

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Rate Increase by
Duke Energy Florida, LLC

Docket No. 20240025-EI

Filed: April 30, 2024

**DUKE ENERGY FLORIDA’S RESPONSE TO OFFICE OF PUBLIC COUNSEL’S
EXPEDITED MOTION TO ENLARGE DISCOVERY**

Duke Energy Florida, LLC (“DEF”), pursuant to Rule 28-106.204(1), Fla. Admin. Code, hereby responds in Opposition to the Office of Public Counsel’s (“OPC”) Expedited Motion to Enlarge Discovery. Because the OPC has not shown good cause justifying its expansive request for unlimited discovery, the Commission should deny OPC’s request for limitless discovery. However, while DEF believes that the current discovery limits provided for in the Order Establishing Procedure (“OEP”)¹ strike the correct balance between providing all parties to this proceeding with a full and fair opportunity to request necessary information regarding DEF’s filing while also protecting DEF from overly burdensome and repetitive discovery requests, DEF does not object to the Commission granting OPC a reasonable amount of additional interrogatory requests to the extent the Commission determines OPC has met its burden of justifying such an expansion. In support, DEF states as follows:

1. This Commission issued its OEP governing the procedures and setting out the schedule for this docket on April 11, 2024.

¹ Order No. PSC-2024-0092-PCO-EI.

2. As OPC correctly notes in its Motion, the OEP clearly established limits to the amount of discovery available in this docket at 500 interrogatories, including subparts, 500 request for production of documents, including subparts, and 100 requests for admissions.²
3. As of the date of this response, twelve parties have been granted or petitioned to intervene in this proceeding,³ and each party granted intervention will be permitted to avail itself of the discovery rights provided in the OEP. Thus, even before OPC's request to expand discovery, DEF could potentially be asked to respond to six thousand (6000) interrogatories and requests for production of documents and twelve hundred (1200) requests for admission, the responses to which will be served upon all parties to this proceeding.⁴
4. OPC's motion asserts that this extremely generous amount of available discovery, which does not even include potential depositions of DEF's witnesses, is insufficient to permit it a full and fair opportunity to gather necessary information to present its case.
5. OPC is statutorily empowered to "utilize . . . all forms of discovery available to attorneys in civil actions generally . . ." See § 350.0611(1), Fla. Stat. However, in civil actions, interrogatories are limited to 30 unless a party moves for and can show good cause why additional interrogatories are necessary. See *Beekie v. Morgan*, 751 So. 2d 694, 698 (Fla. 5th DCA 2000) (citing *Fla.R.Civ.P.* 1.340).

² *Id.* at p. 4.

³ OPC, Florida Rising, the League of United Latin American Citizens of Florida (LULAC), White Springs Agricultural Chemicals, Inc. (d/b/a PCS Phosphate), Nucor Steel Florida, Inc., the Florida Industrial Power Users Group (FIPUG), the Sierra Club, and the Florida Retail Federation (FRF) have been granted intervention, while the Southern Alliance for Clean Energy (SACE), the Americans for Affordable Clean Energy (AACE), Circle K Stores, Inc., RaceTrac, Inc., and Wawa, Inc., have sought intervention.

⁴ Subject to execution of acceptable confidentiality agreements, as appropriate and necessary.

6. In its Motion, OPC has requested the Commission to either remove the “cap” altogether or in the alternative to provide OPC with 500 additional interrogatories, while reserving its right to seek additional interrogatories at a later date, if needed. Motion, at ¶¶ 18-19.
7. To the extent the Prehearing Officer determines OPC has met its burden of showing good cause for an expansion of the number of interrogatories OPC may serve in this proceeding, DEF respectfully requests that the Order granting its request be limited to a reasonable number of additional interrogatories. To the extent OPC believes additional requests are warranted, it should be required to move for and demonstrate good cause why such additional discovery is necessary. *See Beekie; Fla.R.Civ.P. 1.340.* As no other party has moved for additional requests, any such expansion should be limited to OPC.

WHEREFORE, for the reasons provided above, DEF respectfully requests that the Commission deny OPC’s request to serve an unlimited number of interrogatories in this proceeding for lack of good cause shown, and instead expand the scope of discovery permitted to be served to no more than the Commission determines OPC has shown good cause to justify. To the extent OPC believes additional expansion is warranted, OPC should be required to make the showing provided by the Rules of Civil Procedure.

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CERTIFICATE OF SERVICE

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I **HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by electronic mail this 30th day of April, 2024, to the following:

/s/ Dianne M. Triplett

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