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April 2, 2026

VIA ELECTRONIC MAIL

Mr. Adam J. Teitzman
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

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

Dear Mr. Teitzman

Attached for filing in the above docket is Tampa Electric Company's response to Juan Merchan and Gonzalo Lever's Amended Petition for Formal Administrative Hearing, pursuant to Rule 25-22.036, Florida Administrative Code.

Thank you for your assistance in connection with this matter.

Sincerely,

A handwritten signature in blue ink that reads 'Malcolm N. Means'.

Malcolm N. Means

MNM/bml
Attachment

cc: All Parties of Record

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by Juan Merchan and
Gonzalo Lever against Tampa Electric
Company

DOCKET NO. 20260014-EI

FILED: April 2, 2026

**TAMPA ELECTRIC COMPANY'S
RESPONSE TO AMENDED COMPLAINT**

Tampa Electric Company ("Tampa Electric" or the "company") files this Response to Juan Merchan and Gonzalo Lever's Amended Petition for Formal Administrative Hearing ("Amended Complaint") pursuant to Rule 25-22.036, Florida Administrative Code. The Florida Public Service Commission ("FPSC" or "Commission") should dismiss the Amended Complaint and deny the relief requested therein because the company properly located the transmission pole in the City of Tampa's right-of-way ("ROW") and did not violate its tariff or any applicable statute, rule, or Commission order.

THE PARTIES

1. Tampa Electric is a Florida corporation and is a wholly owned subsidiary of TECO Holdings, Inc., which is a wholly owned subsidiary of Emera Incorporated. The company is an investor-owned public utility regulated by the Commission pursuant to Chapter 366, Florida Statutes. Tampa Electric provides electric service to approximately 870,000 retail customers in Hillsborough and portions of Polk, Pinellas, and Pasco Counties, Florida.

2. Gonzalo Lever is a Tampa Electric customer who receives service at 5503 East Columbus Drive, Tampa, Florida. Juan Merchan is not the Tampa Electric customer

of record at 5503 East Columbus Drive; however, Mr. Lever has informally advised the company that Mr. Merchan is authorized to speak on his behalf.¹

THE FACILITIES

3. The Amended Complaint addresses one of the company's transmission poles and attached guy wires located in the City of Tampa's ROW in front of 5503 East Columbus Drive. Tampa Electric installed the pole and guy wires as part of a project to redesign transmission facilities located in the City of Tampa ROW along Columbus Drive. Commission Staff previously reviewed this matter as part of Complaint No. 1444515E and concluded that Tampa Electric did not appear to violate any rule, order, or statute. See Amended Complaint, at Exhibit A.

4. Tampa Electric redesigned and relocated the pole and guy wires to provide access to a new residential property and its driveway at 5509 East Columbus Drive ("Neighbor Property") and to remove an encroachment on that property. Tampa Electric evaluated several options to relocate the pole at the Neighbor Property, including:

- a. Constructing a self-supporting structure on the west side of the driveway within the property boundaries of the Neighbor Property. Tampa Electric determined there was insufficient space available for this option.
- b. Constructing a self-supporting structure in the City ROW in front of the Neighbor Property. The company determined that construction of this structure was not feasible because it would have required expensive relocation of underground utilities in the ROW. This option also required

¹ Tampa Electric searched the Florida Bar's lawyer directory and was unable to locate a lawyer named Juan Merchan that is eligible to practice in Florida. The company also notes that Mr. Lever has not filed a request for representation by a "qualified representative" as required by Rule 28-106.106(2)(a), Florida Administrative Code.

extensive engineering, expensive materials, long lead times, and a long construction period.

- c. Installing a new pole and guy wires in the City's ROW in front of Mr. Lever's Property.

5. The company determined that the third option was the most efficient and cost-effective solution and consistent with company- and industry-standard construction and engineering practices. Tampa Electric followed its standard internal approval process for the new pole installation project, including a site visit, review by a Transmission Fellow Engineer, and approval by the Manager of Transmission Engineering. The owner of the Neighbor Property granted Tampa Electric the necessary easements. The company installed the new pole and guy wires at its expense on November 13, 2023.

COMMUNICATIONS TO RESOLVE

6. One week later, Mr. Merchan contacted the company and expressed concerns about the location of the reconfigured facilities. Tampa Electric remained in regular communication with Mr. Merchan over the next several months. The company ultimately offered three resolution options ("Resolution Options"): (1) leave the existing pole and guy wires in place; (2) replace the existing pole with a self-supporting pole in the City's ROW at Mr. Lever's expense;² and (3) replace the existing pole with a self-supporting pole at the company's expense in an easement to be provided by Mr. Lever approximately four feet inside his property line. See Amended Complaint, at Exhibit C. Mr. Merchan rejected these options.

² Tampa Electric estimated that the cost of this option would range from \$60,000 to \$100,000. See Exhibit C to the Amended Complaint.

7. Tampa Electric continued to work with Mr. Merchan, both before and after he filed Complaint No. 1444515E in May 2025. Those efforts included more discussions with Mr. Merchan, discussion with FPSC Staff, and a site visit by Tampa Electric's Vice President of Customer Experience on July 21, 2025. The company again presented the three Resolution Options and Mr. Merchan again declined them.

8. Tampa Electric did not give up. In the fall of 2025, the company prepared and gave Mr. Merchan an image depicting how the third Resolution Option would look on Mr. Lever's property and showing the location of the necessary easement. Mr. Merchan did not accept this option.

9. On November 5, 2025, Commission Staff sent Mr. Merchan a letter closing Complaint No. 1444515E. See Amended Complaint, at Exhibit A. Mr. Merchan filed a formal Complaint for Mr. Lever with the Commission on January 18, 2026 and an Amended Complaint on March 11, 2026. Tampa Electric's Vice President of Customer Experience contacted Mr. Merchan after receiving the initial Complaint and again attempted to resolve the dispute. Mr. Merchan indicated that he would proceed with his Complaint at the Commission.

RESPONSE

10. The Amended Complaint alleges that Tampa Electric violated Section 366.03, Florida Statutes, Section 366.041, Florida Statutes, and Section 2.3 of the company's tariff. The Amended Complaint does not allege any facts that would support finding that Tampa Electric violated its tariff or any applicable statute, rule, or order. The

company has not violated its tariff or any applicable statute, rule, or order. The Amended Complaint should be dismissed³ or denied for the following reasons.

11. First, Tampa Electric did not violate Section 366.03, Florida Statutes. This statute prohibits utilities from making or giving any “undue or unreasonable preference” or imposing “any undue or unreasonable prejudice.” Section 366.03, however, applies to *utility rates*,⁴ not the location of utility facilities.

12. Second, even if Section 366.03 somehow applies, Tampa Electric did not grant an undue preference or impose undue prejudice. The Amended Complaint alleges that it was unduly prejudicial for the company to require Mr. Lever to provide an easement or to reimburse the company to cover the cost to move the pole and guy wires from their present position; however, there is nothing unreasonable or prejudicial about the company’s policy that requires a customer to pay the cost when a customer requests facility relocation for aesthetic purposes. The company redesigned its facilities because the previous equipment configuration encroached on the Neighbor Property and blocked access to the driveway, not for aesthetic reasons. This important distinction – physical access versus aesthetics - explains why the company did not seek reimbursement from the owner of the Neighbor Property but did from Mr. Lever.

³ Tampa Electric recognizes the Commission’s practice of holding *pro se* litigants to a relaxed pleading standard and has not framed this response as a Motion to Dismiss. See, e.g. Order No. PSC-2022-0310-PAA-EI, issued August 23, 2022 in Docket No. 20220038-EI.

⁴ “All rates must be fair and reasonable and must not be unduly discriminatory.” *City Gas Co. of Florida v. Florida Pub. Serv. Com’n*, 501 So. 2d 580, 583 (Fla. 1987) (emphasis added) (citing § 366.03, Fla. Stat.). “The public policy embodied in this and similar statutory provisions precludes a business whose rates are governmentally regulated from granting a rebate or other preferential treatment to any particular individual.” *Corp. De Gestion Ste-Foy, Inc. v. Florida Power & Light Co.*, 385 So. 2d 124, 126 (Fla. 3d DCA 1980) (emphasis added) (citing § 366.03, Fla. Stat.). “This statute prohibits only those rates that are unduly discriminatory.” Order No. 24151, issued February 25, 1991 in Docket No. 19890200-EQ (Petition of Tampa Electric Company for Approval of Construction Deferral Agreement with IMC Fertilizer, Inc.) (emphasis in original).

13. Third, the facts alleged do not show that Tampa Electric violated Section 366.041, Florida Statutes. This statute is a ratemaking statute that recites a non-exclusive list of factors the Commission is authorized to consider when setting utility rates. It does not apply here, because Tampa Electric's rates are not at issue in the Amended Complaint.

14. Finally, Tampa Electric also did not violate Section 2.3 of its tariff. Section 2.3 applies to "Company Equipment on Private Property," or "facilities on property not designated as a public right-of-way." That Section of the tariff is inapplicable to the transmission facilities in question here, which are in public ROW.

CONCLUSION

15. Tampa Electric carefully evaluated the options available to create access to the newly constructed driveway at the Neighbor Property and selected the most efficient and least-cost option. The company followed all applicable internal company procedures and complied with applicable legal authorities.

16. Even though Tampa Electric did not violate its internal procedures or applicable legal authorities, the company worked in good faith with Mr. Lever, Mr. Merchan, and Staff for over two years to resolve the customer's concerns. The company's efforts included multiple communications with company employees, a site visit by Tampa Electric's Vice President of Customer Experience, and presentation of multiple options to redesign the transmission facilities, all to no avail. The company's facilities are properly located in the City of Tampa ROW and do not violate the company's tariff or any statute, rule, or order. The Commission should deny the Amended Complaint and relief requested therein and close this docket.

DATED this 2nd day of April, 2026.

Respectfully submitted,



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ATTORNEYS FOR TAMPA ELECTRIC COMPANY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Response to Amended Complaint, filed on behalf of Tampa Electric Company, has been furnished by electronic mail on this 2nd day of April 2026.

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