

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Duke Energy
Florida, LLC.

DOCKET NO. 20240025-EI
ORDER NO. PSC-2024-0264-PCO-EI
ISSUED: July 24, 2024

FIRST ORDER REVISING ORDER ESTABLISHING PROCEDURE

I. Case Background

Duke Energy Florida, LLC (DEF) filed its Petition for Rate Increase, minimum filing requirements (MFRs), and testimony on April 2, 2024. DEF filed its MFRs based on projected test years from January 1 to December 31, 2025; January 1 to December 31, 2026; and January 1 to December 31, 2027. By Order No. PSC-2024-0092-PCO-EI, issued April 11, 2024, a final administrative hearing was scheduled for August 12 – 16, 2024, with August 19 – 23, 2024, also reserved for the continuation and conclusion of the hearing, if necessary.

Intervention by the Citizens of the State of Florida through the Office of Public Counsel (OPC) was acknowledged by Order No. PSC-2024-0041-PCO-EI, issued February 16, 2024. Petitions to Intervene filed by the following entities and associations were subsequently granted: Florida Rising, Inc. and the League of United Latin American Citizens of Florida (collectively LULAC);¹ Florida Industrial Power Users Group (FIPUG);² Florida Retail Federation (FRF);³ Sierra Club;⁴ White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate - White Springs (PCS Phosphate);⁵ Nucor Steel Florida, Inc. (Nucor);⁶ the Southern Alliance for Clean Energy (SACE);⁷ Americans for Affordable Clean Energy, Inc., Circle K Stores, Inc., RaceTrac, Inc., and Wawa, Inc. (collectively Fuel Retailers);⁸ EVgo Services, LLC (EVgo);⁹ and Walmart, Inc. (Walmart).¹⁰ The Petition to Intervene by the Florida Solar Energy Industry Association was denied without prejudice.¹¹

On July 8, 2024, DEF and OPC filed a Joint Motion to Suspend Procedural Schedule (Motion to Suspend). In the Motion to Suspend, DEF and OPC represented that they had reached an agreement in principle to resolve all issues in this docket, and requested that the Commission “suspend all pending hearings, deadlines, and other matters in this docket (including discovery not related to the Settlement Agreement)” FIPUG, FRF, LULAC, Nucor, and PCS

¹ Order No. PSC-2024-0106-PCO-EI, issued April 19, 2024.

² Order No. PSC-2024-0107-PCO-EI, issued April 19, 2024.

³ Order No. PSC-2024-0108-PCO-EI, issued April 19, 2024.

⁴ Order No. PSC-2024-0109-PCO-EI, issued April 19, 2024.

⁵ Order No. PSC-2024-0129-PCO-EI, issued April 24, 2024.

⁶ Order No. PSC-2024-0130-PCO-EI, issued April 24, 2024.

⁷ Order No. PSC-2024-0150-PCO-EI, issued May 13, 2024.

⁸ Order No. PSC-2024-0184-PCO-EI, issued June 4, 2024.

⁹ Order No. PSC-2024-0185-PCO-EI, issued June 4, 2024.

¹⁰ Order No. PSC-2024-0256-PCO-EI, issued July 22, 2024.

¹¹ Order No. PSC-2024-0257-PCO-EI, issued July 22, 2024.

Phosphate support the Motion to Suspend; EVgo and SACE did not oppose, and the Fuel Retailers and Sierra Club took no position. By Order No. PSC-2024-0234-PCO-EI, issued July 11, 2024, the Joint Motion was granted and the controlling dates were suspended.

On July 15, 2024, DEF, OPC, FRF, FIPUG, Nucor, and PCS Phosphate (collectively Signatories) filed a Joint Motion for Approval of 2024 Settlement Agreement (Motion for Approval), with a copy of the 2024 Settlement Agreement appended thereto as Attachment 1. The Signatories request that the Commission consider the Settlement Agreement during the two-week period that had been set aside for the final hearing in this docket, and approve the Settlement Agreement in its entirety as being in the public interest. LULAC, SACE, Walmart, and Sierra Club do not oppose the Motion for Approval; EVgo does not object to either; and the Fuel Retailers take no position and “reserve all rights” to take a position after further review of the final Settlement Agreement. No responses in opposition to the Motion for Approval have been filed, and the time for doing so has expired.

As was noted in the Order Granting Joint Motion to Suspend Procedural Order, “[a] separate order will be issued establishing the appropriate process and controlling dates that will govern this proceeding.” This Order is issued pursuant to the authority granted by Rule 28-106.211, Florida Administrative Code (F.A.C.), which provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case.

II. Tentative List of Major Elements of Settlement Agreement

A tentative list of the major elements of the 2024 Settlement Agreement that the Commission will consider in determining whether the Agreement is in the public interest¹² is appended hereto as Attachment A.

III. Discovery

All discovery for which responses were pending on July 11, 2024, when the Order Granting Joint Motion to Suspend Procedural Order was issued, shall be considered withdrawn.

All parties and Commission staff may propound discovery related to the Settlement Agreement. Section V(A) of Order No. PSC-2024-0092-PCO-EI is amended as follows:

(1) Discovery shall be completed by **August 16, 2024**.

(2) **Discovery requests and responses shall be served by e-mail.** Discovery served via e-mail shall be limited to 5 MB per attachment, shall indicate how

¹² “[W]hile the Commission need not resolve every issue independently in its final order when it is reviewing a settlement agreement, it must nonetheless discuss the major elements of the settlement agreement and explain why it is in the public interest.” *Floridians Against Increased Rates, Inc. v. Clark*, 371 So. 3d 905, 912 (Fla. 2023) (internal quotations marks and citations omitted).

many e-mails are being sent related to the discovery (such as 1 of 6 e-mails), and shall be numbered sequentially. Documents provided in response to a document request may be provided via a CD, DVD, or flash drive if not served electronically.

(6) Discovery responses shall be served within 5 days of receipt of the discovery request. **All written responses must be accompanied by an affidavit sworn or affirmed by the person(s) providing the responses.**

[unnumbered paragraph] When a discovery request is served and the respondent intends to seek clarification of any portion of the discovery request, the respondent shall request such clarification within **2 days of service of the discovery request.** This procedure is intended to reduce delay in resolving discovery disputes.

All provisions in Order No. PSC-2024-0092-PCO-EI regarding discovery not specifically amended by the above remain applicable.

IV. Controlling Dates

The following dates are established for Commission consideration of the Joint Motion for Approval of 2024 Settlement Agreement:

Discovery deadline	August 16, 2024
Final hearing	August 21, 2024 August 22, 2024, if necessary
Post-Hearing Briefs	September 6, 2024

Based upon the foregoing, it is

ORDERED by Commissioner Gabriella Passidomo, as Prehearing Officer, that Order No. PSC-2024-0092-PCO-EI, issued April 11, 2024, shall be modified as stated above. The provisions of that Order are reaffirmed to the extent not inconsistent with this Order. It is further

ORDERED that the provisions of this Order shall govern this proceeding unless modified by the Commission.

By ORDER of Commissioner Gabriella Passidomo, as Prehearing Officer, this 24th day of July, 2024.



Gabriella Passidomo
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

SPS

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

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MAJOR ELEMENTS OF SETTLEMENT AGREEMENT

1. 2025 Test Year Rate Increase: \$203 million
2. 2026 Subsequent Year Adjustment: \$59 million
3. Return on Equity: 9.3% - 11.3%, 10.3% midpoint
4. Investment Tax Credit: Powerline Battery Storage Project
5. Rate Design and Revenue Allocation
6. Solar Base Rate Adjustment
7. Potential Fossil Generation Acquisition
8. Make Ready EV Program
9. Corporate Income Tax Changes
10. Production Tax Credit
11. Dismantlement Study
12. Depreciation Study
13. Asset Optimization Mechanism
13. FEECA Stipulations in Docket No. 20240013-EI (Interruptible, Curtailable, and Standby Generation)
14. Customer connections
 - a. Reconnect fees eliminated
 - b. Minimum bill
 - c. No disconnections during extreme weather
15. Storm recovery
 - a. Surcharge
 - b. Reserve Study