

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Florida
Power & Light Company.

DOCKET NO. 20250011-EI
ORDER NO. PSC-2025-0370-PCO-EI
ISSUED: October 6, 2025

ORDER GRANTING THE OFFICE OF PUBLIC COUNSEL'S
THIRD MOTION AND NOTICE OF INTENT TO SEEK OFFICIAL RECOGNITION

Background

Consistent with the requirements of Section VI(H) of the Order Establishing Procedure,¹ as modified by the First Order Revising Order Establishing Procedure,² the Office of Public Counsel (OPC) filed a Third Motion and Notice of Intent to Seek Official Recognition of the following:

Exhibit S: All written customer comments filed in Florida Public Service Commission Docket 2025001 1-EI between and including July 17, 2025, through August 18, 2025.

Florida Power & Light Company (FPL) filed a Response in Partial Opposition to the Motion and Notice. FPL objects to customer comments in this rate case being officially recognized and made part of this record because they are records of a State agency and not a "court." FPL further objects to OPC's potential or intended use of these comments as non-hearsay evidence to prove a disputed issue of fact in this proceeding. No other party filed a response or otherwise opposed the relief requested in the Motion.

Analysis and Decision

Official recognition in administrative proceedings is governed by the same substantive provisions as judicial notice in civil actions. Section 120.569(2)(i), Florida Statutes (F.S.), and Rule 28-106.213(6), Florida Administrative Code (F.A.C.). After notice and upon sufficient motion, official recognition is mandatory as to certain matters and permissive as to others.

OPC seeks official recognition of the customer comments as "[r]ecords of any court of this state or of any court of record of the United States or of any state, territory, or jurisdiction of the United States" pursuant to Section 90.202(6), F.S. FPL objects on the basis that the comments are records of a State agency, not a "court."

Previously, on July 24, 2025, OPC filed a Motion and Notice of Intent to Seek Official Recognition (First Motion). One of the items subject to that request was described as follows:

¹ Order No. PSC-2025-0075-PCO-EI, issued March 14, 2025.

² Order No. PSC-2025-0323-PCO-EI, issued August 22, 2025.

The written customer comments filed in Florida Public Service Commission Docket 20250011-EI through July 16, 2025, (Exhibit J) are records of this Commission, and section 90.202(6), Florida Statutes, allows the Commission to take judicial notice of the contents of any court in Florida or the United States . . . OPC also requests the opportunity to supplement this exhibit notice/motion with all customer comments provided through the closing of the hearing record. OPC respectfully requests that these written customer comments be officially recognized so that [the] Commission can give each written customer comment the weight that it deserves. [Motion at 6-7]

FPL took no position with respect to Exhibit J. FPL specifically objected to two other exhibits for which OPC sought official recognition. Thus, FPL appears to have waived its objections to Exhibit J and official recognition of customer comments through July 16, 2025, as well as to OPC's supplementing the exhibit with comments through the close of the hearing record.

OPC's First Motion was denied in part and granted in part. The First Motion was denied as to the two exhibits to which FPL objected, and granted as to the remainder, including as to Exhibit J.³

The customer comments attached to OPC's Third Motion and Notice are supplements to the prior OPC filing. There does not appear to be a material difference between these comments and those previously submitted as Exhibit J. Accordingly, these comments are appropriate for official recognition consistent with the holding in the prior Order granting First Motion.

Additionally, as noted by OPC, the Commission actively elicits comments from utility customers as part of a rate case. When customers submit comments, the Office of the Commission Clerk files them in the appropriate docket and, in essence, the comments become part of the Commission's file. It is generally an appropriate exercise of the tribunal's discretion to take notice of its own files, so long as the parties are given notice and an opportunity to address the matter being noticed. *See Davenport v. State*, 971 So. 2d 293, 295 (Fla. 4th DCA 2008) ("It is permissible for a trial court to take judicial notice of its own files, but the trial judge has to put such evidence in the record of each case . . ."); *see also* F.S. § 90.204(3) ("If a court resorts to any documentary source of information not received in open court, the court shall make the information and its source a part of the record in the action and shall afford each party reasonable opportunity to challenge such information, and to offer additional information, before judicial notice of the matter is taken."). In this case, OPC provided notice of these comments and FPL took the opportunity to respond. The quality of service and customer feedback on this issue have long been identified as issues in this proceeding.⁴ There is no apparent prejudice to any party from adding these customer comments to the record in this proceeding.

³ Order PSC-2025-0329-PCO-EI, issued September 4, 2025.

⁴ *See* Order No. PSC-2025-0298-PHO-EI at p.58 ("ISSUE 12: Is the quality of the electric service provided by FPL adequate?") and p. 59 ("Other customers submitted written comments regarding the quality of service they received from FPL.").

As to the hearsay nature of these comments, FPL's objection is noted. Official recognition of the comments does not automatically transform their contents into non-hearsay evidence. *See Allstate Ins. Co. v. Greyhound Rent-A-Car, Inc.*, 586 So. 2d 482, 483 (Fla. 4th DCA 1991). Tribunals are to exercise caution when taking a statement that appears in a document that has been judicially noticed as a substitute for proof of the fact. *See Rubrecht v. Cone Distrib., Inc.*, 95 So. 3d 950, 959 (Fla. 5th DCA 2012). Because hearsay is admissible for limited purposes in administrative proceedings,⁵ this objection is not a ground on which to deny the Motion and Notice. OPC's Third Motion and Notice of Intent to Seek Official Recognition is granted.

Therefore, it is

ORDERED by Chairman Mike La Rosa, as Prehearing Officer, that the Third Motion and Notice of Intent to Seek Official Recognition filed by the Office of Public Counsel is granted.

By ORDER of Chairman Mike La Rosa, as Prehearing Officer, this 6th day of October, 2025.



Mike La Rosa
Chairman and Prehearing Officer
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

SPS

⁵ "Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions." F.S. § 120.57(1)(c).

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.