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April 7, 2020

VIA ELECTRONIC FILING

Mr. Adam Teitzman
Division of the Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. 20200071-EI
Florida Power & Light Company's Response in Opposition to the Office of
Public Counsel's Motion to Modify the Discovery Deadlines or, In the
Alternative, to Extend the Due Dates for Testimony and Exhibits Established by
the Order No. PSC 2020-0073-PCO-EI

Dear Mr. Teitzman:

Enclosed for electronic filing in the above-referenced docket, please find Florida Power & Light Company's Response in Opposition to the Office of Public Counsel's ("OPC") Motion to Modify the Discovery Deadlines or, In the Alternative, to Extend the Due Dates for Testimony and Exhibits Established by the Order No. PSC 2020-0073-PCO-EI. Copies of this filing will be provided as indicated on the enclosed Certificate of Service.

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

Respectfully submitted,

s/Christopher Wright
Christopher T. Wright
Authorized House Counsel No. 1007055

Enclosure

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Review of 2020-2029 Storm Protection Plan
pursuant to Rule 25-6.030, F.A.C., Florida
Power & Light Company

Docket No. 20200071-EI

Filed: April 7, 2020

**FLORIDA POWER & LIGHT COMPANY’S RESPONSE IN OPPOSITION TO THE
OFFICE OF PUBLIC COUNSEL’S MOTION TO MODIFY DISCOVERY DEADLINES,
OR IN THE ALTERNATIVE EXTEND THE DUE DATES FOR TESTIMONY AND
EXHIBITS, ESTABLISHED BY ORDER NO. PSC 2020-0073-PCO-EI**

Florida Power & Light Company (“FPL”), by and through its undersigned counsel, pursuant to Rule 28-106.204(1), Florida Administrative Code (“F.A.C.”), hereby files this Response in Opposition to the Office of Public Counsel’s (“OPC”) Motion to Modify the Discovery Deadlines, or In the Alternative to Extend the Due Dates for Testimony and Exhibits Established by the Order No. PSC 2020-0073-PCO-EI (“OEP”). OPC’s request to shorten the discovery deadlines from twenty (20) days, as established by the OEP, to ten (10) days focuses solely on alleged impacts to OPC and fails to consider and reasonably balance the prejudicial impacts that OPC’s request would have on any other stakeholder. Moreover, OPC has failed to demonstrate good cause for its request to shorten the discovery deadlines as required by Rule 28-106.204(4), F.A.C. For these reasons, as further explained below, FPL objects to OPC’s request to modify the discovery deadlines established by the OEP. However, in a cooperative effort to accommodate certain concerns alleged in OPC’s Motion, and to reasonably balance and account for the impacts to all stakeholders, FPL has no objection to OPC’s alternative request to extend the due dates for testimony by ten (10) days provided that the due dates for Staff’s testimony and FPL’s rebuttal testimony are extended by an equal number of days. In support, FPL states as follows:

I. BACKGROUND

1. On June 27, 2019, the Governor of Florida signed CS/CS/CS/SB 796 addressing Storm Protection Plan Cost Recovery, which was codified in Section 366.96, Florida Statutes (“F.S”). Therein, the Florida Legislature directed each investor owned utility (“IOU”) to file a transmission and distribution storm protection plan (“SPP”) that covers the immediate 10-year planning period and explains the systematic approach the utility will follow to achieve the legislative objectives of reducing restoration costs and outage times associated with extreme weather events and enhancing reliability. Section 366.96(3), F.S.

2. The Florida Legislature directed the Commission to propose rules to implement and administer Section 366.96 as soon as practicable but no later than October 31, 2019. Consistent with this mandate, the Commission initiated a rulemaking and voted at its October 3, 2019 Agenda Conference to adopt proposed Rules 25-6.030 and 25-6.031, F.A.C. However, as a result of OPC’s challenges to the Commission’s proposed SPP Rules, including an appeal to and hearing before the Department of Administrative Hearings, which were denied, the SPP Rules did not become final and effective until February 18, 2020. As such, the Commission could not open the SPP dockets until after the February 18, 2020 effective date of the SPP Rules.

3. On February 26, 2020, Staff held an informal meeting with all stakeholders to discuss the schedule and filings deadlines for the IOUs’ SPP. During this meeting, the participating stakeholders reached a consensus on the initial filing date for the SPPs, and the individual dockets were opened on March 3, 2020.

4. Pursuant to Sections 366.96(5) and 366.96(6), F.S., the Commission is required to determine whether it is in the public interest to approve, approve with modification, or deny each IOU’s SPP no later than 180 days after the IOU files a SPP that contains all of the elements required by Commission’s SPP Rules.

5. On March 11, 2020, the Prehearing Officer issued the OEP that adopted a procedural schedule consistent with the SPP filing date agreed to by the stakeholders at Staff's February 26, 2020 Informal Meeting, as well as the statutory requirement for the Commission to rule on each SPP within 180 days from the filing date. The OEP established the following key dates:

IOU Petition, SPP, and Testimony	April 10, 2020
Intervenor Testimony	May 15, 2020
Staff Testimony	May 29, 2020
Rebuttal Testimony	June 15, 2020
Prehearing Statements	July 14, 2020
Discovery Deadline	July 21, 2020
Prehearing Conference	July 28, 2020
Hearing	August 10-13, 2020
Post Hearing Briefs	September 4, 2020

6. Additionally, the OEP modified the time to respond to discovery from the standard thirty (30) day response period provided in Fla.R.Civ.P. Rules 1.340 and 1.350 to twenty (20) days for discovery requests served prior to rebuttal testimony, and ten (10) days for discovery served after rebuttal testimony.

7. On April 6, 2020, OPC filed the pending motion requesting that the discovery deadlines be modified or, in the alternative, the testimony dates be extended.

8. FPL hereby submits this Response in Opposition to OPC's Motion and requests that OPC's proposal to modify the discovery deadlines be denied. However, for the reasons stated below, FPL has no objection to OPC's proposal to extend the testimony dates provided that the due dates for Staff testimony and rebuttal testimony are extended by the same period.

II. RESPONSE IN OPPOSITION

9. “Motions for extension of time shall be filed prior to the expiration of the deadline sought to be extended and shall state *good cause* for the request.” Rule 28-106.204(4), F.A.C., (emphasis added). FPL submits that OPC has failed to demonstrate good cause for its request to modify the discovery deadlines established in the OEP.

10. In support of its request to modify the discovery deadlines, OPC asserts in Paragraph 4 of its Motion that OPC served its first set of discovery on April 3, 2020, which under the 20-day response period would be due April 23, 2020, and that a second set of discovery to clarify and develop the IOU’s responses to the first set of discovery would not be due until after the May 15, 2020 date for Intervenor testimony. Without regard to the questionable legal status of discovery served prior to the filing of an initial petition and plan, the service of such “boiler plate” discovery by OPC, particularly under the current workplace challenges posed by the COVID-19 pandemic and under an OEP developed to meet the compressed statutory deadline for this proceeding, is not a model of efficiency in a proceeding that is compressed time wise by statute. OPC certainly could have waited for the SPP to be filed, reviewed the SPP, and submitted relevant and focused questions about the SPP that was actually filed. In any case, FPL submits that there is ample time for OPC to review the actual SPP when filed, submit relevant and focused discovery questions, receive responses within twenty (20) days pursuant to the discovery deadline established by the OEP, and prepare and file their testimony. Therefore, OPC’s request to modify the discovery deadlines is unnecessary.

11. OPC also asserts in Paragraph 8 that the requested modification of the discovery deadlines would provide extra time for OPC’s experts who are consultants for multiple matters in various jurisdictions. The IOUs and the Commission staff are similarly subject to numerous and varied work responsibilities in multiple dockets and, of course, it is the IOUs who carry the burden

of proof in this proceeding and need sufficient time to properly prepare accurate and thorough responses to discovery.

12. Finally, in Paragraph 9 of its Motion, OPC cites to the impact that the COVID-19 pandemic has had on its resources and the fact that OPC has been pre-occupied by making arrangements for teleworking under the COVID-19 crisis. OPC is not alone. FPL stipulates that the COVID-19 pandemic has imposed significant challenges on staff and all parties and had a very significant impact on all parties' resources and abilities to timely produce work product and comply with procedural deadlines. In light of these challenges, FPL believes that OPC's Motion fails to consider and reasonably balance the prejudicial impacts that OPC's request to shorten the discovery deadlines would have on FPL and other stakeholders equally impacted by COVID-19.

13. For the reasons stated above, FPL submits that OPC's request to modify the discovery deadlines adopted by the OEP are unnecessary and, moreover, fail to properly account for and balance the impacts that its request would have on all stakeholders. Therefore, FPL requests that OPC's request to modify the discovery deadlines be denied.

14. In a cooperative effort to accommodate the current unique and trying circumstances faced by all stakeholders, FPL states it has no objection to OPC's alternative request to extend the due dates for testimony by ten (10) days provided that the due dates for Staff's testimony and FPL's rebuttal testimony are extended by an equal number of days. FPL believes this alternative request to modify the due dates for testimony appropriately and reasonably balances and accounts for the impacts to all parties and Staff.

III. CONCLUSION

WHEREFORE, for all the reasons stated above, Florida Power & Light Company respectfully requests that the Office of Public Counsel's request to modify the discovery deadlines be denied, and that its alternative request to extend the due dates for testimony by ten (10) days should be granted, provided that the due dates for Staff's testimony and rebuttal testimony are extended by an equal number of days.

Respectfully submitted this 7th day of April, 2020,

John T. Burnett
Vice President and Deputy General Counsel
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By: s/Christopher T. Wright _____
Christopher T. Wright
Fla. Auth. House Counsel No. 1007055

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Florida Power & Light Company's Response in Opposition to the Office of Public Counsel's Motion to Modify the Discovery Deadlines, or In the Alternative to Extend the Due Dates for Testimony and Exhibits Established by Order No. PSC 2020-0073-PCO-EI has been furnished by Electronic Mail to the following parties of record this 7th day of April, 2020:

Charles Murphy, Esquire Rachael Dziechciarz, Esquire Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399 rdziehc@psc.state.fl.us cmurphy@psc.state.fl.us	Office of Public Counsel J.R.Kelly Charles J. Rehwinkel Patricia A. Christensen Thomas A. (Tad) David Stephanie A. Morse Mireille Fall-Fry c/o The Florida Legislature 111 West Madison Street, Room 812 Tallahassee, FL 32399-1400 kelly,jr@leg.state.fl.us rehwinkel.charles@leg.state.fl.us christensen.patty@leg.state.fl.us david.tad@leg.state.fl.us morse.stephanie@leg.state.fl.us fall-fry.mireille@leg.state.fl.us
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s/Christopher T. Wright

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