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Sent: Friday, September 05, 2008 3:20 PM
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Subject: 080317-EI Electronic Filing
Attachments: Motion to Modify Hearing Dates, Prehearing Date and Key Activity Dates.pdf

Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 080317-EI

In Re: Tampa Electric Company's Petition for an Increase in Base Rates and Miscellaneous Service Charges

c. Document being filed on behalf of Office of Public Counsel

d. There are a total of 5 pages.

e. The document attached for electronic filing is Citizens' **Motion To Modify Hearing Dates, Prehearing Date And Key Activity Dates**

9/8/2008

DOCUMENT NUMBER-DATE

08269 SEP-5 08

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Tampa
Electric Company.

DOCKET NO. 080317-EI

DATED: September 5, 2008

**MOTION TO MODIFY HEARING DATES, PREHEARING DATE AND KEY
ACTIVITY DATES**

The Citizens of the State of Florida (Citizens) hereby file their Motion to Modify Hearing Dates, Prehearing Date and other Key Activity Dates, and as grounds state the following:

1. On August 11, 2009, Tampa Electric Company (Tampa Electric) filed for a base rate increase. Tampa Electric has filed fourteen testimonies. Its minimum filing requirements (MFRs) consist of over 1000 pages of documents.

2. Citizens have engaged consultants to review Tampa Electric's filings and to file testimony in the base rate proceeding on behalf of the Citizens of the State of Florida. Citizens have the obligation to thoroughly review and conduct discovery on the extensive amount of testimonies and documentation filed in this proceeding.

3. By Order No. PSC-08-0557-PCO-EI, issued August 26, 2008, Order Establishing Procedure (OEP), the hearing has been set for less than six months after the filing of the minimum filing requirements on January 20, 21, 27, 28, 29, and 30, 2009. Moreover, the prehearing conference has been set for less than five month after the filing on January 7, 2009. Currently, the Citizens' testimony is due November 14, 2008, slightly over 3 months after the filing in this docket.

4. Three months is insufficient time for Citizens on behalf of the customers of Tampa Electric to review the extensive filings in this case, conduct meaningful discovery, and prepare

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full and complete testimony. In fact, with the 30 day response time for discovery, there is not sufficient time to conduct two meaningful rounds of discovery especially if there are any delays in the Company's responding to discovery.

5. Given the extremely truncated timeframe set forth in the OEP, Citizens cannot thoroughly review and conduct the discovery necessary for Citizens to be afforded the due process required to present its case before the Commission.

6. Pursuant to Section 366.06, Florida Statutes, the Commission shall issue its final order within 12 months of the commencement date for final agency action which is the date that the Commission determines that minimum filing requirements have been filed. In the instant case the MFRs were filed on August 11, 2008, thus a final order must be issued by August 11, 2009. The Commission has the authority to withhold its consent to the operation of the requested rates for a period of no longer than eight months (April 11, 2008). After that timeframe, the Company can place the requested rates into effect under bond or corporate undertaking subject to refund with interest or the Company could opt to waive this statutory provision as it has done in its Peoples Gas rate case, Docket No. 080318.

7. It is of utmost importance that the hearing and prehearing be set with sufficient time for Citizens to develop its case rather than truncating the procedure to meet the eight month deadline which would allow the Company to put its requested rates in effect until the Commission has issued its decision at an Agenda Conference, particularly if the Commission's schedule can accommodate a decision at an Agenda Conference shortly after the eight month deadline were to pass.

8. Thus, Citizens request that the hearing and prehearing dates as well as other key activities dates be moved from January to the first week of March, 2009 which are currently set

aside for Tampa Electric's Peoples Gas division, which was filed on the same date. Citizens request that schedule be modified as follows: 1) intervenor testimony filed January 20, 2009; 2) staff testimony, if any, filed January 27, 2009; 3) rebuttal testimony filed February 6, 2009; prehearing statements filed February 12, 2009; 4) prehearing conference held on February 23, 2009; 5) the hearing held on March 3 through 6, 2009; 6) briefs filed March 20, 2009; and a decision rendered by the May 5, 2009, Agenda Conference.

Even with the requested extension, the hearing would be less than seven months after the filing of the MFRs and five months before the final order is due. While Citizens recognize that under its proposed schedule Tampa Electric could choose to put its requested rates in effect until the Commission's decision is rendered, the proposed decision date is less than one month after the eight month deadline. Citizens believe that this proposed schedule would most fairly preserve all of the parties' rights to present adequate cases. Further, the decision and subsequent final order would be rendered well within the 12 month statutory requirement; thus, Tampa Electric would not be unfairly prejudiced by the extension, whereas Citizens would be prejudiced if there is not adequate time to develop its case.

9. While Citizens would argue that moving the hearing dates along with the other key activities dates would provide adequate time to develop its case, the current schedule would deny Citizens adequate time to develop its case. If the Commission decides that it will not accommodate the request for new hearing dates, Citizens would request at a minimum that the key activities dates and prehearing date as currently scheduled be moved back. Specifically, Citizens believe that intervenors should be given at least four months from the MFRs filing date before intervenor testimony becomes due. Citizens would request that: 1) both intervenor testimony and staff testimony be filed on December 24, 2009; 2) rebuttal testimony be filed

January 7, 2008; 3) prehearing statement filed January 13, 2009; 4) the prehearing conference moved to January 20, 2009; and 5) the technical hearing held from January 27 through 30, 2009.

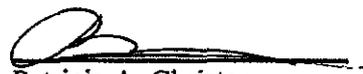
10. The other customer groups affected by the rate increase and which have sought intervention in this proceeding support Citizens request to move the hearing dates. Florida Industrial Power Users Group (FIPUG) supports this motion. Florida Retail Federation (FRF) also supports this motion.

11. Commission staff attorney has taken no position. Tampa Electric's attorney objects motion.

WHEREFORE, the Citizens hereby request that the Commission grant its Motion to Modify Hearing Dates, Prehearing Date, and Key Activity Dates.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I, **HEREBY CERTIFY** that a true and correct copy of the Office of Public Counsel Motion to Modify Hearing Dates, Prehearing Date, and Key Activity Dates had been furnished by electronic mail and U.S. Mail on this 5th day of September, 2008, to the following:

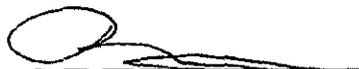
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