

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Florida
Power & Light Company.

DOCKET NO. 20250011-EI
ORDER NO. PSC-2025-0333-PCO-EI
ISSUED: September 4, 2025

ORDER GRANTING IN PART AND DENYING IN PART
THE OFFICE OF PUBLIC COUNSEL'S SECOND MOTION AND
NOTICE OF INTENT TO SEEK OFFICIAL RECOGNITION

Background

Consistent with the requirements of Section VI(H) of Order Establishing Procedure No. PSC-2025-0075-PCO-EI, on July 31, 2025, the Office of Public Counsel (OPC) timely filed a Motion for and Notice of Intent to Seek Official Recognition of the following:

- Exhibit O:¹ Florida Department of Environmental Protection 2016 Consent Order (OGC File No. 16-0241)
- Exhibit P: Georgia Public Service Commission News Release dated January 23, 2025
- Exhibit Q: Georgia Public Service Commission Order dated January 28, 2025 (Docket No. 44280)
- Exhibit R: Duke Energy Carolinas, LLC and Duke Energy Progress, LLC's Responses to the North Carolina Utilities Commission's Questions Regarding Large Load Customers (*Order Initiating Proceeding and Requesting Comments*, Docket No. E-100, Sub 208)

No party objects to official recognition of Exhibits O and Q.² Florida Power & Light Company (FPL) objects to official recognition of Exhibits P and R.

Analysis and Decision

Official recognition in administrative proceedings is governed by the same substantive provisions as judicial notice in civil actions. Section 120.569(2)(i), Florida Statutes (F.S.), and Rule 28-106.213(6), Florida Administrative Code (F.A.C.). After notice and upon sufficient motion, official recognition is mandatory as to certain matters and permissive as to others.

¹ Exhibits A-N are the subject of OPC's First Motion and Notice of Intent to Seek Official Recognition, dated July 24, 2025.

² "Although FPL questions whether a request for official notice is necessary and warranted for Exhibit O under Florida law and the Order Establishing Procedure in this case, FPL is not taking a position with respect to Exhibits O or Q." FPL Response to Motion at 1.

Pursuant to Section 90.202(5), F.S., judicial notice of “[o]fficial actions of the legislative, executive, and judicial departments of the United States and of any state, territory, or jurisdiction of the United States” is permissive. Similarly, judicial notice of “[r]ecords of any court of this state or of any court of record of the United States or of any state, territory, or jurisdiction of the United States” pursuant to Section 90.202(6), F.S., is permissive.

Exhibit O meets the requirements of Section 90.202(5), F.S. This Consent Order was entered into between the Florida Department of Environmental Protection and FPL under the authority of Section 120.57(4), F.S., was filed with the agency clerk as a final order pursuant to Section 120.52(7), F.S., and is as an official action of an administrative agency of the State of Florida.³

Exhibit P is a document labeled “NEWS RELEASE” on what appears to be Georgia Public Service Commission (Georgia PSC) letterhead. While it lists Tom Krause as a “contact,” the document does not identify its author and does not specify Mr. Krause’s title or position, if any, with the Georgia PSC. The text of this document summarizes a rule, represents that the rule was adopted by the Georgia PSC, and contains quotes from two of the Commissioners regarding their votes.

There are no indicia that the Release itself is an official action of the Georgia PSC. At best, it is a third-party description of official action. Because it is not an official action of the Georgia PSC under Section 90.202(5), F.S., Exhibit P is not appropriate for official recognition.⁴

Exhibit Q meets the requirements of Section 90.202(5), F.S. The Georgia PSC adopted this Order January 28, 2025, in Docket No. 44280. It was stamped “FILED” that same date by the Executive Secretary of the Georgia PSC. Exhibit Q is an official action of the Georgia PSC and is appropriate for official recognition.

Exhibit R consists of a cover letter dated July 24, 2025, from Duke Energy Carolinas, LLC, and Duke Energy Progress, LLC (collectively “Duke”), along with an attached, fourteen-page document titled “Responses to Commission’s Questions on Large Loads *Order Initiating Proceeding and Requesting Comments* Docket No. E-100, Sub 208” (Responses). The attachment includes representations regarding Duke’s activities regarding potential large load projects, as well as statements about what other utilities around the country – including FPL – are purportedly doing and not doing with respect to serving large load.

The North Carolina Utilities Commission is not a “court” for purposes of Section 90.202(6), F.S. Accordingly, the Responses are not a “court record” subject to official recognition. Moreover, the contents of the Responses are entirely hearsay, and to admit them under cover of official recognition as a court record would be inappropriate. *See Dufour v. State*, 69 So. 3d 235, 253 (Fla. 2011) (“the court’s authority to take judicial notice of records cannot be used to justify the wholesale admission of hearsay statements within those court files”).

³ Section 20.255, F.S.

⁴ The entirety of the release is hearsay and hearsay within hearsay, and would be inadmissible even if subject to official recognition. *See Burgess v. State*, 831 So. 2d 137, 141 (Fla. 2002).

In light of the foregoing, OPC's Motion for Official Recognition is granted in part and denied in part, as set forth herein.

Therefore, it is

ORDERED by Chairman Mike La Rosa, as Prehearing Officer, that the July 31, 2025, Second Motion for Official Recognition filed by the Office of Public Counsel is granted as to Exhibits O and Q. It is further

ORDERED that the Motion for Official Recognition filed by the Office of Public Counsel is denied as to Exhibits P and R.

By ORDER of Chairman Mike La Rosa, as Prehearing Officer, this 4th day of September, 2025.



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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.