

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 20250011-EI

Filed: July 31, 2025

**FLORIDA POWER & LIGHT COMPANY'S
RESPONSE IN PARTIAL OPPOSITION TO THE OFFICE OF
PUBLIC COUNSEL'S MOTION AND NOTICE OF INTENT TO SEEK
OFFICIAL RECOGNITION AND REQUEST FOR ORAL ARGUMENT**

Florida Power & Light Company ("FPL") hereby responds in partial opposition to the Office of Public Counsel's ("OPC") Motion and Notice of Intent To Seek Official Recognition and in opposition to the Motion for Oral Argument. FPL objects to only two of items OPC asks this Commission to officially recognize. As explained below, OPC has failed to meet even the minimal requirements necessary to establish entitlement to official recognition of either not-yet-issued guidance from the United States Treasury and a letter from a group of Congressional representatives to the Secretary of Health and Human Services ("HHS"). OPC's Motions should be denied.

1. On July 24, 2025, OPC filed a Motion and Notice of Intent to Seek Official Recognition ("Motion") and Request for Oral Argument. OPC's Motion asks the Commission to officially recognize 14 distinct items, identified as Exhibit A through N. FPL is not taking a position with respect to 12 of the 14 items. This opposition is limited to Exhibits "G" and "N." FPL made efforts to resolve the dispute with respect to these two remaining exhibits but was not able to reach a resolution.

2. *Statutes and Rules Governing Official Recognition.* Pursuant to Section 120.569(2)(i), Florida Statutes, "[w]hen official recognition is requested, the parties shall be notified and given an opportunity to examine and contest the material." The corollary rule, 28-

106.213(6), F.A.C., provides that “[r]equests for official recognition shall be . . . considered in accordance with the provisions governing judicial notice in Sections 90.201-90.203, F.S.”

OPC’s Exhibit G – United States Treasury Guidelines Relating to the
“One Big, Beautiful Bill Act” (Expected to be issued on or about August 18, 2025)

3. OPC contends that U.S. Treasury Guidelines that are expected to be issued in the latter part of August should be officially recognized pursuant to Section 90.202(5), Florida Statutes. Section 90.202(5) allows for official recognition of “official actions of the legislative, executive, and judicial departments of the United States and of any state, territory, or jurisdiction of the United States.”

4. Guidance that, although expected, has not been issued is not an “action” and therefore does not satisfy Section 90.202(5). This request also fails to meet the meager requirement under Section 120.569(2)(i), Florida Statutes, because OPC has not – and cannot – provide FPL “an opportunity to examine and contest the material.”

5. FPL would have no objection to OPC seeking official recognition of relevant U.S. Treasury Guidelines that ultimately are issued during the pendency of this case, so long as FPL is provided its statutorily-mandated opportunity to examine the material. FPL has advised OPC of its position in this regard.

Exhibit M – Congressional letter to Secretary Robert F.
Kennedy, Jr., Secretary of Health and Human Services, dates April 4, 2025

6. OPC contends that the Congressional letter to HHS Secretary Kennedy should be officially recognized pursuant to Section 90.202(6), Florida Statutes. Section 90.202(6) allows for official recognition of “facts that are not subject to dispute and are capable of accurate and ready determination by resort to sources whose accuracy cannot be questioned.” The Congressional letter misses the mark.

7. OPC explains that the Congressional letter will provide context about the future of the Low-Income Home Energy Assistance Program (“LIHEAP”). The contents of a letter signed by members of Congress does not provide facts “not subject to dispute” in that regard. To the contrary, the letter reflects the opinionated view of certain members of Congress regarding the impacts of actions taken by their political opponent. Notably, the letter proposed by OPC is dated April 4, yet OPC provides no evidence to indicate that any of the impacts imagined by the authors of the letter have materialized since it was issued.

8. FPL does not object to officially recognizing the fact that certain members of Congress signed the letter; but it objects to recognizing the *contents* of the letter, let alone any implications about the future of LIHEAP funding for FPL customers. *See Difour v. State*, 69 So. 3d 235, 254 (Fla. 2011). FPL has advised OPC of its position in this regard.

9. The practice of taking official recognition of adjudicative facts “should be exercised with great caution because ‘the taking of evidence, subject to established safeguards, is the best way to resolve disputes concerning adjudicative facts.’” *DiGiovanni v. Deutsche Bank Nat’l Tr. Co.*, 226 So. 3d 984, 989 (Fla. 2d DCA 2017). The uncorroborated letter from Congress is the precisely the type of material that warrants great caution; and context regarding the future of the LIHEAP is precisely the type of adjudicative fact that is best established through evidence. Indeed, OPC’s motion expressly recognizes that “both FPL and OPC witnesses discuss [LIHEAP]” and notes the importance of the context surrounding the status and future of that Program. For that reason, it would be appropriate to elicit information regarding the status of that Program from the witnesses who address this subject matter.

10. *OPC Request for Oral Argument*. Granting or denying a request for oral argument is within the sole discretion of the Commission. Rule 25-22.0022(3), F.A.C. However, a request for oral argument is not guaranteed or automatically approved. FPL submits that OPC’s Motion

and FPL's Response to that Motion are sufficient on their face to evaluate and decide OPC's Motion without the need for further argument or explanation. The reasons are straight forward. FPL will be prepared in the event the Commission determines oral argument is warranted.

WHEREFORE, FPL respectfully requests that the Prehearing Officer deny in part OPC's Request for Official Recognition consistent with this Response, deny OPC's Motion for Oral Argument, and provide any other relief deemed necessary.

Respectfully submitted this 31st day of July 2025,

By: s/ Maria Jose Moncada
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 31st day of July 2025:

Shaw Stiller
Timothy Sparks
Florida Public Service Commission
Office of the General Counsel
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
sstiller@psc.state.fl.us
tsparks@psc.state.fl.us

Leslie R. Newton
Ashley N. George
Thomas Jernigan
Michael A. Rivera
James B. Ely
Ebony M. Payton
139 Barnes Drive, Suite 1
Tyndall AFB FL 32403
leslie.newton.1@us.af.mil
ashley.george.4@us.af.mil
thomas.jernigan.3@us.af.mil
michael.rivera.51@us.af.mil
james.ely@us.af.mil
ebony.payton.ctr@us.af.mil
Federal Executive Agencies

William C. Garner
3425 Bannerman Road
Tallahassee FL 32312
bgarner@wcglawoffice.com
Southern Alliance for Clean Energy

Jon C. Moyle, Jr.
Karen A. Putnal
c/o Moyle Law Firm
118 North Gadsden Street
Tallahassee FL 32301
jmoyle@moylelaw.com
mqalls@moylelaw.com
kputnal@moylelaw.com
Florida Industrial Power Users Group

Walt Trierweiler
Mary A. Wessling
Office of Public Counsel
c/o The Florida Legislature
111 W. Madison St., Rm 812
Tallahassee, Florida 32399-1400
trierweiler.walt@leg.state.fl.us
Wessling.Mary@leg.state.fl.us
**Attorneys for the Citizens
of the State of Florida**

Bradley Marshall
Jordan Luebke
111 S. Martin Luther King Jr. Blvd.
Tallahassee FL 32301
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**

Danielle McManamon
4500 Biscayne Blvd. Suite 201
Miami, Florida 33137
dmcmanamon@earthjustice.org
**League of United Latin American Citizens
of Florida**

D. Bruce May
Kevin W. Cox
Kathryn Isted
Holland & Knight LLP
315 South Calhoun St, Suite 600
Tallahassee, Florida 32301
bruce.may@hklaw.com
kevin.cox@hklaw.com
kathryn.isted@hklaw.com
Florida Energy for Innovation Association

Nikhil Vijaykar
Yonatan Moskowitz
Keyes & Fox LLP
580 California Street, 12th Floor
San Francisco, CA 94104
nvijaykar@keyesfox.com
ymoskowitz@keyesfox.com
EVgo Services, LLC

Katelyn Lee, Senior Associate
Lindsey Stegall, Senior Manager
1661 E. Franklin Ave.
El Segundo, CA 90245
Katelyn.Lee@evgo.com
Lindsey.Stegall@evgo.com
EVgo Services, LLC

Stephen Bright
Jigar J. Shah
1950 Opportunity Way, Suite 1500
Reston, Virginia 20190
steve.bright@electrifyamerica.com
jigar.shah@electrifyamerica.com
Electrify America, LLC

Robert E. Montejo
Duane Morris LLP
201 S. Biscayne Blvd., Suite 3400
Miami, Florida 33131-4325
REMontejo@duanemorris.com
Electrify America, LLC

Robert Scheffel Wright
John T. LaVia, III
Gardner, Bist, Bowden, Dee, LaVia, Wright,
Perry & Harper, P.A.
1300 Thomaswood Drive
Tallahassee, Florida 32308
schef@gbwlegal.com
jlavia@gbwlegal.com
Floridians Against Increased Rates, Inc.

Stephanie U. Eaton
Spilman Thomas & Battle, PLLC
110 Oakwood Drive, Suite 500
Winston-Salem, NC 27103
seaton@spilmanlaw.com
Walmart, Inc.

Steven W. Lee
Spilman Thomas & Battle, PLLC
1100 Bent Creek Boulevard, Suite 101
Mechanicsburg, PA 17050
slee@spilmanlaw.com
Walmart, Inc.

Jay Brew
Laura Wynn Baker
Joseph R. Briscar
Sarah B. Newman
1025 Thomas Jefferson Street NW
Suite 800 West
Washington, DC 20007
jbrew@smxblaw.com
lwb@smxblaw.com
jrb@smxblaw.com
sbn@smxblaw.com
Florida Retail Federation

Robert E. Montejo
Duane Morris, LLP
201 S. Biscayne Blvd., Suite 3400
Miami, FL 33131-4325
remontejo@duanemorris.com
Armstrong World Industries, Inc.

Alexander W. Judd
Duane Morris, LLP
100 Pearl Street, 13th Floor
Hartford, CT 06103
ajudd@duanemorris.com
Armstrong World Industries, Inc.

Brian A. Ardire
Armstrong World Industries, Inc.
2500 Columbia Avenue
Lancaster, PA 17603
baardire@armstrongceilings.com

Floyd R. Self
Ruth Vafek
Berger Singerman, LLP
313 North Monroe Street
Suite 301
Tallahassee, Florida 32301
fself@bergersingerman.com
rvafek@bergersingerman.com
**Americans for Affordable Clean Energy,
Inc., Circle K Stores, Inc., RaceTrac, Inc.
and Wawa, Inc.**

s/ Maria Jose Moncada

Maria Jose Moncada