

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Consideration of the tax impacts
associated with Tax Cuts and Jobs Act of 2017
for Florida Power & Light Company.

DOCKET NO. 20180046-EI
ORDER NO. PSC-2018-0613-PCO-EI
ISSUED: December 28, 2018

ORDER DENYING MOTION FOR EXTENSION OF TIME

On December 27, 2018, the Florida Industrial Power Users Group (FIPUG) filed a Motion for Extension of Time (Motion) in Docket No. 20180046-EI. In its Motion, FIPUG argues that the Response to Joint Petition for Enforcement of 2016 Settlement and Permanent Base Rate Reductions Against Florida Power & Light Company (Response) filed by Florida Power & Light Company (FPL) on December 21, 2018, was “tantamount to a motion to dismiss.”¹ As such, FIPUG states that it is entitled under Rule 28-106.204(1), Florida Administrative Code (F.A.C.), to file a written response within seven days, or by December 28, 2018; although, due to the holidays, FIPUG is requesting an extension until January 7, 2019. FIPUG states that no party will be prejudiced by granting this extension and that FPL opposes granting this request.

Having reviewed the Joint Petition for Rate Reductions or Alternative Reverse Make-Whole Rate Case Against Florida Power & Light Company (Joint Petition) filed in this docket by FIPUG, the Office of Public Counsel (OPC), and Florida Retail Federation (FRF) on December 6, 2018, as well as the Response filed by FPL, the Response is not in fact “tantamount to a motion to dismiss.” The Response is just that, a pleading which responds point by point to the Joint Petition filed by FIPUG, OPC, and FRF. It is the equivalent of an answer in a civil proceeding and argues that the relief FIPUG has requested in its Joint Petition should be denied.²

Under Rule 28-106.201, F.A.C., a person is entitled to initiate a proceeding by filing a petition. Rule 28-106.203, F.A.C., allows a respondent to file an answer to that petition. In this instance, FIPUG, OPC, and FRF filed a petition requesting that the Commission order FPL to file MFRs and refund tax savings associated with the Tax Cuts and Jobs Act of 2017 to ratepayers. FPL, as the respondent, filed its Response/Answer. Neither the Uniform Rules nor the Florida Rules of Civil Procedure allow for a response to an answer. Since FPL’s Response is not the equivalent of a motion to dismiss, the provisions of Rule 28-106.204, F.A.C., permitting FIPUG to file a response do not apply.

Based on the above, FIPUG’s Motion for Extension of Time is hereby denied.

¹ FPL filed its Response in this docket and in Docket No. 20180224-EI, In re: Petition for enforcement of 2016 Settlement and permanent base rate reductions against Florida Power & Light Company. FIPUG, however, did not file its Motion in Docket No. 20180224-EI.

² Motions to dismiss are used by respondents to raise defenses to a petition, e.g., lack of subject matter jurisdiction, lack of jurisdiction over the person, failure to state a cause of action, failure to join indispensable parties. Rule 1.140(b), Florida Rules of Civil Procedure. FPL’s Response does none of these things.

By ORDER of Commissioner Julie I. Brown, as Prehearing Officer, this 28th day
of December, 2018.



JULIE I. BROWN
Commissioner and Prehearing Officer
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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.

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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.