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February 18, 2019

-VIA ELECTRONIC FILING-

Mr. Adam Teitzman, Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. 20180143-EI – Petition to initiate rulemaking to revise and amend portions of Rule 25-6.0426, F.A.C., Recovery of Economic Development Expenses, by Florida Power & Light Company, Gulf Power Company, and Tampa Electric Company.

Dear Mr. Teitzman:

Please find attached for filing Florida Power & Light Company's Post Workshop Comments in the above-referenced docket.

If you should have any questions regarding this transmittal, please contact me at (561) 691-2512.

Sincerely,

s/ James S. King
James S. King
Senior Attorney
FL Authorized House Counsel No. 1007148

cc: Parties of record

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to initiate rulemaking to revise and amend portions of Rule 25-6.0426, F.A.C., by Florida Power & Light Company, Gulf Power Company, and Tampa Electric Company.	Docket No: 20180143-EI Date: February 18, 2019

POST-WORKSHOP COMMENTS OF
FLORIDA POWER & LIGHT COMPANY

Florida Power & Light Company ("FPL" of the "Company") hereby submits its Post-Workshop Comments in the above-referenced docket as a follow up to the discussion at the January 16, 2019 Staff rule development workshop. As set forth more fully herein, the proposed amendments to Rule 25-6.0426, Florida Administrative Code ("F.A.C.")[1] would increase the cap on recoverable economic development expenses on a phased-in basis through 2023, providing a path for even more robust economic development efforts by the state's investor-owned utilities with the attendant benefits for customers and the State of Florida. The requested rule modifications will result in the expanded promotion of Florida as a premier business destination to a targeted audience of corporate decision makers and site selectors, thus improving the prospects for economic development within the state.

I. BACKGROUND

Florida consistently ranks among the best states for business, largely due to its pro-business state tax policies, competitive cost of doing business, low electric rates, and constructive regulatory environment. For the sixth straight year, Florida was ranked as the No. 2 state for business in *Chief Executive* magazine's 14th annual Best & Worst States for Business survey. Significantly, Florida's low energy costs relative to competing locations are a

[1] All Florida statutory references are to the 2018 Florida Statutes.

critical component to economic growth in the state.[2] In order to continue to grow economic development in Florida, it is essential to expand the promotion of the state's favorable business climate and competitive advantages.

In recognition of the vital role energy plays in the State's economic development, Section 288.035, Florida Statutes, grants the Commission jurisdiction to authorize public utilities to recover reasonable economic development expenses, including expenses related to, *inter alia*, operational assistance, development of strategic plans, and marketing and research. Section 350.127(2), Florida Statutes, grants the Commission the authority to adopt rules in accordance with Section 288.035.

In prior rulemaking proceedings regarding Rule 25-6.0426, F.A.C., the Commission has sought to "encourage" the promotion of economic development by the State's utilities, and "strengthen" the signal from the Commission that it supports economic development activity. (*See* Docket No. 971334-PU, March 24, 1998 Agenda Conference Transcript ("1998 Tr.") at 4, 6). When considering the 1998 Rule amendments, the Commission expressed a "real appreciation for the value of the investments the companies are making," particularly "given the impetus around the state in bringing in jobs." (1998 Tr. at 12-13). More than 20 years later, however, the Rule has become static, limiting potential economic development investment by utilities. Currently, under Rule 25-6.0426, F.A.C., each utility's recoverable economic development expenses are limited to the greater of: (a) the amount approved in each utility's last rate case escalated for customer growth; or (b) 95 percent of the expenses incurred for the

[2] It is generally accepted that there is a strong connection between energy prices and economic activity. *See* Kilian, "The economic effects of energy price shocks", Journal of Economic Literature 46(4), 871–909 (2008); Linn, Muehlenbachsm and Wang, "How do Natural Gas Prices Affect Electricity Consumers and the Environment" Resources for the Future 14-19 (2014).

reporting period not to exceed the lesser of 0.15 percent of gross annual revenues or \$3.0 million.[3]

Although intended to promote economic development in Florida, the Rule in its current form has become unduly restrictive. The \$3.0 million expense cap set forth in the Rule has not changed since 1995. For a large utility such as FPL, this expense cap has had the practical consequence of limiting FPL's recoverable economic development expenses to a flat \$3.0 million per year in each year since the Rule's inception over 20 years ago. In fact, due to the flat \$3.0 million cap, FPL's economic development expenses have been limited to approximately 0.00267 percent (as opposed to 0.15 percent) of gross annual revenues. Moreover, although FPL is proud of the tremendous success achieved through its economic development programs, under the current Rule, the application of FPL's economic development programs and rates has resulted in a reduction in funds available under the cap to promote additional economic development. For example, in 2017, approximately \$690,000 associated with discounts provided under FPL's Economic Development Rider ("EDR") and Existing Facility Economic Development Rider ("EFEDR") were included in the \$3.0 million cap. As such, while FPL is gratified that these programs continue to succeed in attracting and retaining businesses, unfortunately under the current Rule, the result is that less funds are available to promote new economic development.

Moreover, recognizing the effect of inflation, the impact of the Petitioners' recoverable economic development expenses has been steadily eroded since the establishment of the Rule in 1995. Since the inception of the \$3.0 million cap in 1995, the buying power of the effective \$3.0 million expense cap has decreased by approximately 65%. Thus, the \$3.0 million cap severely limits, and if unchanged would increasingly limit, FPL's ability to promote economic development in the state.

[3] Rule 25-6.0426, F.A.C. was adopted by the Commission in Order No. PSC-95-0787-FOF-PU and made effective on July 17, 1995, more than 20 years ago.

II. PROPOSED RULE CHANGE

To address the current inadequacies in the Rule, FPL, Gulf Power Company, and Tampa Electric Company (collectively, "Petitioners") filed a Petition to Initiate Rulemaking to Revise and Amend Rule 25.6.0426(3)(b) ("Petition"). In the Petition, Petitioners propose that beginning in 2019, Rule 25.6.0426(3)(b), F.A.C., be modified to establish the effective cap on economic development expenses at 95 percent of the expenses incurred for the reporting period not to exceed the greater of 0.15 percent of annual revenues or $3 million. Moreover, in order to both ensure that the cap remains viable and encourages increased vibrant investment in economic development, Petitioners propose that the percentage of annual revenues set forth in the Rule be gradually increased as follows: 2020 – 0.175 percent; 2021 – 0.2 percent; 2022 – 0.225 percent; 2023 – 0.25 percent.

By establishing a cap that is the *greater* of 0.15 percent of gross annual revenues or $3.0 million, the modified Rule will encourage utilities to broaden economic development in Florida by allowing recovery of economic development expenses at levels commensurate with the economic size and reach of each utility. Moreover, gradually increasing the percentage of annual revenues available for the promotion of economic development will allow utilities to continue to expand their respective economic development promotion efforts consistent with funding levels. As a result, the proposed Rule revisions create incrementally increased economic development expenditure caps for all investor-owned utilities, thereby positioning them to expand economic development efforts for the benefit of their customers and the State of Florida.

Both the disproportionately restrictive impact of the $3.0 million cap on large utilities such as FPL and the steady erosion of the real value of that cap can be mitigated by starting with a change to the annual cap to the *greater of* 0.15 percent of gross annual revenues or $3.0 million. This will provide a more appropriate and representative cap for larger utilities and address the limiting effect of inflation. For FPL, this would immediately increase the eligible recoverable economic development expense to a less restrictive level of approximately $16 million per year and would allow that cap to increase over time, to the extent that annual gross revenues increase to reflect the effects of inflation. Specifically, the Petitioners propose to gradually escalate the percentage of annual revenues for the promotion of economic development as follows: 2020 – 0.175 percent; 2021 – 0.2 percent; 2022 – 0.225 percent; 2023 – 0.25 percent. This gradual increase to a higher percentage over time would recognize the value that economic development expenditures can bring to electric customers in particular and more generally to the state as a whole. Approval of these changes will gradually increase the level of funding for promotion of economic development for FPL from the current $3.0 million to approximately $27 million by 2023. These modifications will permit FPL to continue expanding its promotion of economic development in Florida. The change would likewise increase the funding available for economic development activities of all Florida investor-owned utilities.

III. FPL's PROMOTION OF ECONOMIC DEVELOPMENT HAS PRODUCED ECONOMIC BENEFITS THAT FAR EXCEED THE LEVEL OF INVESTMENT

In establishing the Rule, the Commission expressed an aspiration that the Rule would result in the utilities acting as resources "that local communities are going to be able to go to . . . and ask for their help in coordination, or for staffing, or planning." (1998 Tr. at 13). FPL's Economic Development Program has made this aspiration a reality. The strong partnerships between FPL and communities have had a demonstrably significant impact on Florida's economic development competitiveness and success.

Specifically, through December 2018, FPL's Office of Economic Development has worked with 160 companies pledging to create over 28,000 jobs. FPL's economic development efforts from 2012-2017 have contributed to a $84 billion in positive economic impact for the state, with capital investment in the 35 counties served by FPL resulting in a $44 billion impact on Florida's Gross Regional Product. This includes: (i) an employment impact of 220,000 full-time jobs (direct, indirect, and induced) and an additional 281,724 construction jobs; (ii) over $25 billion in labor income; and (iii) approximately $2.8 billion in additional state and local taxes.[4] The increased level of funding for the promotion of economic development that would be provided under the modified Rule would allow FPL and the state's other utilities to continue to contribute to these significant state-wide benefits.

Importantly, FPL's Economic Development Programs focus on both large and small businesses. For example, one of the most popular resources FPL provides is the Small Business Tool, available by visiting www.fpl.com/businesstool.[5] The Small Business Tool provides market intelligence for every business, large and small, in the state of Florida. It is targeted specifically at small businesses and provides assistance in: (1) writing a business plan that can support financial investment; (2) identifying new customers; (3) identifying new locations for expansion; and (4) target advertising efforts to maximize market penetration. FPL partners with Florida's Small Business Development Network, SCORE[6], the University of Central Florida's GrowFL, and Prospera[7] to ensure every small business has access to this resource and other forms of support to assist in their success.

IV. APPROVAL OF THE PROPOSED RULE MODIFICATIONS WILL ENHANCE FPL'S ECONOMIC DEVELOPMENT PROGRAMS

[4] Based upon 2016 data, FPL's Office of Economic Development has produced a 445% Return on Investment for every dollar invested in economic development.

[5] The Small Business Tool averages 1,150 visits monthly from around the world.

[6] SCORE is a division of the US Small Business Administration that engages retired executives in providing support to small businesses.

[7] Prospera is a Hispanic small business support organization headquartered in Florida with operations in several parts of the US.

FPL recognizes that businesses operate in the global economy where they must compete by using better technology, leaner production costs, and continued training of a skilled workforce. This often includes competition with sister facilities. In order to continue to attract and retain businesses in Florida, FPL's Economic Development Programs need to evolve and expand. Although FPL already has had tremendous success in the attraction and retention of businesses to Florida under the current Rule, modification of the Rule to allow recovery of additional economic development expenses will encourage utilities to promote new economic development investment, which in turn will expand Florida's economic base and foster economic growth. These increased economic development activities will allow utilities to conduct additional outreach and to continue to build a sustainable pipeline of viable new projects. The facilitation of the expanded promotion of economic development through the modification of the Rule is anticipated to yield a corresponding increase in benefits to the state.

If the increased level of funding for promotion of economic development under the modified Rule is approved, FPL will continue to grow its Economic Development Programs in Florida. This will facilitate continued economic success for the state.

Successful economic development is heavily staff-oriented, requiring hands-on service and project work and significant coordination among multiple local and state organizations. The increased level of funding for the promotion of economic development will allow FPL to increase Office of Economic Development staffing from five to fifteen by 2021.[8] This will provide an enhanced staff focus in the following areas: (1) business development; (2) competitiveness; and (3) capacity building.

[8] FPL's current economic development staffing levels are substantially lower than neighboring states. For example, upon information and belief, Georgia Power employs 30 individuals on its economic development team and Alabama Power employs 16.

With respect to business development, FPL envisions increased marketing activities and business outreach with a focus on high-impact sectors (*e.g.*, aviation/aerospace, data centers and agri-business). FPL believes that focus in this area will enhance both existing business support and the cultivation of small business and entrepreneurial activity allowing Florida to better compete both with neighboring states and globally. The result will be the continued generation of new leads necessary to build a robust pipeline of viable projects.

Moreover, to ensure that Florida's communities are equipped to attract and retain new and existing businesses, FPL also will boost efforts to review the "competitiveness" of the state in relation to competing regions. This effort could focus on workforce/talent development and training, as well as site development. The increased funding provided under the proposed modifications to Rule will also provide FPL with the flexibility needed to respond to the changing future needs of the communities FPL serves.

Lastly, the proposed increase in economic development funding will permit FPL to expand the knowledge base of Florida's economic development community through increased data resources, analytical support and assistance responding to requests from prospective businesses, as well as expanded educational opportunities for elected officials, volunteers and stakeholders. These combined initiatives will ensure that FPL continues to have a significant impact on Florida's economic development competitiveness and success.

V. THE CONCERNS RAISED BY THE OFFICE OF PUBLIC COUNSEL AT THE STAFF WORKSHOP ARE WITHOUT MERIT AND SHOULD BE REJECTED

At the staff workshop held January 16, 2018, the Office of Public Counsel ("OPC") acknowledged that the utilities economic development programs provide benefits to customers. However, the OPC implied that the proposed modification of the Rule would disproportionately benefit the utilities and shift non-economic development expenditures to customers. The OPC's apprehensions are without merit and should be rejected.

A. The Facilitation of Expanded Promotion of Economic Development through the Proposed Modification of the Rule Will Benefit Customers

It is beyond dispute, that the creation of these new jobs and associated economic development impacts benefits the Petitioners' general body of customers and contributes to the prosperity of all Floridians. Moreover, as discussed below, the addition of new load mitigates future revenue requirements by spreading fixed costs over a larger numbers of customers and thus can benefit all customers by placing downward pressure on overall rates.

As the Commission has held, the creation of new jobs and capital investment through the promotion of economic development, "means new customers, which would help spread the cost for existing customers."[9] As the Commission stated, "[t]his, in turn, would result in either lower rates or further rate stability. In either case, [the promotion of economic development] would benefit FPL rate payers."[10] Past experience indicates that new revenues resulting from increased load associated with economic development has more than offset the economic development expenses that FPL recovers from customers. For example, since 2013, FPL's Office of Economic Development has worked with 160 companies pledging to create over 28,000 jobs in the FPL service territory. These new businesses and jobs, together with the commensurate new electric load, have produced approximately $50 million dollars[11] in

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[9] Docket No. 980294-EI, *In re: Petition of Florida Power & Light Company for Approval of Economic Development Rider Rate Schedule and Agreement*, Order No. PSC-98-0603-FOF-EI, (issued April 26, 1998) at 6.

[10] *Id.*

[11] This revenue reflects only that associated with EDR/EFEDR customers. There is additional revenue generated by new businesses supported by FPL, not receiving EDR, that contribute to Florida's economic viability and FPL revenue not included in this total.

incremental rate revenue for FPL – more than three times the level of recoverable economic development expenses over the same time period. As the Commission recognized, these revenue and load increases allow for long-term fixed costs to be spread over a larger customer base, thereby benefiting all customers.

Moreover, for FPL, any rate effects associated with the proposed Rule modification would not occur until the conclusion of FPL's next rate case. Currently, FPL is under a base rate settlement agreement that establishes the rates charged to FPL's customers for the duration of the agreement. Therefore, any increased costs associated with the rule will not be recognized in rates until FPL's base rates are next reset. While a $24 million additional economic development spend may result in an additional $0.22 on a typical 1000-kWh monthly residential bill and less than half of one percent (0.5%) on small and medium business bills by 2023, it is important to recognize that new load and new revenues on FPL's system benefit all customers. The addition of load and ability to spread fixed costs over a greater customer base puts downward pressure on rates for all customers.

B. FPL Shareholders Make Significant Contributions to Economic Development and the Current Economic Development Sharing Ratio Should not be Modified

At the staff workshop, the parties discussed the contributions made by utility shareholders toward the promotion of economic development expenses and whether the current economic development expense ratio of 95/5 between customers and shareholders should be modified. As set forth below, the current 95/5 economic development expense ratio established by the Commission has been highly successful in properly incentivizing utilities to make economic development investments. As discussed in Section III above, these investments, together with other substantial shareholder contributions, have produced a significant positive impact on Florida's economic development competitiveness and success. Given the unqualified success of the utilities economic development investments, the current 95/5 economic development expense ratio should not be altered.

In 1998, the Commission established the current 95/5 economic development expense ratio – decreasing the shareholder percentage from ten percent – to create a further incentive for utilities to promote economic development. In discussing the approval of the current 95/5 economic development expense ratio, Commissioner Garcia stated that the Commission wanted to "give a signal that we, as a Commission, think [economic development investment] is good" and encourage companies to make greater economic development investments (1998 Tr. at 6, 10).[12] Commissioner Garcia, further stated that the Commission "is on the forefront" in the promotion of economic development and will be "doing more in the future" to promote economic development in the state.

As stated above, it is beyond dispute that the current 95/5 economic development ratio has provided the signal intended by the Commission in 1998. Under the current 95/5 economic development expense ratio, utility investment in economic development has been in the millions of dollars and produced over $47.5 million dollars in incremental rate revenue for FPL. The addition of load and ability to spread fixed costs over a greater customer base puts downward pressure on rates for all customers. Under the current Rule, in recent years, the FPL shareholder portion of economic development expenses has ranged between approximately $132,000 - $143,000. If the proposed modification to the Rule is approved, the amount contributed by FPL shareholders under the Rule will increase to over a million dollars annually by 2023. Moreover, in addition to spending focused on direct support of economic development, FPL shareholders contributed an additional $19.42 million between 2014 and 2018 in support of activities that have

[12] In fact, Commissioner Garcia stated that, "I would have liked to 100 percent [recovery of economic development expenses]." 1998 Tr. at 9.

a positive impact on economic development. This below-the-line spend has supported workforce development initiatives and contributed to advertising and marketing efforts that publicize the existence of economic development programs.

Given the substantial investment and corresponding success to date, the current 95/5 economic development expense ratio should not be altered.

VI. THE PETITIONERS' PROPOSAL WOULD ENCOURAGE GREATER ECONOMIC DEVELOPMENT THAN THE SCENARIOS PRESENTED AT THE STAFF WORKSHOP

As set forth above and in the Petition, Petitioners propose that beginning in 2019, Rule 25.6.0426(3)(b), F.A.C., be modified to establish the effective cap on economic development expenses at 95 percent of the expenses incurred for the reporting period not to exceed the greater of 0.15 percent of annual revenues or $3 million. Moreover, in order to both ensure that the cap remains viable and encourages increased vibrant investment in economic development, Petitioners propose that the percentage of annual revenues set forth in the Rule be gradually increased as follows: 2020 – 0.175 percent; 2021 – 0.2 percent; 2022 – 0.225 percent; 2023 – 0.25 percent.

At the staff workshop, the following three hypothetical scenarios were presented for discussion purposes: (a) increase the annual cap to the lessor of 0.15 percent of gross annual revenues or $5.0 million ("Scenario A"); (b) changing the annual cap to the greater of 0.15 percent of gross annual revenues or $5.0 million ("Scenario B"); or, (c) changing the annual cap to the greater of 0.10 percent of gross annual revenues or $5.0 million ("Scenario C"). As discussed, below, in comparison to the Petitioners' proposal, the scenarios would result in substantially less investment in economic development.

Under Scenario A, the cap has been adjusted for inflation to $5.0 million. However, this one-time adjustment fails to permit utilities to recover economic development expenses at a level commensurate with the utility's size. For a large utility, such as FPL, Scenario A has the practical effect of limiting FPL's recoverable economic development expenses to a flat $5.0 million per year. Moreover, because the cap is not adjusted for inflation, the value of the cap relative to the value of money will decrease with each subsequent year. As a consequence, as with the current Rule, Scenario A will increasingly limit FPL's ability to promote economic development in the state.

Scenarios B and C would increase the economic development spending cap for FPL to approximately $16 million and $10.9 million, respectively. While Scenarios B and C provide greater economic development opportunities compared to Scenario A in that they would allow utilities to recover economic development expenses at a level proportionate to their size, the level of investment is substantially lower than proposed by the Petitioners. Moreover, the reduction in percentage of gross revenue permitted to be recovered from 0.15 percent to 0.10 percent in Scenario C, would represent a step backward in the Commission's promotion of economic development.

In contrast to Scenario A, the Petitioners' proposed modifications to the Rule will encourage utilities to further promote continued economic development in Florida by allowing recovery of economic development expenses at levels commensurate with the economic size and reach of each utility. Moreover, unlike Scenarios B and C, the Petitioners' proposal will reasonably and gradually increase the percentage of annual revenues available for the promotion of economic development to allow utilities to continue to expand their respective economic development promotion efforts consistent with funding levels. Indeed, the adoption of the proposed rule will create incrementally increased economic development expenditure caps for all investor-owned utilities and thereby position these utilities to similarly expand economic development efforts for the benefit of their customers and the State of Florida.

WHEREFORE, based on the foregoing, Petitioners respectfully request that the Commission, in recognition of the quantifiable benefits to the general body of customers and the State resulting from the Petitioners' current economic development efforts, approve the Petitioners' proposal to modify Rule 25.6.0426(3)(b), Florida Administrative Code, as reflected in Attachment A to the Petition.

By: *s/ James S. King*

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CERTIFICATE OF SERVICE
Docket No. 20180143-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic service on this 18th day of February 2019 to the following:

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