

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for declaratory statement regarding Rule 25-6.049(5)(b), F.A.C., by EcoSmart Solution, LLC.

Docket No. 20220017-EU

Filed: February 1, 2022

**JOINT MOTION OF FLORIDA POWER & LIGHT COMPANY AND TAMPA  
ELECTRIC COMPANY FOR  
LEAVE TO FILE AMICUS CURIAE MEMORANDUM**

Florida Power & Light Company (“FPL”) and Tampa Electric Company (“Tampa Electric”) hereby jointly move the Florida Public Service Commission (“Commission”) for leave to file an *amicus curiae* memorandum addressing EcoSmart Solution, LLC’s (“EcoSmart”) Petition for Declaratory Statement (“Petition”) filed in the above-referenced docket on January 10, 2022. As grounds in support thereof, FPL and Tampa Electric state:

1. FPL is a corporation with its headquarters located at 700 Universe Boulevard, Juno Beach, Florida 33408-0410. FPL is an investor-owned electric utility operating under the jurisdiction of the Commission pursuant to the provisions of Chapter 366, Florida Statutes (“F.S.”). FPL provides generation, transmission and distribution services to approximately 5.6 million retail customers across the State of Florida.

2. Tampa Electric is an investor-owned public utility subject to the Commission’s jurisdiction pursuant to Chapter 366, Florida Statutes, and is a wholly-owned subsidiary of Emera, Inc. Tampa Electric’s principal place of business is located at 702 North Franklin Street, Tampa, Florida 33602. Tampa Electric serves more than 800,000 retail customers in Hillsborough and portions of Polk, Pinellas, and Pasco Counties, Florida.

3. FPL and Tampa Electric, and the customers served by both companies, have a significant and abiding interest in the preservation and enforcement of the statutory provisions set forth in Chapter 366, F.S., as well as the Commission’s rules adopted in the Florida Administrative Code (“F.A.C.”). Those interests include preservation of the established requirements governing

public utility service and the electrical metering requirements related to that service. FPL and Tampa Electric and the retail customers they serve rely upon the Commission's exercise of its jurisdiction over the service provided by public utilities in the state and the Commission's jurisdiction to prescribe and enforce specific requirements regarding the metering of customers' electrical usage. The Florida Legislature, the Florida Supreme Court, and the Commission have all previously addressed aspects of public utility service and electrical metering that are relevant to the Petition.

4. "It is within the Commission's jurisdiction to allow *amicus curiae* participation in Commission proceedings."<sup>1</sup> On a number of previous occasions, the Commission has allowed *amici curiae* to file briefs and memoranda beneficial to the Commission's review or analysis of issues raised in a proceeding.<sup>2</sup>

5. Given their status as public utilities regulated by the Commission under Chapter 366, F.S., their extensive knowledge of decisional law relating to that Chapter, and their concern over any proposal which might be inconsistent with Chapter 366 or the F.A.C., as interpreted by the Commission and the courts of this state, FPL and Tampa Electric are well qualified to assist the Commission as *amicus curiae* concerning certain legal issues which must be resolved in this proceeding. Additionally, given the potential for this proceeding to affect Commission policy and precedent concerning the issues raised regarding electric utility service, FPL's and Tampa Electric's participation as *amicus curiae* is appropriate.

6. FPL and Tampa Electric request that they be allowed to jointly file an *amicus curiae* memorandum addressing issues including but not limited to:

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<sup>1</sup> Order No. PSC-2013-0509-PCO-EQ, issued October 28, 2013 in DOCKET NO. 130235-EQ ORDER NO. PSC-13-0509-PCO-EQ.

<sup>2</sup> See, e.g., Order Nos. PSC-2019-0038-PCO-EQ, PSC-2014-0419-PCO-EM, PSC-2014-0420-PCO-EM, PSC-2014-0421-PCO-EM, PSC-2013-0509-PCO-EQ, PSC-2013-0508-PCO-EQ, PSC-00-1265-PCO-WS.

- a. Whether the proposal set forth in EcoSmart’s Petition complies with the individual and master metering requirements set forth in Rule 25-6.049, F.A.C.
- b. Whether the proposal set forth in EcoSmart’s Petition complies with the customer net metering requirements set forth in Section 366.91, F.S., and Rule 25-6.065, F.A.C.
- c. Whether the proposal set forth in EcoSmart’s Petition complies with the sections of Chapter 366, F.S., that govern electric service by a public utility, as well as Florida Supreme Court precedent relevant to those sections.

7. Given the above interests, FPL and Tampa Electric believe their input may assist the Commission in addressing the issues raised by the Petition. FPL and Tampa Electric also respectfully request an opportunity to address the Commission when the Petition is considered at Agenda Conference.

8. Copies of all notices and pleadings regarding this Motion should be furnished to:

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9. Counsel for FPL has contacted counsel for EcoSmart, Mr. Michael Cooke, and is authorized to represent that EcoSmart has no objection to this Motion.

WEREFOR, FPL and Tampa Electric respectfully request that the Commission grant this Motion for Leave and allow FPL and Tampa Electric to appear as *amicus curiae* for the purpose of filing a memorandum addressing EcoSmart's Petition, and for an opportunity to address the Commission when the Petition is considered at Agenda Conference.

Respectfully submitted this 1st day of February, 2022.

FLORIDA POWER & LIGHT COMPANY

By: /s/ Kenneth M. Rubin

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**CERTIFICATE OF SERVICE**

20220017-EU

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by electronic mail this 1st day of February, 2022 to the following parties:

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