

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20260064-EI

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

_____ /

PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 10

COMMISSIONERS
PARTICIPATING: CHAIRMAN GABRIELLA PASSIDOMO SMITH
COMMISSIONER GARY F. CLARK
COMMISSIONER MIKE LA ROSA
COMMISSIONER BOBBY PAYNE
COMMISSIONER ANA ORTEGA

DATE: Tuesday, July 7, 2026

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: DEBRA R. KRICK
Court Reporter and Notary
Public in and for the State
of Florida at Large

PREMIER REPORTING
TALLAHASSEE, FLORIDA
(850) 894-0828

1 P R O C E E D I N G S

2 CHAIRMAN SMITH: Okay. Final item, moving to
3 No. 10.

4 Mr. Thompson, you are recognized whenever you
5 are ready.

6 MR. THOMPSON: Thank you, Madam Chair.

7 Good morning, Commissioners. Major Thompson
8 on behalf of the Office of General Counsel.

9 Item No. 10 is staff's recommendation on a
10 joint motion to dismiss filed by the Office of
11 Public Counsel and Florida Rising regarding Duke
12 Energy's petition for a limited proceeding to
13 approve a large load tariff.

14 Staff recommends that the Commission deny the
15 joint motion to dismiss because there are material
16 questions of fact to be resolved at an evidentiary
17 hearing.

18 No request for oral argument was made by the
19 parties, but representatives from Florida Rising,
20 OPC and Duke are present if you wish to ask them
21 any questions.

22 As always, staff is available for us questions
23 as well.

24 CHAIRMAN SMITH: Thank you.

25 Well, first off, yeah, as Mr. Thompson said, I

1 am comfortable with -- nobody asked for oral
2 argument, so I am comfortable, you know, not having
3 it, but I don't know if any of you Commissioners,
4 obviously, if you want to hear argument, I am open
5 to it. None? Okay. So --

6 COMMISSIONER LA ROSA: I do have a question.

7 CHAIRMAN SMITH: Oh, yeah. No. But now we
8 will move -- yeah, on the merits, yeah.

9 Commissioner La Rosa, you are recognized.

10 COMMISSIONER LA ROSA: Excellent.

11 I have got questions of Duke. Sorry to --

12 CHAIRMAN SMITH: Mr. Bernier.

13 MR. BERNIER: Good afternoon, Commissioners,
14 Matt Bernier for Duke Energy.

15 COMMISSIONER LA ROSA: Awesome. Well, thank
16 you for coming in.

17 So I guess I am concerned on a few things. I
18 see this one way as pretty straightforward of what
19 you are asking and how the statute currently lays
20 out. If you could help me understand how the GSD-1
21 and the GSDT-1 structure complies with the new
22 statute, SB 484 -- that was created by SB 484.

23 MR. BERNIER: Yes. Thank you. Commissioner.

24 I think that that question really goes to the
25 heart of what staff's recommendation was when it

1 came to this motion, which is that's going to be a
2 matter for fact witnesses to discuss at a hearing.
3 We have witnesses who have filed testimony on that
4 topic, and they will be here for questions.

5 I can tell you what my understanding of it is,
6 but, you know, as we often have witnesses say, I am
7 not a lawyer, I am not a rates designer. But the
8 understanding that I have is that the rates have
9 been frozen in place of per the terms of our 2024
10 Settlement Agreement. So no cost sharing, cost
11 shifting can occur while those rates are not being
12 changed. They will then be reset the next time we
13 file for a rate proceeding, when we will file an
14 actual rate schedule that will be specific for
15 large load tariff customers. And that is how the
16 current customers will be held harmless during the
17 terms of the settlement agreement.

18 COMMISSIONER LA ROSA: Okay. So there is no
19 guarantee, though, of that rate case to create that
20 tariff between now and according to the statute is
21 calling out, by October 1st.

22 MR. BERNIER: We have committed as part of the
23 filing and as part of what you will see in rebuttal
24 testimony tomorrow afternoon that we will file a
25 new proposed rate at the term -- at the end of the

1 settlement agreement. So even if there wasn't a
2 rate case that was filed, we could still file a new
3 rate schedule now that once our rates are no longer
4 frozen per the settlement agreement.

5 And we would ask as part of that testimony --
6 to give a little preview, I guess -- that you make
7 it part of your order that we make a filing of
8 large load specific rate schedule by June 1, 2028,
9 which I think is the term, unless my dates are off.

10 COMMISSIONER LA ROSA: Okay. I won't to dig
11 further, because I can certainly keep on going. I
12 am okay on questions. I will state my point when
13 we deliberate. Thank you.

14 CHAIRMAN SMITH: Commissioner Clark.

15 COMMISSIONER CLARK: I guess I will tag along
16 to that.

17 Mr. Bernier, I have the same concern that
18 Commissioner La Rosa does, I do have some genuine
19 concerns, and I am just going to take it here. You
20 are committing to us that your CIAC formula, should
21 you have a load appear that is of the threshold
22 that would trigger this particular rate, that your
23 CIAC formula is going to be such that there are no
24 costs that are passed on to the general body of
25 ratepayers.

1 How do you ensure that that generation cost,
2 that incremental generation cost doesn't get caught
3 up in there should that customer not exist anymore?
4 Do you have provisions and plans in place that will
5 prevent that from happening as well? Do we have
6 your assurance on that?

7 MR. BERNIER: Yes, sir, that is the goal of
8 and the intent behind the LLCA and LLCP that have
9 been put before you as part of this docket, and our
10 witnesses, Mr. Borsch and Mr. Chatelain will be
11 able to explain in greater detail than I would, and
12 far more accuracy how we are going to ensure that.
13 But that is why this motion is premature and why
14 this hearing should go forward to allow this to be
15 fleshed out.

16 COMMISSIONER CLARK: And I agree 100 percent.
17 I think this deserves a hearing. That's exactly
18 what the purpose is, and I am certainly in support
19 of denying the motion based on the fact that it
20 needs to come to a hearing where we can figure this
21 out.

22 CHAIRMAN SMITH: Thank you.

23 COMMISSIONER CLARK: Thank you.

24 CHAIRMAN SMITH: I am going to -- I agree too.
25 I think staff got it right here, that there are

1 just questions of fact and law that deserve to be
2 fleshed out through the hearing process, and that's
3 what it's therefore, like you said, so we can hear
4 from your witnesses and make that deliberation at
5 the time, so --

6 MR. BERNIER: Who I will also commit will give
7 much better answers than I just did.

8 CHAIRMAN SMITH: Understood.

9 Okay. So is there any -- do we have any other
10 questions or comments?

11 COMMISSIONER LA ROSA: I'm going to make just
12 a quick comment.

13 CHAIRMAN SMITH: Yeah. Sure.

14 COMMISSIONER LA ROSA: And I am going to,
15 assuming if there is any, feel free to power on. I
16 think I might be on an island on this one.

17 I -- this is not an easy answer, for me at
18 least. I understand where the company is coming
19 from. I understand of the reason why this should
20 go to hearing. But I believe the way statute is
21 drafted, it's -- I believe it's pretty clear. And,
22 of course, I am not an attorney, but that's not a
23 secret to anybody.

24 I believe the Legislature gives us some areas
25 to make policy, and I also think that there is

1 sometimes where they are spot on in the sense of
2 the direction that they want to go, and I think
3 that was laid out in this statute.

4 When I kind of go through statute and I look
5 at areas of concern where I don't believe that the
6 qualifications are there, I don't believe that the
7 50-megawatt threshold was established. I don't
8 believe that incremental costs were recognized
9 appropriately. And I don't believe that the
10 customer protection, the overall customer
11 protections are there the way the Legislature
12 drafted it and the way current statute reads. So I
13 would not be in favor of dismissing what's before
14 us today.

15 So that's where I am. That's the reason I
16 stand where I stand, but it sounds like there is
17 certainly other concerns.

18 CHAIRMAN SMITH: Commissioner Ortega.

19 COMMISSIONER ORTEGA: Thank you, Chair.

20 Similarly, I have been thinking a lot about
21 this, and trying to figure out at what place in the
22 process we are, and recognizing rebuttal is going
23 to be filed tomorrow. Thanks for the preview. But
24 these are some of the questions you see that we are
25 struggling with, and I am sure that they are going

1 to be addressed. But my question I guess would be
2 to staff here at this point.

3 So we have had this docket for a while. It's
4 gone through ebbs and flows, and my question is:
5 If we -- Commissioner La Rosa wasn't on an island
6 and we dismissed the petition as it stands, what
7 would be the next step?

8 MR. THOMPSON: Thank you, Commissioner.

9 That would partially be up to Duke. There
10 would be the option for them to engage in an
11 interlocutory appeal, and then that would go
12 through the -- I believe it would be the Supreme
13 Court. That would be a discretionary appeal for
14 them.

15 Alternatively, the case, as we see it, would
16 be ended with the petition, and, again, it would be
17 up to Duke whether or not to file either an appeal
18 or to initiate a new docket that would comply with
19 SB 484.

20 COMMISSIONER ORTEGA: And just to follow up,
21 complying with SB 484, can you remind me what the
22 timeline for a filing is for the -- for us to
23 approve a tariff?

24 MR. THOMPSON: There is no timeline in the
25 statute for the Commission to approve a tariff.

1 The only timeline that is established by SB 484 is
2 that by October 1st, the utility must make a filing
3 that purports to comply with the statute.

4 COMMISSIONER ORTEGA: If I may, so turning to
5 Duke. It seems like you believe what you filed was
6 in compliance. Is there something else that you
7 would file if we were to dismiss at this point?

8 MR. BERNIER: Yes, ma'am. We are definitely
9 of the opinion that our filing complies with the
10 statute, and if the petition was dismissed at this
11 point, I would have to go back to my client and
12 ask. I haven't been given direction on that, so --

13 COMMISSIONER ORTEGA: Well, I am struggling a
14 little bit, because I can see, Commissioner La
15 Rosa, your point about the specific terms that you
16 pointed out, but to me, I guess what I am trying to
17 figure out is that's what I would want to develop
18 during the hearing process. But also, I don't want
19 to be disrespectful to the Legislature that said,
20 hey, this is what we expect to see. So I am a
21 little bit struggling, as I expect you are as well,
22 on this.

23 CHAIRMAN SMITH: I mean, I just -- we are not,
24 obviously, prejudging anything in by either, you
25 know, if we were to either dismiss this -- the

1 motion -- grant the motion to dismiss or deny the
2 motion to dismiss, that's not -- that doesn't have
3 anything to do with the merits of the case. That's
4 really just the four corners of the pleadings we
5 have in front of us here.

6 Is there -- from my perspective as an
7 attorney, is there a question of fact or law when
8 the Legislature does -- when I read a law you like
9 this -- and you are right totally, Commissioner La
10 Rosa, there as lot of very specific guidance here
11 that was deliberated very thoughtfully through each
12 of the committees that it went through during
13 session and, obviously, that's going to be really
14 compelling for us. But there are just undefined
15 terms that I think that they left for us to
16 develop. I think it would be even beneficial for
17 the law itself for us to go through a hearing of it
18 and actually decide what some of those things are
19 and maybe set a resident there.

20 So that's where I am coming from of, I want
21 to -- I just think -- I just want -- this has
22 nothing to do with the actual merits of the case.
23 This is just whether we should flesh it out through
24 a hearing or not. That's my perspective, but I
25 fully respect where you are coming from,

1 Commissioner La Rosa, especially as a former
2 legislator.

3 COMMISSIONER CLARK: And I just wanted to ask
4 that question. It seemed like I want to make sure
5 I understand. We are talking about going through
6 an evidentiary hearing in order to determine if
7 what you have filed, in our opinion, is in
8 compliance. That's where we are -- that's what
9 where we are going to get to. And by dismissing
10 this motion, that says we want to hear. We want to
11 figure this out.

12 And I am not saying by any stretch of the
13 imagination I think in you are compliance. I think
14 you are on real shaky ground if you ask me, but you
15 are going to get the opportunity to prove that.

16 MR. BERNIER: And for what it's worth,
17 Commissioner, I hear what you are saying very much,
18 and I would say that, you know, this statute has
19 been in effect now for six days. It has never been
20 interpreted by any agency, let alone you all. So
21 after going through the hearing process, if you are
22 able to give direction on what you interpret it to
23 mean versus what others do, that's, you know, kind
24 of what we need.

25 CHAIRMAN SMITH: Commissioner La Rosa.

1 COMMISSIONER LA ROSA: Yeah, I guess my final
2 layer of defense in addition to what I have already
3 said is that I think there is reliance on the
4 settlement, that somehow that's a level of
5 protection to customers, and I just don't believe
6 that it is.

7 CHAIRMAN SMITH: Do we have any other
8 comments?

9 I will probably -- I will take a motion.

10 COMMISSIONER CLARK: Move to deny the
11 petition, Madam Chairman.

12 CHAIRMAN SMITH: Is there a second? This will
13 be to approve the staff recommendation to deny the
14 motion to dismiss. Can I second it? Yeah, I
15 second it.

16 All right. So all those --

17 (Chorus of ayes.)

18 CHAIRMAN SMITH: Okay, and then opposed?

19 COMMISSIONER LA ROSA: No.

20 CHAIRMAN SMITH: I am sorry. I don't know
21 what the two on the ends votes are.

22 COMMISSIONER ORTEGA: I am sorry.

23 CHAIRMAN SMITH: Yea, so -- okay, I am going
24 to start this again. Okay.

25 Is there a motion?

1 COMMISSIONER CLARK: Yes, move that the
2 petition be denied, Madam Chairman.

3 CHAIRMAN SMITH: Second.

4 COMMISSIONER ORTEGA: Aye.

5 COMMISSIONER PAYNE: Aye.

6 CHAIRMAN SMITH: Aye, okay.

7 Now opposed?

8 COMMISSIONER LA ROSA: Nay.

9 CHAIRMAN SMITH: Okay. Thank you. I'm sorry.

10 COMMISSIONER LA ROSA: All good.

11 MS. HARPER: Just to clarify, the motion was
12 to approve staff's recommendation?

13 CHAIRMAN SMITH: The motion was to approve
14 staff's recommendation and to deny the motion to
15 dismiss.

16 MS. HARPER: Thank you.

17 CHAIRMAN SMITH: Sometimes it's the double
18 negatives I think that get confused.

19 MS. HARPER: Yeah. Thank you.

20 CHAIRMAN SMITH: Okay. Thank you very much.

21 Any other business before us? I apologize for
22 the confusion.

23 All right. So we are adjourned.

24 (Agenda item concluded.)

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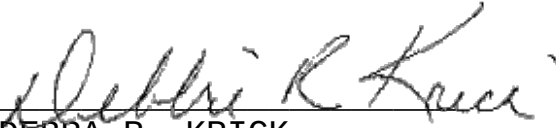
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COUNTY OF LEON)

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DATED this 20th day of July, 2026.


DEBRA R. KRICK
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