

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20260014-EI

Complaint by Juan Merchan and Gonzalo
Lever against Tampa Electric Company.

PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 5

COMMISSIONERS
PARTICIPATING: CHAIRMAN GABRIELLA PASSIDOMO SMITH
COMMISSIONER GARY F. CLARK
COMMISSIONER MIKE LA ROSA
COMMISSIONER BOBBY PAYNE
COMMISSIONER ANA ORTEGA

DATE: Tuesday, June 2, 2026

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

REPORTED BY: DEBRA R. KRICK
Court Reporter and Notary
Public in and for the State
of Florida at Large

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1 P R O C E E D I N G S

2 CHAIRMAN SMITH: All right. We are now going
3 to move to Item 5.

4 Mr. Newman, you are recognized whenever you
5 are ready.

6 MR. NEWMAN: Good morning, Commissioners.
7 Howard Newman for legal staff.

8 Item 5 is staff's recommendation with respect
9 to the complaint by Mr. Merchan and Mr. Lever
10 against Tampa Electric Company regarding TECO
11 relocating a pole and guy wires in front of their
12 property.

13 Staff's recommendation is that the complaint
14 should be denied because it doesn't appear that
15 TECO violated a rule, statute, order or its tariff
16 in relocating the pole and wires.

17 Mr. Merchan is participating by telephone and
18 would like to address the Commission.
19 Representatives for TECO are present to answer any
20 questions regarding the staff recommendation.

21 CHAIRMAN SMITH: Thank you.

22 Okay. I will recognize -- Mr. Merchan, can
23 you hear us?

24 MR. MERCHAN: I can hear you fine.

25 CHAIRMAN SMITH: Okay. You are recognized to

1 present whenever you are ready.

2 MR. MERCHAN: Okay. Can everyone hear me
3 okay.

4 CHAIRMAN SMITH: Yes, sir.

5 MR. MERCHAN: Okay. Well, good morning,
6 Chairman, Commissioners and staff. My name is Juan
7 Merchan -- I hear an echo.

8 CHAIRMAN SMITH: We can hear you fine. If you
9 put the phone up to your -- instead of -- I don't
10 know if you are using speakerphone. Sometimes that
11 creates an echo.

12 MR. MERCHAN: Yeah, I have a headset. It's
13 not too bad. I can work through it.

14 CHAIRMAN SMITH: Okay.

15 MR. MERCHAN: So Commissioners, my name is
16 Juan Merchan. I am appearing on behalf of myself
17 and Gonzalo Lever regarding Docket No. 20260014-EI.

18 First, I would like to thank the Commission
19 and staff for allowing us the opportunity to be
20 heard. We understand that today is not a full
21 evidentiary hearing under Section 120.57. We also
22 understand that the Commission is reviewing staff
23 recommendation based on the record currently before
24 it, however, respectfully believe that important
25 factual issues remain unresolved.

1 This case is not simply about whether TECO has
2 the authority to place infrastructure within its
3 public right-of-way or easement. We recognize that
4 TECO generally has that authority. The central
5 issue is whether TECO exercised its discretion
6 reasonably, fairly and transparently when it
7 removed infrastructure affecting one property and
8 installed new supporting infrastructure directly in
9 front of another property.

10 TECO admitted that petitioners were not
11 notified before the installation occurred, and not
12 all available options were presented before the
13 work was completed. Those admissions are important
14 to us. They are important because we believe
15 affected property owners should have been informed
16 and given the opportunity to understand an impact
17 before the installation was made permanent.

18 We also respectfully believe the current
19 record still lacks sufficient engineering details
20 explaining why alternatives were not -- were
21 rejected -- why alternatives were rejected, why the
22 burden was shifted from one property to another,
23 why the easement later became necessary, and
24 whether all reasonable alternatives were fully
25 evaluated before the final decision was made.

1 TECO now has -- never presented additional
2 explanation through counsel, including references
3 to load concerns, underground utilities, cost and
4 engineering limitations.

5 Again, we respectfully submit that those
6 factual desertions have never been fully examined
7 through a formal evidentiary process.

8 We are not asking the Commission today to
9 decide the property ownership or issues or award
10 damages. We are simply asking the Commission to
11 recognize that material facts -- factual disputes
12 remain unresolved regarding the reasonableness and
13 fairness of TECO's decision-making process.

14 We also want to reflect that we respectfully
15 reserve our right to request a formal evidentiary
16 hearing under Section 120.57, Florida Statutes, if
17 necessary after the Commission issues its decision.

18 We appreciate the Commission's time,
19 consideration and attention to this matter. Thank
20 you. Thank you all very much.

21 CHAIRMAN SMITH: Thank you, Mr. Merchan.

22 I will go to the utility now if there is a
23 response.

24 MR. MEANS: Yes. Thank you, Chairman.

25 Good morning, Commissioners. Malcolm Means

1 with the Ausley McMullen Law Firm appearing on
2 behalf of Tampa Electric. Also with me today are
3 Chip Whitworth, Vice-President of Electric Delivery
4 with Tampa Electric, and Penelope Rusk,
5 Vice-President of Regulatory with Tampa Electric.

6 Tampa Electric aspires to provide exception
7 service to its customers. The company spent over
8 two years working with Mr. Lever and Mr. Merchan to
9 try to resolve their concerns. We thank Mr.
10 Merchan and Mr. Lever for their professionalism and
11 politeness as we worked through their concerns.

12 Through this process, Tampa Electric offered
13 Mr. Merchan and Mr. Lever multiple options that
14 comply with our policies and procedures which
15 protect the general body of ratepayers. One of
16 these, options is the same deal that we offered to
17 their neighbor, who provided the company with an
18 easement in exchange for relocation of facilities.

19 Although, we engaged in professional
20 interactions with Mr. Merchan and Mr. Lever, we
21 were unable to reach a solution that was
22 satisfactory to them. The question before you now
23 is whether Tampa Electric violated any statutes,
24 rules, Commissioner orders or its tariff.

25 Your staff reviewed this complaint twice, once

1 when it was submitted to your staff, and again when
2 Mr. Lever filed a petition with the Commission.
3 Both times your staff found that Tampa Electric did
4 not violate a statute, rule, Commission order or
5 its tariff. We support your staff's recommendation
6 and urge you to approve it.

7 Mr. Whitworth, Ms. Rusk being and I are
8 available to answer any questions you may have.
9 Thank you.

10 CHAIRMAN SMITH: Thank you.

11 I am going to circle back with staff. Is
12 there anything that you need to add before --

13 MS. CRAWFORD: Staff doesn't have anything to
14 add. We stand by the recommendation, noting it's
15 been slightly revised from the last filing, but we
16 still stand by the recommendation as it's
17 presented.

18 CHAIRMAN SMITH: Thank you, Ms. Crawford.

19 Commissioners, any questions?

20 Commissioner La Rosa. Sorry, I am turning my
21 head.

22 COMMISSIONER LA ROSA: Fastest to the draw.

23 CHAIRMAN SMITH: Yeah, I know. Exactly.

24 COMMISSIONER LA ROSA: I get -- thank you,
25 Madam Chair.

1 I guess my question is to the utility. Can
2 you go into a little bit of detail of what was
3 provided to the adjacent property? It seems like
4 that property owner took you guys up on that offer.

5 MR. WHITWORTH: Hi. Good morning,
6 Commissioner. Chip Whitworth here at Tampa
7 Electric Company.

8 So the customer, the neighbor next door, we
9 were looking at multiple alternatives as there was
10 some existing down guys that were blocking their
11 ingress and egress to a new driveway they put in.
12 The City of Tampa would not give them a certificate
13 of occupancy unless we were able to move those.
14 That's kind of what started the whole dialogue.

15 So we had to move those. It comes at the
16 customer's cost, and so the customer agreed to
17 provide us an easement for the facility in lieu of
18 my cost sharing. So we were able to make -- do
19 that installation in the road right-of-way, move
20 the facilities and come to an agreement.

21 So that exact same discussion happened with
22 Mr. Merchan as well, as far as if he did not want
23 the down guys in the right-of-way in front of his
24 house, we also talked about an option for an
25 easement for a self-supporting stub pole that would

1 he remove the down guys from in front of his
2 property.

3 COMMISSIONER LA ROSA: So the neighboring
4 property owner gave you an additional easement?

5 MR. WHITWORTH: They did.

6 COMMISSIONER LA ROSA: Okay. And was --
7 outside of the certificate of occupancy, was it
8 blocking his access, his ingress and egress?

9 MR. WHITWORTH: The previous installation was
10 not, no. There was a -- where the down guys, the
11 new down guys are today, there was a distribution
12 pole there, which we were able to remove and attach
13 to the stub pole to clean up the area a little bit,
14 further, you know, clean up the right-of-way as
15 best we could.

16 COMMISSIONER LA ROSA: Go ahead, Mr. Means.

17 MR. MEANS: I was going to say the existing
18 down guys of the neighbor property were blocking
19 access to the driveway. I think that was the
20 question.

21 MR. WHITWORTH: Oh, I am sorry.

22 COMMISSIONER LA ROSA: Okay. And then can you
23 go into a little bit of detail? I think one of
24 your offers, or one of your three suggestions was a
25 self-supporting pole. Can you explain what that is

1 and how that differs from what's currently
2 installed?

3 MR. WHITWORTH: Sure. Absolutely.

4 So the best way to describe it is a
5 self-supporting stub pole just means that it is a
6 pole in the ground. It still attaches to the
7 structure downstream of it. It supports it. It
8 just does not have any down guys going behind it,
9 right. So what that means is a very robust, large,
10 self-supporting concrete stub pole.

11 So it just is an installation that supports
12 the transmission infrastructure and the integrity
13 of it without the use of down guys, but it does
14 change the size of the pole tremendously.

15 COMMISSIONER LA ROSA: Okay. I think a final
16 question, if you don't mind, Madam Chair. Thank
17 you.

18 What is the cost that would be passed on to
19 the customer for that option that you just --

20 MR. WHITWORTH: Around \$130,000.

21 COMMISSIONER LA ROSA: Okay. Is that
22 considered -- when you are upgrading the
23 infrastructure in this section of the grid, or as
24 you are looking at the street, are those options
25 considered? I guess how do you approach the

1 installation and the replacement of existing truck
2 infrastructure?

3 MR. WHITWORTH: Sure. It is an iterative
4 process, but the first thing we do is we look at
5 what is the least costly option for the body of
6 ratepayers, and can it fit within the road
7 right-of-way that we have that's available to us?
8 These right-of-ways can be congested with
9 sidewalks, as is this one, sidewalk, gas, water, so
10 forth. So we first look for that least costly
11 option, and that's what we installed.

12 There are iterations to that, too. We can --
13 if we look at a self-supporting stub pole, what are
14 those costs? We look at if we removed all the down
15 guys and supporting structures, what does that cost
16 for what we would call self-supporting dead end
17 pole? That is very expensive, and very difficult
18 to find room for those size installations in a road
19 right-of-way. Those are very large structures.

20 So things we really shy away with, one for
21 cost, one just feasibility and efficiency in
22 general, and then lastly, just what -- how can we
23 fit it in, and what's the least cost to our body of
24 ratepayers?

25 COMMISSIONER LA ROSA: Thank you.

1 I am good, Madam Chair. Thank you.

2 CHAIRMAN SMITH: Commissioner Clark.

3 COMMISSIONER CLARK: Thank you, Madam Chair.

4 A couple of questions.

5 So did you offer the self-supporting pole to
6 the customer?

7 MR. WHITWORTH: Yes.

8 COMMISSIONER CLARK: You offered that as an
9 option, but it was at a price tag of?

10 MR. WHITWORTH: It was either at -- well, even
11 if it was at that price tag, we would not be able
12 to fit it within the road right-of-way, so we asked
13 for an easement to place the self-supporting stub
14 pole, which would then be no cost to the customer,
15 other than the easement rights. The same offer
16 that we offered the neighbor.

17 COMMISSIONER CLARK: Okay. And going back
18 to -- and I apologize, the photos that we looked at
19 are kind of a little bit blurry. I guess they are
20 pretty high optic photos.

21 The house that was built that you are moving
22 the poles to accommodate the driveway, that's a new
23 us, right? That was a new house that was built?

24 MR. WHITWORTH: Yes. I don't know if it was
25 brand new from scratch or remodeled, but it's very

1 new -- the drive way is new.

2 COMMISSIONER CLARK: And so what had the
3 previous -- I mean, how had they been getting in
4 and out of the property if this required a new
5 driveway? Is this not something -- and I know this
6 isn't on you guys, but I am sure this came up
7 during the conversations. How was that handled in
8 the past? Why all of a sudden did they have to
9 have a driveway?

10 MR. WHITWORTH: Yeah, this -- I guess how they
11 built the new house, and where the City of Tampa
12 forced them to have ingress and egress, they
13 initially wanted a driveway on 56th Street, which
14 is about 90 degrees from where the driveway
15 ultimately ended up. The City of Tampa would not
16 allow that, so they forced them to move it over to
17 Columbus for ingress and egress. And when they did
18 that, that's when it was -- the ingress and egress
19 was obstructed by the down guys.

20 COMMISSIONER CLARK: And this customer paid
21 the CIAC costs to have this pole relocated?

22 MR. WHITWORTH: They did not. They granted us
23 an easement for the pole and the overhead down
24 guys.

25 COMMISSIONER CLARK: My last question. You

1 mentioned there was a -- it appeared there was a
2 three-phase line that was running parallel to the
3 road, and it looks like, in the new picture, that
4 that three-phase line is gone.

5 MR. WHITWORTH: It's not gone. We did remove
6 a wood pole that was there and attached it to the
7 stub pole, the guy stub pole. So the three-phase
8 line --

9 COMMISSIONER CLARK: The stub pole with the
10 guys -- with the guy wires on it?

11 MR. WHITWORTH: Yes, sir.

12 COMMISSIONER CLARK: Is it above them?

13 MR. WHITWORTH: Yes, sir. Yeah, the
14 three-phase is above it. Yep.

15 COMMISSIONER CLARK: Okay. You can't -- you
16 can't see those -- you can't see that line from the
17 picture, so that was a little bit confusing to me.

18 I think that's all my questions, Madam Chair.

19 CHAIRMAN SMITH: Commissioner Payne.

20 COMMISSIONER PAYNE: Thank you, Chairman.

21 It's very difficult to kind of look at the
22 strategy you have long-term there, but that pole --
23 the life expectancy of the pole and the guys is
24 five, 10 years?

25 MR. WHITWORTH: I'm sorry?

1 COMMISSIONER PAYNE: The pole that you have
2 the guys on now, what's the expectancy of that pole
3 before it had to be changed out? Do you know? Is
4 it five, 10, 15 years if you have -- so I am
5 looking in the future as far as infrastructure
6 growth. Is there any plans in the future to change
7 that pole to a more robust pole because of
8 neighborhood growth?

9 MR. WHITWORTH: Not at this time.

10 COMMISSIONER PAYNE: Not at this time. And so
11 is that -- you don't know. Is that a growing
12 neighborhood? Is that an old existing
13 neighborhood? Because I am thinking there may be
14 some other remedy that you guys, when you come back
15 in four or five years saying, this area is a large
16 growth area, why can't we go ahead and put a more
17 robust pole in there?

18 MR. WHITWORTH: Yeah. It is an existing
19 neighborhood.

20 COMMISSIONER PAYNE: Okay.

21 MR. WHITWORTH: It's been there for quite some
22 time.

23 COMMISSIONER PAYNE: Okay.

24 MR. WHITWORTH: And there is some factors --
25 many situations like this, identical to this,

1 throughout the entire neighborhood.

2 COMMISSIONER PAYNE: Sure. Okay. Thank you.

3 CHAIRMAN SMITH: Commissioner Clark,
4 follow-up?

5 COMMISSIONER CLARK: I guess I will just make
6 a concluding statement. I certainly agree with the
7 customer who has filed the complaint. It's -- it
8 looks bad. I wouldn't want it in my yard. I would
9 be upset about it too. I agree with his assessment
10 100 percent. I do not blame him for fighting this
11 a bit, but --

12 And I certainly appreciate TECO trying to work
13 this out. There does not seem to be a reasonable
14 solution, in my opinion, unless you could have gone
15 further with the guy wires out. I don't know who
16 the next customer is. It's certainly going to
17 affect somebody down this line.

18 I think there is some blame to be shared here
19 on whoever issued a permit in the beginning of this
20 process that did not take into consideration that
21 these things were going to have to be dealt with at
22 some point in time. I think that's probably where
23 the biggest beef needs to lie, but I have to
24 conclude and concur that there is no violation of
25 any rules. It's tragic. It's sad. It's not what

1 any of us would like to see, but I do not see where
2 there is there has been any rule or statute
3 violated in any case, and so I don't see where we
4 have any other choice, Madam Chairman.

5 CHAIRMAN SMITH: Yeah, Commissioner Ortega.

6 COMMISSIONER ORTEGA: Yeah, I just wanted to
7 piggyback off of that just a second.

8 I agree, it's -- we actually just put in a
9 driveway, and dealing with the permitting was a
10 little bit tragic, and so I really empathize with
11 the customer here, but I think what's before us
12 today is based off the facts that we have, did the
13 company violate any rule or statute, and I concur
14 with Commissioner Clark. I really just don't see
15 that before us.

16 CHAIRMAN SMITH: Yeah, I feel similarly, and
17 see -- I mean, I agree kind of with staff's
18 analysis here. But I definitely understand the
19 customers' frustrations. The only thing -- I mean,
20 I want to just follow up and just make sure. This
21 is a PAA, so technically if the customer disagrees
22 with our vote, they do have an opportunity to
23 request a formal hearing.

24 MS. CRAWFORD: That's correct.

25 CHAIRMAN SMITH: Okay. So if Mr. Merchan is

1 listening in, that is the next, you know, form of
2 recourse, but -- I guess I am open to taking a vote
3 right now.

4 COMMISSIONER CLARK: Move to deny the
5 petition, Madam Chair.

6 COMMISSIONER LA ROSA: Second.

7 CHAIRMAN SMITH: All those in favor.

8 (Chorus of ayes.)

9 CHAIRMAN SMITH: Aye.

10 Any opposed?

11 (No response.)

12 CHAIRMAN SMITH: Okay. So see that the
13 petition is denied and staff recommendation is
14 approved.

15 (Agenda item concluded.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, DEBRA KRICK, Court Reporter, do hereby
certify that the foregoing proceeding was heard at the
time and place herein stated.

IT IS FURTHER CERTIFIED that I
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I FURTHER CERTIFY that I am not a relative,
employee, attorney or counsel of any of the parties, nor
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financially interested in the action.

DATED this 15th day of June, 2026.


DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #HH575054
EXPIRES AUGUST 13, 2028