



Christopher T. Wright
Managing Attorney
Florida Power & Light Company
700 Universe Blvd (LAW/JB)
Juno Beach, FL 33408-0420
Phone: (561) 691-7144
E-mail: Christopher.Wright@fpl.com
Florida Authorized House Counsel;
Admitted in Pennsylvania

April 8, 2025

VIA ELECTRONIC FILING

Mr. Adam J. Teitzman
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. 20250011-EI
In re: Petition for Rate Increase by Florida Power & Light Company

Dear Mr. Teitzman:

Enclosed for filing in the above-referenced matter, please find attached Florida Power & Light Company's Response in Opposition to the Office of Public Counsel's Motion to Enlarge Discovery.

If you or your staff have any question regarding this filing, please contact me at (561) 691-7144.

Respectfully submitted,

/sChristopher T. Wright
Christopher T. Wright
Fla. Auth. House Counsel No. 1007055

Enclosures

cc: Certificate of Service

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Rate Increase by Florida
Power & Light Company

Docket No. 20250011-EI

Filed: April 8, 2025

**FLORIDA POWER & LIGHT COMPANY’S RESPONSE IN OPPOSITION TO
THE OFFICE OF PUBLIC COUNSEL’S MOTION TO ENLARGE DISCOVERY**

Florida Power & Light Company (“FPL”), pursuant to Rules 28-106.204(1) and 28-106.206, Florida Administrative Code, hereby submits the following Response in Opposition to the Office of Public Counsel’s (“OPC”) Motion to Enlarge Discovery. As explained below, OPC has failed to meet its burden to demonstrate good cause justifying its request for unlimited discovery or at least 1,500 interrogatories in this proceeding and, therefore, the Prehearing Officer should deny OPC’s request.

Although discovery in Commission proceedings is broad, it is not without limits. FPL submits the current discovery limits adopted by the Order Establishing Procedure No. PSC-2025-0075-PCO-EI (“OEP”) are more than reasonable and appropriate for purposes of serving efficient, focused, and relevant discovery regarding FPL’s filing, while also protecting FPL from overly burdensome and harassing discovery requests. OPC was or should have been aware of these reasonable limits and, nonetheless, elected to propound nine sets interrogatories and requests for production of documents within less than one month from FPL’s filing. OPC’s own failure to be selective and judicious with its discovery to date, *i.e.*, ignore the limits and assume discovery would be enlarged or unlimited, is simply not sufficient to demonstrate good cause why the discovery limits established in the OEP are not adequate for this filing. For these reasons, as more fully explained below, OPC’s Motion to Enlarge Discovery should be denied.

1. On February 28, 2025, FPL filed its petition requesting a base rate increase along with minimum filing requirement schedules and testimony supporting the request.

2. On March 14, 2025, the Prehearing Office issued the OEP ordering that discovery in this proceeding shall be conducted in accordance with the provisions of Chapter 120, Florida Statutes, the relevant provisions of Chapter 366, Florida Statutes, Rules 25-22, 25-40 and 28-106, Florida Administrative Code, and the applicable Florida Rules of Civil Procedure.

3. Rule 1.340(a) of the Florida Rules of Civil Procedure limits parties to thirty (30) interrogatories, including subparts, unless a party moves to exceed that number and demonstrates good cause. However, the Commission permits parties to exceed that number when the scope of a proceeding is complex. *In re: Petition for rate increase by Duke Energy Florida, LLC*, Order No. PSC-2024-0145-PCO-EI, Docket No. 20240025-EI (FPSC May 7, 2024).

4. Consistent therewith, the OEP in this proceeding established the following limits on discovery: (a) interrogatories shall be limited to 750 including all subparts; (b) request for production of documents shall be limited to 750 including all subparts; and (c) requests for admissions shall be limited to 200 including all subparts.

5. As of the date of this response, eleven (11) parties¹ have petitioned to intervene in this proceeding. Each of these parties and Commission Staff can propound discovery on FPL in this proceeding up to the discovery limits established by the OEP. Thus, even absent OPC's request to expand the discovery limits, FPL potentially could be asked to respond to 9,000 interrogatories, 9,000 requests for production of documents, and 2,400 requests for admissions (or a combined total of 20,400 discovery requests) and that does not include potential depositions of FPL's witnesses. This is already a tremendous amount of discovery that FPL potentially may be

¹ OPC, FIPUG, SACE, Florida Rising, LULAC, ECOSWF, FEA, FRF, EVgo, Electrify America, and Walmart.

required to respond to within a 20-day period for any discovery served prior to rebuttal and within a 7-day period for discovery served after rebuttal.

6. Prior to FPL filing its petition, OPC elected to serve the following three sets of pre-filed discovery requests: OPC First Set of Interrogatories (Nos. 1-96) and First Request for Production of Documents (Nos. 1-51), served on January 29, 2025; OPC Second Set of Interrogatories (Nos. 97-102) and Second Request for Production of Documents (No. 52), served on February 3, 2025; and OPC Third Set of Interrogatories (Nos. 103-106) and Third Request for Production of Documents (Nos. 53), served on February 17, 2025. Thus, OPC elected to serve three robust sets of discovery *before it had the opportunity to read a single page of FPL's filing*.

7. As of March 24, 2025, or less than one month after FPL's filing, OPC has served nine sets of interrogatories and requests for production of documents. According to OPC's Motion, OPC has served FPL with approximately 582 interrogatories *less than one month after FPL's filing*.²

8. On March 27, 2025, which was prior to the due date for FPL's responses to OPC's first set of discovery requests, OPC contacted the parties of record advising that OPC will be asking to remove the discovery limit, or, in the alternative, to increase the limit from 750 to 1,500. Stated otherwise, OPC asserted that it needs the incredibly burdensome remedy of unlimited discovery even *before it had an opportunity to review FPL's full responses to OPC's first set of discovery requests*.

9. On April 1, 2025, OPC filed its Motion requesting that the limit on interrogatories be removed entirely or that the total number of interrogatories be enlarged to at least 1,500. OPC also claims to preserve the purported "statutorily-protected right" to seek further enlargement of

² OPC and FPL may disagree as to the appropriate method to calculate subparts of discovery requests. However, FPL accepts OPC's estimated total of 582 interrogatories for purposes of this Response only but reserves the right to challenge the method used by OPC to count discovery requests that include subparts.

any discovery limit as necessary.

10. As the party seeking to expand the discovery limits in this proceeding, OPC has the burden to demonstrate good cause why the additional discovery is necessary and justified.³ In an effort to meet this burden, OPC's Motion asserts there is good cause for the following four reasons: (i) FPL's proposed rate increase is vast and complex involving two base rate increases in 2026 and 2027 and Solar and Battery Base Rate Adjustments ("SoBRAs") in 2028 and 2029; (ii) the Commission has precedent for increasing the number of interrogatories beyond the original authorized limit; (iii) FPL serves six million customer accounts; and (iv) the unlimited or additional requested interrogatories will not have a significant impact on the projected rate case expense. OPC's arguments lack merit, ignore OPC's own actions and conduct, and fail to establish good cause why the discovery limits established in the OEP are insufficient to obtain relevant information necessary to evaluate FPL's filing.

11. In its Motion, OPC asserts that it has served approximately 582 interrogatories, including subparts, upon FPL as of March 24, 2025.⁴ By OPC's own admission it has not reached the 750 limit on interrogatories established by the OEP and, therefore, OPC's Motion is entirely premature and should be denied.⁵ Although OPC's Motion is premature, FPL submits that OPC's Motion should also be denied on the merits because OPC has failed to establish good cause for the reasons further explained below.

³ See Fla. R. Civ. P. 1.340(a). See also *In Re: Application for rate increase and increase in service availability charges by Southern States Utilities, Inc. for Orange-Osceola Utilities, Inc.*, Order No. PSC-95-1453-FOF-WS, Docket No. 950495-WS (FPSC Nov. 28, 1995) ("This rule places the burden on the person requesting the additional interrogatories to demonstrate good cause why they should be permitted").

⁴ On April 3, 2025, OPC served its tenth set of discovery questions on FPL that included an additional 21 numbered interrogatories, many of which included multiple subparts.

⁵ *In Re: Application for rate increase and increase in service availability charges by Southern States Utilities, Inc. for Orange-Osceola Utilities, Inc.*, Order No. PSC-95-1453-FOF-WS, Docket No. 950495-WS (FPSC Nov. 28, 1995) ("We also note that OPC has yet to reach the limits set on discovery, and it is at that time that OPC may file another motion pursuant to Rule 1.340(a), Florida Rules of Civil Procedure, for additional discovery").

12. With respect to OPC's claim that FPL's proposed 2025 rate case is vast and complex, FPL notes that the robust discovery limits established by the OEP, which significantly exceed those permitted under the Florida Rules of Civil Procedure, already contemplate the technical and complex nature of a base rate proceeding.

13. Additionally, OPC's argument ignores the fact that FPL's 2021 rate case in Docket No. 20210015-EI was also a four-year rate plan that similarly involved two test years and two years of similar SoBRA mechanisms. Notably, the discovery limits established by the OEP in this proceeding are the same as those established in FPL's 2021 rate case.⁶ Arguably, FPL's 2021 rate case was an even more complex and voluminous case that involved, among other things, the merger and consolidation of FPL and former Gulf Power Company ("Gulf"), rate unification of the two companies, and the filing of four alternative rate proposals, each with their own sets of MFRs for both the test year and subsequent year: (i) consolidated FPL rate increase with RSAM; (ii) consolidated FPL rate increase without RSAM; (iii) standalone FPL rate increase; and (iv) standalone Gulf rate increase. Despite the complexity and volume of FPL's 2021 rate case, all parties had a full and fair opportunity to request necessary information regarding FPL's 2021 rate case without the need to expand or modify the discovery limits.

14. OPC's reliance on other Commission proceedings where the discovery limits were enlarged is misplaced. The fact that a party met its burden to establish good cause to enlarge discovery based on the facts and circumstances specific to a prior unrelated case, does not somehow excuse OPC from its burden to establish good cause based on the actual facts and

⁶ See *In re: Petition for rate increase of Florida Power & Light Company*, Order No. PSC-2021-0120A-PCO-EI, Docket No. 20210015-EI (FPSC Apr. 8, 2021) (setting discovery limits in the FPL 2021 rate case to 750 interrogatories, 750 requests for production of documents, and 200 requests for admission).

circumstances in *this proceeding*.⁷ This is further highlighted by the fact that the Commission has rejected requests to expand discovery beyond the limits set forth in the applicable OEP.⁸

15. Similarly, OPC's reliance on the number of customers served by FPL is misplaced and fails to make any causal connection between the number of customers served and the number of interrogatories that are reasonably needed to obtain relevant information related to FPL's filing. Indeed, there is nothing in the Florida Rules of Civil Procedure or established Commission practice to suggest the number of interrogatories established for a Commission proceeding are to be proportional to or conditional upon the number of customers served.

16. Likewise, OPC's claim that unlimited or additional requested interrogatories will not have a significant impact on the projected rate case expense is misplaced.⁹ OPC's attempt to address potential impacts of their request on the projected rate case expense ignores that OPC's request for unlimited discovery or an additional 1,500 interrogatories would be overly burdensome on FPL and the business units that would be required to respond to this significant amount of interrogatories while continuing to perform their day-to-day responsibilities of providing safe, reliable, and low cost service to customers. The potential burden of OPC's request should be viewed in light of the fact that FPL already may potentially be served with a total of 20,400

⁷ *In re: Petition for rate increase by Tampa Electric Company*, Order No. PSC-2024-0183-PCO-EI, Docket No. 20240026-EI (FPSC June 4, 2024) ("Matters related to discovery are addressed on a case-by-case basis in light of the particular circumstances").

⁸ *See, e.g., In Re: Application for rate increase and increase in service availability charges by Southern States Utilities, Inc. for Orange-Osceola Utilities, Inc.*, Order No. PSC-95-1453-FOF-WS, Docket No. 950495-WS (FPSC Nov. 28, 1995) (denying OPC's request for unlimited discovery, concluding that allowing unlimited interrogatories and requiring the respondent to seek a protective order if it thought the discovery unduly burdensome would turn the requirement for good cause in Florida Rule of Civil Procedure 1.340 on its head).

⁹ In support, OPC claims that the additional discovery will have no impact on FPL's projected rate case expense because FPL's embedded regulatory affairs department responds to discovery and their costs are already in base rates. To be clear, FPL's witnesses, supporting business units, and consultants prepare FPL's discovery responses in this proceeding. Although discovery responses prepared by internal witnesses does not impact the rate case expense, any responses prepared by external witnesses or consultants will increase the overall rate case expense in this proceeding.

discovery requests under the existing discovery limits established by the OEP.

17. OPC was fully aware that the OEP would and did establish discovery limits in this proceeding, just like every other proceeding before this Commission. Given the Commission's long-standing practice of setting reasonable limits on discovery in every proceeding, it is incumbent on all parties to be efficient and take a focused approach to using the limited written discovery permitted by the OEP to obtain relevant information to evaluate the case.¹⁰ It is important that the Prehearing Officer not overlook the fact that written discovery serves as a predicate for oral depositions, a discovery tool that OPC intends to utilize this proceeding.

18. In sum, it appears OPC has simply disregarded the interrogatory discovery limit established by the OEP and assumed that the discovery limit would be expanded simply by serving an avalanche of questions early in the proceeding including before the petition and supporting documents were even filed. OPC's failure to be selective, efficient, and focused with its discovery to date does not constitute good cause for revising the discovery limits established in the OEP.

19. Accordingly, OPC has failed to meet its burden to demonstrate good cause why the discovery limits established in the OEP should be expanded and, therefore, OPC's Motion should be denied. To the extent OPC's Motion is granted, permission to serve additional interrogatories above the already robust number allowed by the OEP should be limited in number (*i.e.*, no more than 50) and, of course, limited to OPC.

¹⁰ Although discovery in Commission proceedings is broad, it is not without limits, and it certainly is not intended to be an unlimited fishing expedition. *See In re: Application of Du-Lay Utility Company, Inc. for authority to increase rates for water and sewer service in Duval County, Florida*, Order No. 16372, Docket No. 850100-WS (FPSC July 17, 1986).

WHEREFORE, FPL respectfully requests that the Prehearing Officer promptly deny OPC's Motion to Enlarge Discovery in this proceeding.

Respectfully submitted this 8th day of April 2025,

By: /s/ Christopher T. Wright

John T. Burnett
Vice President and General Counsel
Florida Bar No. 173304
john.t.burnett@fpl.com
Maria Jose Moncada
Assistant General Counsel
Florida Bar No. 0773301
maria.moncada@fpl.com
Christopher T. Wright
Managing Attorney
Fla. Auth. House Counsel No. 1007055
chrisopher.wright@fpl.com
William P. Cox
Senior Counsel
Fla. Bar No. 0093531
will.p.cox@fpl.com
Joel T. Baker
Senior Attorney
Fla. Bar No. 0108202
joel.baker@fpl.com
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420
Phone: 561-304-5253

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Electronic Mail to the following parties of record this 8th day of April 2025:

<p>Shaw Stiller Timothy Sparks Office of General Counsel Florida Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, Florida 32399-0850 sstiller@psc.state.fl.us tsparks@psc.state.fl.us discovery-gcl@psc.state.fl.us</p>	<p>Walt Trierweiler Mary A. Wessling Office of Public Counsel The Florida Legislature 111 W. Madison Street, Room 812 Tallahassee, Florida 32399 trierweiler.walt@leg.state.fl.us wessling.mary@leg.state.fl.us Office of Public Counsel</p>
<p>L. Newton/A. George/T. Jernigan/J. Ely/ M. Rivera/E. Payton 139 Barnes Drive, Suite 1 Tyndall AFB FL 32403 (850) 283-6347 Ashley.George.4@us.af.mil ebony.payton.ctr@us.af.mil Leslie.Newton.1@us.af.mil Michael.Rivera.51@us.af.mil thomas.jernigan.3@us.af.mil james.ely@us.af.mil Federal Executive Agencies</p>	<p>Bradley Marshall/Jordan Luebke 111 S. Martin Luther King Jr. Blvd. Tallahassee FL 32301 (850) 681-0031 (850) 681-0020 bmarshall@earthjustice.org jluebke@earthjustice.org flcaseupdates@earthjustice.org Florida Rising, Inc., Environmental Confederation of Southwest Florida, Inc., League of United Latin American Citizens of Florida</p>
<p>Danielle McManamon 4500 Biscayne Blvd. Suite 201 Miami, Florida 33137 (786) 224-7031 dmcmanamon@earthjustice.org flcaseupdates@earthjustice.org League of United Latin American Citizens of Florida</p>	<p>Jon C. Moyle, Jr./Karen A. Putnal c/o Moyle Law Firm 118 North Gadsden Street Tallahassee FL 32301 (850) 681-3828 (850) 681-8788 jmoyle@moylelaw.com mqualls@moylelaw.com kputnal@moylelaw.com Florida Industrial Power Users Group</p>
<p>William C. Garner 3425 Bannerman Road Tallahassee FL 32312 (850) 320-1701 (850) 792-6011 bgarner@wcglawoffice.com Southern Alliance for Clean Energy</p>	

/s/ Christopher T. Wright

Christopher T. Wright

Fla. Auth. House Counsel No. 1007055

Attorney for Florida Power & Light Company