FILED 7/23/2026
DOCUMENT NO. 04582-2026
FPSC - COMMISSION CLERK

State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: July 23, 2026

TO: Office of Commission Clerk (Teitzman)

FROM: Office of the General Counsel (Newman, Crawford) JSC
Division of Economics (Draper) EJD
Office of Consumer Assistance (Plescow) JP

RE: Docket No. 20260078-EI – Complaint by Karen Kostantis against Duke Energy Florida, LLC.

AGENDA: 08/04/26 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: ~~Administrative~~ Payne AT 7/13/26

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On December 15, 2025, Ms. Karen Kostantis (Ms. Kostantis) filed Informal Complaint No. 1491428E with the Commission under Rule 25-22.032, Florida Administrative Code (F.A.C.), against Duke Energy Florida, LLC (DEF). Ms. Kostantis alleged that DEF installed an AMI meter without authorization, improperly billed for an opt-out, non-AMI meter, and misclassified her service as RS-1 (residential).

In or about March 2022, Ms. Rita DeCola (Ms. DeCola), mother of Ms. Kostantis, obtained a non-AMI meter for 4425 Rutledge Drive, Palm Harbor, Florida. An Advanced Metering Infrastructure (AMI) meter, also known as a "smart" meter, transmits meter specific information electronically to DEF. A non-AMI meter does not transmit information electronically and requires a technician to visit the site monthly to read the meter and to connect or disconnect electrical service. DEF's standard meter is an AMI meter. However, DEF Tariff Sheet 6.400 gives customers the ability to opt-out from using the standard AMI meter and instead use a non-AMI meter. To opt-out under Tariff Sheet 6.400, a customer must pay an initial set-up fee and an additional monthly fee to cover the monthly site visits.[1] The customer must also allow physical access to the meter so that it can be read monthly by DEF personnel.

On October 29, 2025, Ms. Karen Kostantis (Ms. Kostantis) filed Informal Complaint No. 1488824E alleging improper billing and payment handling against Duke Energy Florida, LLC (DEF). The dispute began after the death of Ms. DeCola on July 25, 2025. Ms. DeCola was the prior account holder at 4425 Rutledge Drive and the dispute was about whether DEF properly credited payments to that account. That informal complaint was closed on December 29th, 2025, finding no violations by DEF.

Over the course of that dispute, DEF sought to close the original account held by Ms. DeCola, because company policy does not permit accounts to remain open in a deceased person's name. After receiving Ms. Kostantis's request for electric service on October 30, 2025, DEF set up account number XXXXXXXX5339 (Account 5339). However, DEF was unable to verify the identification number Ms. Kostantis provided, so the account was placed on hold. DEF nevertheless initiated electrical service due to a technical issue in its system.

Throughout November 2025, DEF attempted to obtain a valid form of identification. On or about December 2, 2025, Ms. Kostantis provided a valid passport to DEF. DEF closed Account 5339 and opened account number XXXXXXXX2470 (Account 2470) with the rate classification for residential service (RS-1).

On November 19, 2025, DEF technicians removed the non-AMI meter at 4425 Rutledge Drive and installed the standard AMI meter. DEF removed the non-AMI meter because no customer was paying the required monthly fee. Ms. Kostantis did not request an opt-out under Tariff Sheet 6.400 in any communication with DEF before this point.

On December 15, 2025, Ms. Kostantis discovered that the AMI meter was installed and filed Informal Complaint No. 1491428E. Ms. Kostantis alleged that DEF installed the AMI meter without authorization, improperly billed for an opt-out, non-AMI meter, and misclassified her service as RS-1. Commission staff reviewed the complaint and found no violations by DEF. Ms. Kostantis was unsatisfied and the matter was referred to the Commission's Process Review Team (PRT) for review.

On February 6, 2026, while the complaint was under review, Ms. Kostantis attempted to pay the initial set-up fee to obtain a non-AMI meter, characterizing her payment as "under protest."[2] However, the initial set-up fee was sent to the inactive Account 5339, and not the active Account 2470. After DEF discovered the payment, it mailed a refund check to Ms. Kostantis on February

[1] Tariff Sheet 6.400 provides that "[c]ustomers wishing to take service under this Rider and relocating to a premise where an existing approved non-communicating meter is already in place, will not be required to pay the Initial Set-Up Fee. Customers who cancel service under this Rider and then later re-enroll for this service at any location would be required to submit another Initial Set-Up Fee."

[2] Throughout these disputes, DEF has disconnected Ms. Kostantis's electrical service multiple times for nonpayment, and Ms. Kostantis has sent many payments "under protest."

27, 2026, and informed her that any payment for the opt-out must be sent to the active Account 2470 and that DEF could not transfer the funds directly between the accounts because the two accounts were not associated. Ms. Kostantis has stated that she has not received the check, and DEF has stated that the check has been neither returned nor cashed.

On March 24, 2026, Commission staff advised Ms. Kostantis that her informal complaint had been reviewed by the PRT, and it did not appear that DEF had violated any Commission statutes, rules, orders, or its tariff in its handling of the matter.

On May 8, 2026, Ms. Kostantis filed a formal complaint against DEF under Rule 25-22.036(3)(b), F.A.C., alleging the same material facts contained in her informal complaint. The formal complaint asserts that DEF installed the Smart/AMI meter improperly and without authorization, improperly billed for the AMI Opt-Out meter, and misclassified her service as RS-1.

On May 21, 2026, DEF filed a Motion to Dismiss the Complaint. DEF asserts that the complaint does not comply with Rule 25-22.036, F.A.C., because the complaint fails to contain any rules violated or actions taken by DEF that constitute a violation of any applicable statute, rule, Commission order, or the company tariff.

This recommendation addresses whether DEF's Motion to Dismiss the Complaint should be granted and the appropriate disposition of Ms. Kostantis's complaint against DEF. The Commission has jurisdiction over this matter pursuant to Section 366.04, Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should the Commission grant DEF's Motion to Dismiss?

Recommendation: No, the Commission should deny DEF's Motion. (Newman, Crawford)

Staff Analysis:

Legal Standard

To sustain a motion to dismiss, the moving party must show that, accepting all allegations as true, the petition fails to state a cause of action for which relief may be granted. *Varnes v. Dawkins*, 624 So. 2d 349, 350 (Fla. 1st DCA 1993). The moving party must specify the grounds for the motion to dismiss, and all material allegations must be construed against the moving party in determining if the petitioner has stated the necessary allegations. A determination of the petition's sufficiency is confined to the petition and the documents incorporated therein and the grounds asserted in the motion to dismiss. *Id*. All allegations in the petition must be viewed as true and in the light most favorable to the petitioner to determine whether there is a cause of action upon which relief may be granted. *Id*.

Rule 25-22.036, F.A.C., prescribes the elements that must be contained in a formal complaint:

1. The rule, order, or statute that has been violated;
2. The actions that constitute the violation;
3. The name and address of the person against whom the complaint is lodged; and
4. The specific relief requested, including any penalty sought.

Formal Complaint

Ms. Kostantis's formal complaint states that DEF violated Tariff Sheet 6.400 in its handling of the non-AMI meter removal and the billing to obtain an opt-out. The formal complaint further alleges that DEF misclassified her service as RS-1.

DEF's Motion to Dismiss

DEF's Motion to Dismiss states that the complaint "fails to identify the rule, order, or statute that DEF allegedly violated, nor does she describe any actions taken on behalf of DEF that constitute a violation of any rules, statutes, company tariff, or Commission Orders."

Analysis

The Commission has previously held pro se litigants such as Ms. Kostantis to a relaxed pleading standard, in order to prevent delay and promote resolution of litigants' claims. Staff believes the petition states a cause of action related to DEF's operation and billing practices under Tariff Sheet 6.400 and the classification of service, which are under Commission jurisdiction as provided under Section 366.04, F.S. Staff believes that a complaint in strict compliance with the rule is not necessary for the Commission to make a decision at this time. Staff believes that the factual allegations contained in Ms. Kostantis's complaint and the extensive documentation in this docket are sufficiently clear to show which of DEF's actions Ms. Kostantis believes violated Commission rules. The complaint shows that DEF's actions related to the AMI meter and its classification and billing practices are the actions to which Ms. Kostantis objects.

Staff believes that these allegations sufficiently identify the rule and actions at issue and that the facts and documentation in the docket sufficiently state a cause of action for the Commission to make a determination on the formal complaint, as discussed in Issue 2. Further, staff does not believe it would be an efficient use of the parties' resources to require Ms. Kostantis to amend her complaint merely to comply with the technical pleading rules. Therefore, staff recommends that DEF's Motion to Dismiss should be denied.

Issue 2: What is the appropriate disposition of Petitioner's complaint?

Recommendation: Staff recommends that Ms. Kostantis's formal complaint should be denied. It does not appear that DEF violated its Commission-approved tariff or any statutes, rules, or orders of the Commission. (Newman, Crawford)

Staff Analysis: Pursuant to Rule 25-22.036(2), F.A.C., a complaint is appropriate when a person complains of an act or omission by a person subject to Commission jurisdiction that affects the complainant's substantial interests and that is in violation of a statute enforced by the Commission, or of any Commission rule or order. As discussed below, Ms. Kostantis's petition fails to show that DEF violated any rules, statutes, orders, or its tariff in its dealings with the AMI meter, its billing practices, or its classification of service.

Formal Complaint

Ms. Kostantis's formal complaint states that DEF violated Tariff Sheet 6.400 by removing the previous non-AMI meter and installing a standard AMI meter without authorization. The complaint further states that DEF improperly classified her electric account at RS-1. The complaint alleges that DEF installed the AMI meter without consent, that the AMI meter is causing medical harm to a resident at the service location, and that DEF has refused to accept the opt-out fee for a non-AMI meter under Tariff Sheet 6.400. Further, the complaint alleges that the RS-1 rate schedule is inapplicable because the service location is not an eligible residence, and that therefore the General Service (GS-1) rate schedule should apply. Ms. Kostantis seeks the reclassification of her account to GS-1 and for DEF to install a non-AMI meter at DEF expense.

Analysis

Based on the information provided, it does not appear that DEF violated a statute, rule, order, or applicable provision of DEF's Commission-approved tariff. Tariff Sheet 6.400 provides that:

> Customers wishing to take service under this Rider and relocating to a premise where an existing approved non-communicating meter is already in place, will not be required to pay the Initial Set-Up Fee. Customers who cancel service under this Rider and then later re-enroll for this service at any location would be required to submit another Initial Set-Up Fee.

DEF removed the previous non-AMI meter after the account associated with it and paying monthly fees for it was closed. Ms. Kostantis did not request a non-AMI meter when she opened either Account 5339 or Account 2470, thus, she was never billed the required monthly fees for a non-AMI meter. To obtain a non-AMI meter, Ms. Kostantis must pay the set-up fee and the monthly fees to her active Account 2470. Further, she must allow DEF personnel physical access to the meter so it can be read monthly. There is no medical exemption to the initial or monthly fees in Tariff Sheet 6.400. Therefore, staff recommends that DEF has not violated the provisions of Tariff Sheet 6.400.

Tariff Sheet 6.120 sets the applicability of the RS-1 rate classification as "residential customers taking service exclusively for domestic purposes in a single dwelling house, a mobile home, or individually metered single apartment unit or other unit having housekeeping facilities, occupied by one family or household as a residence.” Tariff Sheet 6.150 sets the applicability of the GS-1 rate classification as “any customer, other than residential, for light and power purposes for which no other rate schedule is specifically applicable.” Tariff Sheet 6.150 also states that the rate is “Closed to New Customers as of 01/01/2022.” Staff recommends that DEF correctly applied the RS-1 rate classification to Ms. Kostantis’s account associated with 4425 Rutledge Drive. Thus, Staff does not believe that DEF violated a statute, rule, order, or applicable provision of DEF’s Commission-approved tariff in its application of Tariff Sheet 6.400 or in classifying Ms. Kostantis’s account as RS-1; therefore, the complaint should be denied.

Conclusion

Staff recommends that Ms. Kostantis’s formal complaint should be denied. It does not appear that DEF violated its Commission-approved tariff or any statutes, rules, or orders of the Commission.

Issue 3: Should this docket be closed?

Recommendation: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (Newman, Crawford)

Staff Analysis: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order.