

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 20240025-EI

FILED: April 29, 2024

CITIZENS' EXPEDITED MOTION TO ENLARGE DISCOVERY

The Citizens of the State of Florida, by and through the Office of Public Counsel (OPC), pursuant to Rule 28-106.204, Florida Administrative Code (F.A.C.), hereby file this Expedited Motion to Enlarge Discovery in this docket. OPC requests that this Motion be granted and in support of the motion states:

1. On January 31, 2024, DEF filed a test year notification letter informing the Commission that DEF would be filing a request for a rate increase on April 2, 2024.
2. On February 13, 2024, OPC filed a notice of intervention in this docket.
3. OPC is statutorily required to represent customers of investor-owned utilities in proceedings before the Commission, and “shall have such powers as are necessary to carry out the duties of his or her office, including, but not limited to, ... [utilizing] therein all forms of discovery available to attorneys in civil actions generally...”¹
4. OPC began serving discovery requests upon DEF on March 15, 2024.
5. On April 2, 2024, Duke Energy Florida, LLC (DEF) filed its Petition for a Rate Increase, Minimum Filing Requirements, and testimony in support of its requested rate increase.

¹ § 350.0611(1), Fla. Stat.

6. On April 11, 2024, the Florida Public Service Commission (Commission) issued an Order Establishing Procedure (OEP), Order No. PSC-2024-0092-PCO-EI, which provided, in part, that “[i]nterrogatories, including subparts, shall be limited to 500.”²
7. The OEP also “capped” requests for production at 500 and requests for admissions at 100.
8. In the early afternoon of April 29, 2024, DEF informed OPC that, by DEF’s count, OPC has exceeded the 500 interrogatories.
9. DEF also informed OPC that DEF will suspend preparing responses to any of OPC’s interrogatories that exceed the 500-interrogatory “cap” pending the Commission’s ruling on this motion.
10. DEF Witness Marcia Oliver noted in her pre-filed testimony that the anticipated rate case expenses in this matter are approximately \$2.5 million.³
11. DEF is not harmed by OPC being allowed to serve additional interrogatories since DEF customers ultimately pay for rate case expense.
12. Customers vitally need the information requested by OPC’s pending and future interrogatories in order to prepare their case.
13. DEF has filed a case that exceeds all of DEF’s historical requests in terms of magnitude, number of projected test years, and scope of issues (including solar, battery and electric vehicles infrastructure costs), and intervenors currently have only 43 more days to do so before filing intervenor testimony.

² Order No. PSC-2024-0092-PCO-EI, p. 4, PSC Docket No. 20240025-EI, *In re: Petition for rate increase by Duke Energy Florida, LLC*. The OPC did not seek reconsideration of this limit in the pending Citizen’s Expedited Motion for Reconsideration or, in the Alternative, Motion for Continuance because the Commission has historically treated this aspect of the OEP as one that is periodically adjustable based on circumstances. Accordingly, no waiver of rights occurred by virtue of OPC’s silence in that reconsideration motion.

³ Document No. 01462-2024, p. 16, PSC Docket No. 20240025-EI, *In re: Petition for rate increase by Duke Energy Florida, LLC*.

14. OPC has endeavored to be as proactive and efficient as possible in requesting interrogatories in order to analyze DEF's requested rate increases in this narrow window of time.

15. Additionally, OPC will need to continue to analyze DEF's case through all forms of discovery in advance of the hearing, including through the use of interrogatories.

16. DEF's customers will be irreparably harmed if OPC is not allowed to serve additional interrogatories upon DEF in this matter.

17. Since this is an evolving, complex matter, OPC is unsure how many additional interrogatories will be necessary for OPC to be fully prepared for hearing.

18. Therefore, OPC requests that the Commission either remove the "cap" entirely or enlarge the 500 interrogatory "cap" to at least 1,000 interrogatories at this time so that OPC may continue to exercise its statutorily-protected right to conduct necessary discovery.

19. OPC also preserves its statutorily-protected right to conduct discovery and potentially seek further enlargement of this or any other discovery "cap," as necessary.

20. Given the compressed timeframe, OPC asks that the Commission rule on this matter on an expedited basis and that the ruling be communicated to the parties as soon as possible via email, regardless of whether a written order is prepared to memorialize the ruling, so that DEF will resume preparing responses to OPC's pending requests for interrogatories.

21. OPC has conferred with the other parties in this matter regarding their position on this motion. DEF objects to the motion and reserves the right to file a response after reviewing the motion. All parties who have intervened or petitioned to intervene have indicated that they either support or do not object to this motion.⁴

⁴ OPC contacted the Florida Industrial Power Users Group for its position on this motion but did not receive a response in time to include in this motion.

WHEREFORE, the OPC hereby requests that the Commission grant Citizen's Expedited Motion to Enlarge Discovery for the reasons outlined in the body of this motion above.

Respectfully submitted,

Walt Trierweiler
Public Counsel

/s/ Mary A. Wessling
Mary A. Wessling
Associate Public Counsel
FL Bar No. 93590

Charles J. Rehwinkel
Deputy Public Counsel
FL Bar No. 527599

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street,
Suite 12
Tallahassee, FL 32399-1400

*Attorneys for the Citizens of the
State of Florida*

CERTIFICATE OF SERVICE
DOCKET NO. 20240025-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail on this 29th day of April, 2024, to the following:

Major Thompson
Shaw Stiller
Florida Public Service Commission
Office of General Counsel
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850
mthomps@psc.state.fl.us
sstiller@psc.state.fl.us
discovery-gcl@psc.state.fl.us

Matthew R. Bernier
Stephanie A. Cuello
Duke Energy Florida, LLC
106 E. College Avenue, Suite 800
Tallahassee, FL 32301
FLRegulatoryLegal@duke-energy.com
Matthew.Bernier@duke-energy.com
Stephanie.Cuello@duke-energy.com

Robert Pickels
Duke Energy Florida, LLC
106 East College Avenue, Suite 800
Tallahassee, FL 32301-7740
Robert.Pickels@duke-energy.com

Dianne M. Triplett
Duke Energy Florida, LLC
299 1st Avenue North
St. Petersburg, FL 33701
Dianne.Triplett@duke-energy.com

Molly Jagannathan
Melissa O. New
Troutman Pepper, LLC
600 Peachtree Street NE, Suite 3000
Atlanta, GA 30308
Molly.jagannathan@troutman.com
Melissa.butler@troutman.com

Jon C. Moyle, Jr.
Karen A. Putnal
Moyle Law Finn, P.A.
118 North Gadsden Street
Tallahassee, Florida 32301
jmoyle@moylelaw.com
kputnal@moylelaw.com

Bradley Marshall
Jordan Luebke
Earthjustice
111 S. Martin Luther King Jr. Blvd.
Tallahassee, Florida 32301
bmarshall@earthjustice.org
jluebke@earthjustice.org

Tony Mendoza
Patrick Woolsey
Sierra Club
2101 Webster Street, Suite 1300
Oakland, CA 94612
tony.mendoza@sierraclub.org
patrick.woolsey@sierraclub.org

Sari Amiel
Sierra Club
50 F St. NW, Eighth Floor
Washington, DC 20001
sari.amiel@sierraclub.org

Robert Scheffel Wright
John T. LaVia, III
Gardner Bist Law Firm
1300 Thomaswood Drive
Tallahassee, FL 32308
schef@gbwlegal.com
jlavia@gbwlegal.com

James W. Brew
Laura Baker
Sarah B. Newman
Stone Mattheis Xenopoulos & Brew
1025 Thomas Jefferson St. NW
Suite 800 West
Washington, DC 20007-5201
jbrew@smxblaw.com
lwb@smxblaw.com
sbn@smxblaw.com

Peter J. Mattheis
Michael K. Lavanga
Joseph R. Briscar
Stone Mattheis Xenopoulos & Brew
1025 Thomas Jefferson St. NW
Suite 800 West
Washington, DC 20007-5201
pjm@smxblaw.com
mkl@smxblaw.com
jrb@smxblaw.com

William C. Garner
Law Office of William C. Garner, PLLC
3425 Bannerman Road
Unit 105, No. 414
Tallahassee, FL 32312
bgarner@wcglawoffice.com

Frederick L. Aschauer, Jr.
Allan J. Charles
Lori Killinger
J. Melchior
Lewis, Longman & Walker, PA
106 E. College Ave, Suite 1500
Tallahassee, FL 32301
fashauer@llw-law.com
acharles@llw-law.com
lkillinger@llw-law.com
jmelchior@llw-law.com

/s/ Mary A. Wessling
Mary A. Wessling
Associate Public Counsel
Wessling.mary@leg.state.fl.us