

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for a Limited	)	
Proceeding to Approve Large Load	)	Docket No. 20260064-EI
Tariff, by Duke Energy Florida, LLC	)	Filed: June 2, 2026
	)	

**WHITE SPRINGS AGRICULTURAL CHEMICALS, INC.
D/B/A PCS PHOSPHATE – WHITE SPRINGS’ RESPONSE TO
OFFICE OF PUBLIC COUNSEL AND FLORIDA RISING, INC.’S
JOINT MOTION TO DISMISS**

White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs (“PCS Phosphate”), pursuant to Rule 28-106.204(1), Florida Administrative Code (“F.A.C.”), hereby respectfully responds in opposition to the Office of Public Counsel (“OPC”) and Florida Rising, Inc.’s (“Florida Rising”) (collectively, the “Joint Movants”) joint motion to dismiss (“Joint Motion”) the petition for a limited proceeding to approve a large load tariff filed by Duke Energy Florida, LLC (“DEF”). In brief, the Joint Motion is premature and does not provide a basis for dismissing the pending DEF petition. The legal sufficiency issues posed in the Joint Motion dispute assertions made by the utility in its filing, and, like all disputed matters in Public Service Commission (“Commission”) proceedings, should be addressed through the course of the proceeding.

STANDARD OF REVIEW

A motion to dismiss raises as a question of law the sufficiency of the facts alleged in a petition to state a cause of action.¹ The standard to be applied in disposing of a motion to dismiss is whether, with all factual allegations in the petition taken as true and construed in the light most favorable to the petitioner, the petition states a cause of action upon which relief may be granted.²

¹ See *Varnes v. Dawkins*, 624 So.2d 349, 350 (Fla. 1st DCA 1993).

² See *id.* at 350.

In determining the sufficiency of the petition, the Commission should confine itself to the petition and documents incorporated therein, and the grounds asserted in the motion to dismiss.³

FACTUAL BACKGROUND

On September 5, 2025, DEF filed a petition with the Commission in Docket No. 20250113-EI for approval of tariff changes designed to address the grid and rate implications posed by expected data center development in its service territory. DEF proposed to establish a Large Load Customer Rate Schedule (“LLC-1”), implement a Large Load Customer Policy (“LLCP”) that includes a requirement that customer loads covered by the LLCP execute long term contracts (“Large Load Customer Agreements”, or “LLCA”), proposed changes affecting implementation of the Contribution In Aid of Construction (“CIAC”) rules for affected loads, and other requested relief. After passage by the Florida Legislature of data center-focused legislation at the end of March 2026, Senate Bill 484 (which was subsequently signed into law on May 7, 2026),⁴ DEF filed a Motion for temporary abatement of the procedural schedule in that proceeding in order to assess the implications and requirements of the data center bill.⁵ Subsequently, on April 20, 2026, DEF withdrew its application in that proceeding and stated it would file a modified petition in a new docket.⁶

On April 22, 2026, in the instant proceeding, DEF filed a new petition for approval of an amended LLCP and other relief.⁷ DEF maintains in its modified petition that the revisions

³ See *Flye v. Jeffords*, 106 So.2d 229 (Fla. 1st DA 1958), *overruled on other grounds*, 153 So.2d 759, 765 (Fla. 1st DCA 1963), and Rule 1.130, Florida Rules of Civil Procedure.

⁴ Ch. 2026-65, § 8, Laws of Fla.

⁵ Docket No. 20250113, *In re: Petition for a limited proceeding to approve large load tariff, by Duke Energy Florida, LLC*, Duke Energy Florida, LLC’s Motion for Temporary Abatement of Procedural Schedule (Mar. 16, 2026).

⁶ Docket No. 20250113, *In re: Petition for a limited proceeding to approve large load tariff, by Duke Energy Florida, LLC*, Duke Energy Florida, LLC’s Status Report (Apr. 20, 2026).

⁷ See generally DN 02327-2026, *Petition for Limited Proceeding to Approve Large Load Tariff by Duke Energy Florida, LLC* (Apr. 22, 2026).

proposed are designed to comply in all respects with Senate Bill 484. Notably, in its modified proposal DEF no longer includes the previously proposed LLC-1 rate, but DEF would, upon Commission approval of its petition, still immediately apply its proposed LLCP to all large load customers with a Peak Contract Demand forecast reasonably expected to be greater than or equal to a Monthly Maximum Demand of 50,000 kW of firm load, and those customers will be required to execute an LLCA.⁸ DEF also continues to propose changes to the CIAC tariff for affected large loads.⁹

By Order dated February 12, 2026, the Pre-Hearing Examiner granted PCS Phosphate's petition to intervene in Docket Number, 20250113-EI.¹⁰ PCS Phosphate submitted a petition to intervene in the instant docket on April 30, 2026.¹¹

The Joint Motion asserts that the modified DEF proposal is not fully compliant with the requirements of Senate Bill 484 as the sole basis for dismissing the DEF petition. Specifically, the Joint Motion seeks to dismiss DEF's pending large load petition on three grounds. First, it alleges that DEF's petition does not propose to establish a large load tariff with specified numeric rates, which it maintains is required by Senate Bill 484.¹² Relatedly, it asserts that DEF's proposal that qualifying new large load customers take service under the existing GSD-1 or GSDT-1 rates (with an LLCA contract) until new rates are proposed in DEF's next rate case fails to comply with Senate Bill 484.¹³ Finally, it contends that DEF's proposed tariff fails to meet the requirements of Senate

⁸ *Id.* at 4-5.

⁹ *Id.* at 5.

¹⁰ Docket No. 20250113, *Petition for a limited proceeding to approve large load tariff, by Duke Energy Florida, LLC*, Order No. PSC-2026-0043-PCO-EI (Feb. 12, 2026).

¹¹ See DN 02516-2026, *Petition to Intervene of White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs* (Apr. 30, 2026).

¹² DN 03128-2026, *Citizens' and Florida Rising, Inc.'s Joint Motion to Dismiss* at 2-3 (May 27, 2026).

¹³ *Id.* at 3-4.

Bill 484 by applying the proposed LLCP and LLCA to customers with 50 MW or more of firm load only.¹⁴

ARGUMENT

The Joint Motion in this case is premature and should be denied without prejudice to the parties subsequently presenting their legal as well as factual claims in this docket. Issues of law as well as disputes as to material facts are routinely identified during the normal course of Commission proceedings and should be addressed as appropriate in testimony or post-hearing briefing.

DEF maintains in its petition that its data center-directed proposal is expressly designed to be compliant with the newly enacted Senate Bill 484 in all pertinent respects.¹⁵ The Joint Movants disagree based on the points summarily presented in the Joint Motion. The standard of review for a motion to dismiss is whether, taking all of DEF's allegations to be true, there is no set of facts or law that would support DEF's claim.¹⁶ Notably, the relief requested in the Joint Motion is that the Commission dismiss the DEF petition and instruct DEF to re-file its large load proposal based on the Joint Movants' interpretation of the new law's requirements. In short, rather than take as true the allegations in the pending petition, the Joint Movants assert that the Commission should substitute and adopt their suggested findings of law and fact. That is inconsistent with the applicable standard, and the Joint Motion should be denied.

The Joint Movants will not lose the opportunity to address these issues in the proceeding should the Joint Motion be denied. Indeed, they can raise and address these issues for the Commission to consider in testimony and briefing.

¹⁴ *Id.* at 4-5.

¹⁵ DN 02327-2026, *supra* n.7 at 4.

¹⁶ *Meyers v. City of Jacksonville*, 754 So. 2d 198, 202 (Fla. 1st DCA 2000).

Whether a utility's petition meets the requirements of a statute is an issue of fact and law to be adduced at hearing. For example, in the Commission's most recent proceeding reviewing DEF's numeric conservation goals, Docket No. 20240013-EG, the first six issues asked whether DEF, in its petition, met certain requirements of the Florida Energy Efficiency Conservation Act.¹⁷ Other issues in that docket similarly asked whether DEF's petition met the requirements of the Commission's rules.¹⁸ In this proceeding, PCS Phosphate's Petition to Intervene has already raised another issue of law and fact (i.e., whether the proposed LLCA and LLCP and their associated terms and conditions are consistent with provisions of the 2024 Settlement Agreement approved in Order No. PSC-2024-0272-AS-EI).¹⁹ PCS Phosphate anticipates addressing this and other potential issues as they may arise during the course of this proceeding. The Joints Movants are certainly entitled to raise their legal and factual concerns with respect to compliance with Senate Bill 484 during the course of the proceeding. They simply have not established a basis for summary Commission disposition of the pending petition.

CONCLUSION

Wherefore, for the reasons stated above, White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs respectfully requests that the Commission enter an order denying the Office of Public Counsel and Florida Rising, Inc.'s Joint Motion to Dismiss in this proceeding.

¹⁷ See Section 366.82, Florida Statutes, and Docket No. 20240013, *In re: Commission review of numeric conservation goals (Duke Energy Florida, LLC)*, et al., Prehearing Order, Order No. PSC-2024-0293-PHO-EG at 21-32 (issued Aug. 2, 2024).

¹⁸ See Section 25-17.0021(3), F.A.C. (requiring each utility's goals must consider, among other things, free riders), and Order No. PSC-2024-0293-PHO-EG at 32-35 (Issue 7: Do the utility's proposed goals appropriately reflect consideration of free riders?).

¹⁹ DN 02516-2026, *supra* n.11 at 4.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been furnished by electronic mail and/or U.S. Mail this 2nd day of June 2026 to the following:

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