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Sent: Friday, May 10, 2013 3:12 PM
To: Filings@psc.state.fl.us
Subject: 130040-EI Petition to Intervene of WCF Hospital Utility Alliance
Attachments: HUA Petition to Intervene - 130040-EI.pdf
Importance: High

Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 130040-EI.

c. Document being filed on behalf of WCF Hospital Utility Alliance (HUA).

d. There is a total of 10 pages.

e. The document attached for electronic filing is Petition to Intervene of WCF Hospital Utility Alliance
(See attached HUA Petition to Intervene.pdf)

Thank you for your cooperation and attention to this request.

Jacqueline Lindo
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

§
§
§
§

**Docket No.: 130040-EI
Filed: May 10, 2013**

**PETITION TO INTERVENE OF
THE WCF HOSPITAL UTILITY ALLIANCE**

The WCF Hospital Utility Alliance (“HUA”), pursuant to Chapter 120, Florida Statutes, and Rules 25-22.039, 28-106.201 and 28-106.205 of the Florida Administrative Code, hereby petitions the Florida Public Service Commission (“Commission”) to intervene in the captioned docket regarding the rates and charges proposed to be charged by Tampa Electric Company (“TECO”). TECO is a public utility that is subject to the Commission’s jurisdiction over the rates and service of public utilities in Florida.

In support of its Petition to Intervene, HUA states as follows:

1. The name and address of HUA is:

WCF Hospital Utility Alliance
c/o Andrews Kurth LLP
1350 I Street NW, Suite 1100
Washington, DC 20005
Phone: (202) 662-2700
Fax: (202) 662-2739

2. All pleadings, orders and correspondence should be directed to Petitioners' representatives as follows:

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3. The agency affected by this Petition to Intervene is:

Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee, Florida 32399-0850

4. HUA is an ad hoc group consisting of regional healthcare providers in west central Florida that receive power from, and pay the rates of, TECO. These individual healthcare providers are engaged in providing, *inter alia*, acute healthcare services. Because of the services they render, their load profile, and their concern with service reliability and the cost of electric service, the HUA regional healthcare providers have important concerns regarding TECO's services and rates.

5. **HUA Standing:** Under Florida law, to establish standing as an association representing its members' substantial interests, a group such as HUA must demonstrate three things:

a. that a substantial number of the entities that comprise the group, although not necessarily a majority, are substantially affected by the agency's decisions;

b. that the intervention by the group is within the group's general scope of interest and activity; and

c. that the relief requested is of a type appropriate for a group to obtain on behalf of its members.¹

6. HUA satisfies all of these standing requirements. First, all of the entities that comprise HUA are located in TECO's service area and receive their electric service from TECO, for which they are charged TECO's applicable service rates. Thus, they will be substantially affected by the Commission's determination of TECO's rates. Second, HUA was created to act as an advocate for its members with respect to the electric services provided and rates charged by TECO. Therefore, intervention is within the group's general scope of interest and activity. Third, the relief requested -- intervention, and with it, the right to seek the lowest reasonable rates consistent with the Commission's governing law and policy -- is the type of relief the Commission can grant and has been the basis for the Commission's grant of standing to many organizations in rate case proceedings. Therefore, the requested relief is of a type appropriate for a group such as HUA to obtain on behalf of its members. As demonstrated, HUA has established standing as an organization representing the substantial interests of a group of TECO ratepayers.

¹ *Florida Home Builders Ass'n v. Dep't of Labor and Employment Security*, 412 So. 2d 351, 353-54 (Fla. 1982); *Farmworker Rights Org. v. Dep't of Health & Rehabilitative Servs.*, 417 So. 2d 753 (Fla. 1982).

7. **Statement of Substantial Interests Affected:** This docket was initiated by a letter dated February 4, 2013 from TECO informing the Commission of TECO's intent to file a petition for authority to increase its base rates effective and various charges, with new rates expected to be effective on or after January 1, 2014.

8. The proceeding in this docket thus will examine the rates that TECO will be authorized to charge to its customers. The Commission will necessarily have to decide whether any rate increases or decreases are justified, and if so, the Commission also will have to approve rates and charges in order to implement such increases or decreases. Thus, the disposition of this case will affect the rates charged by TECO, as well as the terms and conditions of service, impacting TECO's customers, including institutions supporting HUA. Institutions represented by HUA require reliable and reasonably-priced electricity. Because institutions supporting HUA will be directly and substantially affected by any action the Commission takes in TECO's current docket, they have a substantial interest in the proceeding that is not adequately represented by other parties to this proceeding.²

9. To demonstrate that substantial interests will be affected by a proceeding, the potential intervenor must show: (a) it is acting on behalf of entities that will suffer injury in fact as a result of the agency action contemplated in the proceeding that is of sufficient immediacy as to warrant a hearing; and (b) the injury suffered is a type against which the proceeding is designed to protect.³ These standards are amply satisfied here. HUA seeks

² Insofar as this is a petition for intervention and because there is presently no agency decision pending in this docket, HUA states that Rule 28-106.201(c) of the Florida Administrative Code is not applicable.

³ See *Ameristeel Corp. v. Clark*, 691 So. 2d 473, 477 (Fla. 1997). See also *Agrico Chemical Company v. Department of Environmental Regulation*, 406 So.2d 478 (Fla. 2nd DCA 1981); *Florida Home Builders*

to protect the substantial interests of its supporters as they will be affected by the Commission's decision in this case, and they face immediate injury if the Commission were to approve TECO's proposed rates, which are not just and reasonable and would be unduly discriminatory. HUA's participation in this rate case is designed to protect against that injury. If granted leave to intervene, HUA will be able to attempt to protect its supporting institutions' substantial interests, including the ability to receive reliable electricity at fair, just and reasonable rates.

10. **Disputed Issues of Material Fact:** Disputed issues of material fact in this proceeding may include, but will not necessarily be limited to, the issues listed below. The following statement of issues is general in nature and HUA reserves the right to identify and develop additional issues and refine those listed below as this docket progresses in accordance with the Commission's rules. HUA expects that numerous additional, specific issues will be identified and developed as this docket progresses.

Issue 1: Determining appropriate jurisdictional levels of TECO's Plant in Service, Accumulated Depreciation, and Rate Base for setting TECO's rates.

Issue 2: Determining appropriate jurisdictional values of TECO's operation and maintenance expenses for setting TECO's rates.

Issue 3: Determining whether TECO's expenditures sought to be included in the derivation of the cost of service were prudently incurred.

Issue 4: Determining the appropriate capital structure for TECO for the purpose of setting TECO's rates.

Issue 5: Determining the appropriate rate of return on equity for TECO for the purpose of setting TECO's rates.

Issue 6: Determining the appropriate allocation of TECO's costs of providing retail electric service among TECO's retail customer classes.

Ass'n v. Dep't of Labor and Employment Security, 412 So. 2d 351, 353-54 (Fla. 1982); *Farmworker Rights Org. v. Dep't of Health & Rehabilitative Servs.*, 417 So. 2d 753 (Fla. 1982).

Issue 7: Determining the appropriate rates to be charged by TECO for its services to each customer class.

Issue 8: Designing rates for recovery of revenue requirements.

Issue 9: Determining the propriety of TECO's proposed projected twelve-month period ending December 31, 2014 as the test year for the permanent increase in base rates and service charges.

11. **Ultimate Facts Alleged:** Because HUA and the institutions supporting this filing have substantial interests that are subject to determination in this docket, HUA is entitled to intervene and participate in the proceeding which will determine the fair, just, and reasonable rates to be charged by TECO on or after January 1, 2014.

12. **Specific Statutes and Rules:** The applicable statutes and rules, include, but are not limited to:

- Chapters 120 and 366 of the Florida Statutes; and
- Florida Administrative Code Chapters 25-22 and 28-106.

13. **Relation of Alleged Facts to the Statutes and Rules:** Chapter 120 of the Florida Statutes relates to agency decisions which affect the substantial interests of a participant and related procedures.⁴ Chapter 366 of the Florida Statutes declares the Commission's jurisdiction over TECO's rates and provides the Commission the statutory mandate to ensure that TECO's rates are fair, just and reasonable, and that those rates are not unduly discriminatory. The facts alleged here demonstrate that: (1) the Commission's decisions herein will have a significant impact on TECO's rates and charges; (2) TECO's customers, including institutions supporting HUA, will be directly impacted by the Commission's decisions regarding TECO's rates and charges herein; and (3) accordingly, that the statutes herein, among others, provide the basis for the relief requested by HUA.

⁴ See Sections 120.569 and 120.57(1), Florida Statutes.

14. Rules 25-22.039 and 28-106.205 provide bases for intervention in administrative proceedings. Both rules also state that a petition to intervene must conform with subsection 28-106.201(2) of the Florida Administrative Code. Because HUA's supporting institutions are TECO electricity customers, they have a substantial interest in the rates determined by the Commission and will be affected by the Commission's decisions in this docket.

15. **Conclusion:** Consistent with the purposes of the HUA and the substantial interests of its supporting institutions, HUA seeks to intervene in this general rate case docket. Because the elements necessary for standing have been satisfied (*e.g.*, because HUA's supporting institutions have a substantial interest in TECO's proposed rates and charges which will be affected by the proceeding), the Commission should allow the intervention of HUA, as requested herein.

16. **Relief Requested:** WHEREFORE, HUA respectfully requests that the Commission grant this Petition to Intervene. HUA also respectfully requests that the Commission require that all parties to this proceeding serve copies of all pleadings, notices, and other documents on the HUA representatives indicated in paragraph 2 above.

/s/ Kenneth L. Wiseman
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Qualified Representatives for the WCF Hospital Utility Alliance

May 10, 2013

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by electronic mail, U.S. Mail, or Federal Express, this 10th day of May, 2013, to the following:

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