11 this is not that crystal clear, hard, you know, bright
12 line deadline, if you will. And then I'd like staff to
13 reiterate that for the record.

14 MS. KUMMER: Yes, sir, that is correct. This
15 only speaks to once the increase has been approved,
16 agreed upon by all the parties. This is simply how it
17 will be allocated once we've settled the amount based on
18 the other criteria adopted at the March 17th agenda.

19 COMMISSIONER SKOP: Thank you.

20 CHAIRMAN CARTER: Commissioners, any further
21 questions? Otherwise, I'm going to proceed on to Issue
22 108, unless there are further questions on 114A.

23 Let's proceed to Issue 108.

24 MS. DRAPER: Issue 108.

25 CHAIRMAN CARTER: Did you want to do that as a

1 group, the next issues as a group, or are you ready to
2 just deal with 108 now?

3 MS. DRAPER: I think 108 is the last one left
4 actually. 108 deals with the changes to the
5 cost-recovery clause, and Issue 108 actually was
6 stipulated in the last recommendation, and it simply
7 asks TECO to redesign the cost-recovery clauses based on
8 the Commission involved in various cost of service and
9 rate design issues.

10 MS. KUMMER: And, Commissioner, this, again,
11 is in keeping with the fact that we did not
12 administratively approve these rates. We are bringing
13 these back to you for approval.

14 CHAIRMAN CARTER: Okay.

15 Commissioners, anything further from staff on
16 Issue 108? Okay. Nothing further. I think 102, 103,
17 and 107, was that a group? You presented those as a
18 group of issues?

19 MS. DRAPER: Yes, they are a group of issues.

20 CHAIRMAN CARTER: You're recognized.

21 MS. DRAPER: Issues 101, 102, and 107 is
22 essentially the fallout issues. What are the
23 appropriate demand and energy charges for all the
24 customer classes, which TECO calculated based on your
25 decision at the March 17th agenda. And all the charges

1 are shown on Schedule 3, Pages 1 through 10, which you
2 will be voting to approve today.

3 CHAIRMAN CARTER: Okay. Commissioner Skop.

4 COMMISSIONER SKOP: Thank you, Mr. Chairman.
5 If those comprise discussion of all the remaining
6 issues, at the appropriate time I would like to move to
7 adopt staff recommendation as to Issue 101, 102, 107,
8 108, 114A, and 114.

9 CHAIRMAN CARTER: Commissioners, we're in
10 discussion, but at the appropriate time I'll be
11 recognizing Commissioner Skop for a motion.

12 So any further discussion? Any questions of
13 staff? Any questions of staff on the issues?

14 COMMISSIONER ARGENZIANO: No.

15 CHAIRMAN CARTER: Any further discussion,
16 otherwise I'm going to be going to Commissioner Skop for
17 his motion.

18 Commissioner Skop, you're recognized, sir.

19 COMMISSIONER SKOP: Thank you, Mr. Chairman.
20 At this time I would move to adopt the staff
21 recommendation as to Issues 101, 102, 107, 108, 114A,
22 and 114.

23 COMMISSIONER McMURRIAN: Second.

24 CHAIRMAN CARTER: Moved and properly seconded.
25 Commissioners, we're in discussion and we're

1 in debate. In discussion and in debate? Any debate,
2 any discussion?

3 Hearing none. All in favor of the motion, let
4 it be known by the sign of aye.

5 (Simultaneous aye.)

6 CHAIRMAN CARTER: All those opposed, like
7 sign.

8 COMMISSIONER ARGENZIANO: Aye.

9 CHAIRMAN CARTER: Show it done.

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STATE OF FLORIDA)

: CERTIFICATE OF REPORTERS

COUNTY OF LEON)

WE, JANE FAUROT, RPR, and LINDA BOLES, RPR, CRR, Official Commission Reporters, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that we stenographically reported the said proceedings; that the same has been transcribed under our direct supervision; and that this transcript constitutes a true transcription of our notes of said proceedings.

WE FURTHER CERTIFY that we are not a relative, employee, attorney or counsel of any of the parties, nor are we a relative or employee of any of the parties' attorneys or counsel connected with the action, nor are we financially interested in the action.

DATED THIS 17th day of April, 2009.



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