

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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July 09, 2026

Docket No. 20260014-EI

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

**PETITION FOR FORMAL ADMINISTRATIVE HEARING AND PROTEST OF
PROPOSED AGENCY ACTION PURSUANT TO SECTIONS 120.569, 120.57, FLORIDA
STATUTES, AND RULE 28-106.201, FLORIDA ADMINISTRATIVE CODE**

Introduction

Petitioners respectfully request a formal administrative hearing because this matter presents disputed issues of material fact that cannot be resolved on the existing record. Petitioners do not challenge Tampa Electric Company's (TECO) general authority to install utility facilities within a public right-of-way. Rather, Petitioners contend that TECO exercised its discretionary authority in a manner that resulted in unequal treatment between neighboring property owners. Resolution of those disputed factual issues requires discovery, sworn testimony, cross-examination, and the development of a complete evidentiary record pursuant to Sections 120.569 and 120.57, Florida Statutes.

I. Petitioners

Juan Merchan

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Gonzalo Lever

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II. Notice of Proposed Agency Action

Petitioners received or became aware of Order No. PSC-2026-0220-PAA-EI on June 26, 2026. This Petition is timely filed pursuant to Rule 28-106.201, Florida Administrative Code.

III. Substantial Interests

Petitioners own residential property directly affected by TECO's relocation of transmission support facilities. Petitioners contend that TECO's actions resulted in unequal treatment between neighboring property owners, substantially affecting Petitioners' property interests, use and enjoyment of their residence, and the visual character of their property.

IV. Nature of the Dispute

This Petition does not seek to relitigate the Commission's determination that TECO generally possesses authority to locate facilities within a public right-of-way or authorized easement. Rather, Petitioners seek resolution of material factual disputes that were never fully developed because the Commission's Agenda Conference was not conducted as an evidentiary hearing.

Petitioners contend that TECO exercised its discretionary authority in a manner that resulted in unequal treatment between neighboring property owners by relieving one property owner of an existing utility burden while imposing that burden upon Petitioners. Whether that decision was reasonable, necessary, and consistent with Section 366.03, Florida Statutes, presents disputed issues of material fact.

V. Disputed Issues of Material Fact

- Whether TECO afforded an undue or unreasonable preference to the adjacent property owner while subjecting Petitioners to unequal treatment.
- Whether reasonable engineering alternatives existed that would have avoided the unequal treatment between neighboring property owners.
- Whether TECO fully evaluated those alternatives before selecting the final engineering design.
- Whether the relocation resulted from a requirement imposed by the City of Tampa or from TECO's own discretionary engineering judgment.
- Whether TECO exercised its discretion fairly, consistently, and without unreasonable prejudice as required by Section 366.03, Florida Statutes.
- Whether the existing record contains all engineering analyses, permitting records, internal communications, and decision-making documents necessary to resolve these disputed factual issues.
- Whether the factual record is sufficiently developed to determine that TECO did not afford an undue or unreasonable preference under Section 366.03, Florida Statutes, without discovery, sworn testimony, and production of the underlying engineering and permitting records.

VI. Ultimate Facts and Applicable Law

Petitioners do not dispute TECO's general authority to install utility facilities within a public right-of-way. Rather, Petitioners contend that when exercising that authority, TECO must do so reasonably, fairly, and without granting an undue or unreasonable preference to one property owner over another, as prohibited by Section 366.03, Florida Statutes. The central factual issue is whether TECO exercised its discretionary authority in a manner that resulted in unequal treatment between neighboring property owners.

VII. Why a Formal Hearing Is Necessary

Petitioners seek a formal administrative hearing because the disputed factual issues identified above have not been resolved by the Proposed Agency Action. The Commission's June 2, 2026 Agenda Conference considered Staff's recommendation based upon the existing record and was not a formal evidentiary hearing under Section 120.57, Florida Statutes. Consequently, the proceeding did not provide for discovery, sworn testimony, cross-examination, or compulsory production of documentary evidence.

Without discovery, sworn testimony, cross-examination, and the development of a complete evidentiary record, Petitioners' substantial interests cannot be fully adjudicated. A formal administrative hearing is the procedural mechanism established by Chapter 120, Florida Statutes, for resolving disputed issues of material fact through an evidentiary record.

VIII. Relief Requested

WHEREFORE, Petitioners respectfully request that the Florida Public Service Commission:

1. Accept this Petition as timely filed.
2. Reject the Proposed Agency Action.
3. Refer this matter to the Florida Division of Administrative Hearings (DOAH) for a formal hearing.
4. Assign the matter to an Administrative Law Judge for further proceedings under Sections 120.569 and 120.57, Florida Statutes.
5. Permit discovery and presentation of witness testimony and documentary evidence.
6. Grant such other and further relief as the Commission deems just and proper.

Respectfully submitted,

Juan Merchan, juan.mobile1@gmail.com
Petitioner

Gonzalo Lever, leverent@hotmail.com
Petitioner

Exhibits (A - G)

- Exhibit A – Order PSC-2026-0220-PAA-EI
- Exhibit B – June 2, 2026 Hearing Transcript
- Exhibit C - G – Property Photographs

Exhibits (C - G) — Property Photographs

C



Before Photograph – Original Pole and Guy Wire Placement

(Shows obstruction of garage access on adjacent property prior to driveway construction and pole and guy wire relocation)

Exhibit-D



After Photograph-1 – Front view of both properties after building a new driveway and relocating Pole and Guy Wire in front of Petitioner's Front Entrance

Exhibit-E



After Photograph-2 – Relocated Pole and Guy Wire Placement (Shows facilities relocated in front of Petitioner's front entrance)

Exhibit-F



After Photograph-3 – Guy Wire Placement in front of Petitioner's Front Entrance

Exhibit-G



After Photograph-4 – Petitioner's View from Front Entrance