

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for a limited proceeding to
approve large load tariff, by Duke Energy
Florida, LLC.

DOCKET NO.: 20260064-EI

FILED: July 6, 2026

**CITIZENS' RESPONSE TO DUKE ENERGY FLORIDA, LLC'S MOTION TO STRIKE
FLORIDA RISING, INC. AS AN INTERVENING PARTY**

The Citizens of the State of Florida ("OPC"), by and through Walt Trierweiler, Public Counsel, respond to Duke Energy Florida, LLC's ("DEF") Motion to Strike Florida Rising, Inc. ("FL Rising") as an Intervening Party ("motion") and state as follows:

1. DEF's Motion claims that the estimated membership numbers provided by FL Rising "cannot equate to competent and substantial evidence" (Motion at 5-6) and that FL Rising's non-estimate membership numbers do not meet the "substantial number" prong of the *Fla. Home Builders Asso v. Dep't of Labor & Emp't Sec.*, 412 So. 2d 351 (Fla. 1982) standing test. Motion at 7.

2. Section 120.569(2)(g), Florida Statutes, states that "[i]rrelevant, immaterial, or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible whether or not such evidence would be admissible in a trial in the courts of Florida."

3. While it is true that FL Rising's statewide number of DEF customers is an estimate, rather than a specific numerical accounting, the Pinellas County numbers are definite. However, it is not clear, based on DEF's Motion, that FL Rising's estimate is not a method of a type commonly relied upon by a reasonably prudent person. Rather than a relevancy issue, DEF's Motion appears to attack the sufficiency of FL Rising's estimation method. If more clarity on the method used to derive FL Rising's numbers is required, then the Commission should order the parties to continue

conducting discovery prior to consideration of a motion to strike, which is the most drastic remedy available.

4. Likewise, DEF's assertion that FL Rising's non-estimate membership numbers are insubstantial is also an attack on the sufficiency of these numbers.

5. To the extent that DEF's motion is essentially a Motion for Summary Judgment on the issue of FL Rising's standing, the Commission has previously found that "it is premature to decide whether a genuine issue of material fact exists when [a party] has not had the opportunity to complete discovery and file testimony."¹

6. Finally, the requirement of pre-filed written testimony allows parties to review and conduct discovery related to each party's direct case to promote a more efficient and focused hearing.² At this time, FL Rising has not offered its pre-filed testimony into evidence. Discovery in this matter concludes on August 10, 2026, yet DEF chose to file a motion to strike rather than issue discovery to clarify the matter.

7. Based on the foregoing, DEF's Motion should be denied for being premature. The discovery period has not expired yet, and DEF can renew its objections to FL Rising's standing at the time FL Rising offers its testimony at hearing.

¹ Order No. PSC-01-1554-FOF-WU, issued July 27, 2001, in Docket No. 991437-WU, *In re: Application for increase in water rates in Orange County by Wedgefield Utilities, Inc.*, p. 2, citing *Brandauer v. Publix Super Markets, Inc.*, 657 So. 2d 932, 933-34 (Fla. 2d DCA 1995)

² Order No. PSC-2002-1282-PCO-EI, issued September 19, 2002, in Docket No. 2002-0262-EI, *In re: Petition for a limited proceeding to approve large load tariff, by Duke Energy Florida, LLC.*

WHEREFORE, DEF's motion should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE
DOCKET NO. 20260064-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail on this 6th day of July, 2026, to the following:

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