

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: May 28, 2026

TO: Adam J. Teitzman, Commission Clerk, Office of Commission Clerk

FROM: Jennifer S. Crawford, Attorney Supervisor, Office of the General Counsel *JSC*

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

Please place the attached document in the document side in the above referenced docket file.

The attached information was provided me by Mr. Merchan by email dated May 27, 2026. It presents his arguments and concerns regarding the staff recommendation filed in the above-referenced docket, which is scheduled to be heard as Item 5 at the June 2, 2026 Agenda Conference. Please place the attached information in Docket No. 20260014-EI, where it can be reviewed by all interested persons.

Thank you,

JSC

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

<https://www.floridapsc.com> - (clerk's office - Electronic filing) - (850)413-6770

May 22, 2026

Docket No. 20260014-EI

In re: Amended Petition for Formal Administrative Hearing of

Juan Merchan and Gonzalo Lever,

Petitioners,

v.

Tampa Electric Company (TECO),

Respondent.

REQUEST FOR CONTINUANCE OF JUNE 2, 2026 PROCEEDING AND FOR SUPPLEMENTAL RESPONSES FROM TECO

Petitioners Juan Merchan and Gonzalo Lever respectfully request that the Florida Public Service Commission continue the June 2, 2026 proceeding for forty-five (45) days and require Tampa Electric Company ("TECO") to provide supplemental responses addressing the material issues raised in the Petition before further proceedings are conducted.

BACKGROUND

This proceeding arises from TECO's removal of supporting guy-wire infrastructure from the adjacent property located at 5509 E. Columbus Drive and the installation of new supporting infrastructure, including guy wires, directly in front of Petitioners' property at 5503 E. Columbus Drive.

Petitioners do not dispute TECO's general authority to utilize public rights-of-way. Petitioners likewise do not seek adjudication of property ownership, easement boundaries, or monetary damages.

Rather, Petitioners seek Commission review of the reasonableness, fairness, and non-discriminatory exercise of utility discretion by a regulated public utility under Chapter 366, Florida Statutes.

INCOMPLETE FACTUAL RECORD

During the Commission's investigation of Informal Complaint No. 1444515E, Commission Staff submitted specific questions to TECO regarding the circumstances surrounding the relocation of the infrastructure.

Although TECO provided responses, many of those responses focused on TECO's authority to occupy the public right-of-way rather than the underlying issues presented by Staff's questions and Petitioners' complaint concerning the reasonableness of TECO's discretionary decisions.

Specifically:

1. TECO repeatedly relies upon its Annual General Use Permit ("AGUP") and right-of-way authority to justify the installation. However, TECO does not adequately explain why supporting infrastructure was removed from one property and installed in front of another property to accommodate a private driveway access issue created after the original infrastructure had already existed in place.
2. TECO states that alternative configurations were considered and rejected due to engineering constraints, permitting requirements, loading concerns, and cost considerations. However, TECO has not produced the engineering calculations, site measurements, design criteria, field evaluations, or supporting analyses that would permit meaningful review of those conclusions.
3. TECO admits that Petitioners were not notified before installation of the new supporting infrastructure.
4. TECO further admits that not all available alternatives were disclosed prior to installation.
5. TECO later proposed a self-supporting pole alternative requiring Petitioners to grant an additional easement, yet the record does not adequately explain why this alternative was not feasible before installation or why a new easement is now required if the existing right-of-way is sufficient.

UNRESOLVED REGULATORY ISSUES

The principal issues presented by this proceeding are not whether TECO possesses authority to occupy the public right-of-way.

Rather, the unresolved issues include:

- (a) Whether TECO exercised its placement discretion reasonably;
- (b) Whether TECO treated similarly situated property owners fairly and without undue preference or prejudice;
- (c) Whether the burden imposed upon Petitioners resulted from accommodation of a private third-party development rather than utility necessity;
- (d) Whether adequate engineering review and field assessment occurred before installation; and

(e) Whether TECO's subsequent demand for additional easement rights is consistent with its obligations as a regulated public utility.

These issues remain insufficiently developed in the present record.

GOOD CAUSE FOR CONTINUANCE

Good cause exists to continue the proceeding because a meaningful hearing cannot occur without a complete factual record concerning the engineering, operational, and discretionary decisions that resulted in the current infrastructure configuration.

Petitioners do not seek delay for strategic purposes. Petitioners seek only sufficient time for TECO to provide complete and supported responses addressing the material questions raised by Commission Staff and the Petition.

A limited continuance would assist the Commission in developing a complete record, narrowing disputed issues, encouraging settlement discussions, and ensuring that any final decision is based upon a full understanding of the facts and circumstances underlying TECO's actions.

REQUEST FOR RELIEF

WHEREFORE, Petitioners respectfully request that the Commission:

1. Continue the June 2, 2026 proceeding for a period of forty-five (45) days to allow completion of the factual record;
2. Direct TECO to provide supplemental written responses addressing the unresolved factual, engineering, and operational issues identified in this request, including supporting documentation where applicable;
3. Permit Petitioners a reasonable opportunity to review and respond to the supplemental information provided by TECO;
4. Encourage settlement discussions, mediation, or other informal resolution efforts following supplementation of the record;
5. Defer consideration of Staff's recommendation until the supplemental information has been produced and reviewed; and
6. Grant such other and further relief as the Commission deems just, equitable, and appropriate under Chapter 366, Florida Statutes.

Respectfully submitted,

Juan Merchan, juan.mobile1@gmail.com
Petitioner

Gonzalo Lever, leverent@hotmail.com
Petitioner

EXHIBIT A

MATERIAL QUESTIONS REMAINING UNRESOLVED

Docket No. 20260014-EI

Petitioners respectfully submit that the following material factual and regulatory questions remain unresolved and warrant supplemental responses from Tampa Electric Company ("TECO") before further proceedings:

1. Reason for Relocation

TECO has acknowledged that supporting infrastructure that previously affected access to 5509 E. Columbus Drive was removed and new supporting infrastructure was installed in front of 5503 E. Columbus Drive. However, TECO has not adequately explained why relocating the burden from one property to another constituted the most reasonable and equitable solution, nor why that solution was selected over alternatives.

2. Accommodation of Private Development

The record indicates that driveway access concerns arose after development activities at 5509 E. Columbus Drive. TECO has not fully explained whether the relocation was undertaken primarily to accommodate private development, and if so, why the resulting burden was imposed upon an adjacent property owner rather than the requesting property owner.

3. Engineering Analysis Supporting Rejection of Alternatives

TECO states that alternatives, including self-supporting structures, were considered but rejected due to space limitations, loading concerns, permitting requirements, and cost considerations. TECO has not produced the engineering calculations, field measurements, design studies, site evaluations, loading analyses, or other supporting documentation necessary to independently evaluate those conclusions.

4. Timing and Evaluation of Alternative Designs

TECO later proposed a self-supporting pole configuration requiring an additional easement from Petitioners. TECO has not explained when this alternative was first evaluated, whether it was considered before installation of the current configuration, why it was allegedly infeasible before installation, or what changed to make the alternative feasible thereafter.

5. Requirement for Additional Easement Rights

TECO has asserted that the existing configuration lawfully occupies the public right-of-way. However, TECO has not adequately explained why a new easement from Petitioners is required to implement the proposed corrective alternative if sufficient rights already exist for utility operations in the area.

6. Absence of Advance Notice

TECO admits that Petitioners were not notified before installation of the supporting infrastructure. TECO has not explained why no notice was provided, whether notice was considered, whether any internal review occurred regarding affected neighboring property owners, or whether any alternatives were evaluated that would have minimized impacts upon adjacent properties.

7. Failure to Present All Available Options

TECO admits that not all available options were presented before installation occurred. TECO has not identified which options were withheld, why those options were not disclosed, who made the decision not to disclose them, or whether disclosure could have prevented the present dispute.

8. Site Inspection and Field Review

TECO states that the project underwent engineering review and management approval. However, TECO has not identified whether a site inspection was conducted before approval, who conducted such inspection, what observations were documented, and whether decision-makers personally evaluated the physical impacts on neighboring properties before authorizing installation.

9. Fairness and Non-Discriminatory Treatment

Petitioners allege that one property owner received the benefit of unobstructed driveway access while the burden of supporting infrastructure was transferred to an adjacent property owner. TECO has not specifically addressed whether this outcome was evaluated for fairness, reasonableness, or potential undue preference and prejudice among affected property owners.

10. Consistency with Utility Obligations Under Chapter 366

TECO's responses largely focus on authority to occupy the public right-of-way. However, TECO has not fully addressed whether the decision-making process employed in this matter was reasonable, transparent, equitable, and consistent with the obligations of a regulated public utility serving the public interest under Chapter 366, Florida Statutes.

Petitioners respectfully submit that resolution of these questions is necessary to establish a complete factual record and to permit meaningful review of the reasonableness, fairness, and propriety of TECO's actions.