

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for rate increase by Florida Power & Light Company	Docket No. 160021-EI
In re: Petition for approval of 2016-2018 storm hardening plan, by Florida Power & Light Company	Docket No. 160061-EI
In re: 2016 depreciation and dismantlement study by Florida Power & Light Company	Docket No. 160062-EI
In re: Petition for limited proceeding to modify and continue incentive mechanism by Florida Power & Light Company	Docket No. 160088-EI
	Filed: July 1, 2016

**FLORIDA POWER & LIGHT COMPANY'S  
MOTION TO COMPEL DISCOVERY OF FLORIDA POWER & LIGHT  
COMPANY'S FIRST SET OF INTERROGATORIES (NOS. 7-8, 11-12) AND  
FIRST REQUEST FOR THE PRODUCTION OF DOCUMENTS (NO. 3) FROM  
SOUTH FLORIDA HOSPITAL AND HEALTHCARE ASSOCIATION**

Florida Power & Light Company (FPL), pursuant to Rules 1.380(a) and 1.310 of the Florida Rules of Civil Procedure and Rule 28-106.206, Florida Administrative Code (F.A.C.), hereby moves to compel the discovery of FPL's First Set of Interrogatories (Nos. 7-8, 11-12) and First Request for the Production of Documents (No. 3) from South Florida Hospital and Healthcare Association ("SFHHA"), and states as follows:

1. On May 20<sup>th</sup>, 2016, FPL served upon SFHHA, by e-mail, the following discovery requests: First Set of Interrogatories (Nos. 1-16) and First Request for the Production of Documents (Nos. 1-3). (Exhibits "A" & "B" attached).
2. On June 15<sup>th</sup>, 2016, SFHHA served its objections to all of FPL's discovery requests and provided no responses. (See attached Exhibit "C")
3. Upon receipt of SFHHA's objections, undersigned counsel contacted counsel for SFHHA

to discuss and attempt to resolve these objections. After a series of conversations between undersigned counsel and SFHHA's counsel, the parties were unable to agree to certain of FPL's discovery requests (Interrogatory Nos. 7-8, 11-12) and the corresponding (Request for Production of Documents No. 3).

4. Upon receipt of SFHHA's objections, undersigned counsel contacted counsel for SFHHA to discuss and attempt to resolve these objections.
5. On June 28<sup>th</sup>, 2016, SFHHA provided subsequent objections and responses to this discovery request, to which FPL believes is still inadequate.
6. On July 1<sup>st</sup>, undersigned counsel contacted SFHHA's counsel to resolve these recently served answers, however, were unable to agree to providing answers to the following interrogatories below.

**Specific Objections to Interrogatories**

7. Interrogatory Number 7 states:
  - a. Please identify all materials and documents provided to SFHHA members regarding electric rates as a result of any and all Public Utility Commission dockets or Public Service Commission dockets, the Federal Energy Regulatory Commission dockets, or any other state or federal regulatory body dockets in the last seven (7) years in connection with a general base rate case or similar proceeding.
8. SFHHA objected arguing that the interrogatory was overbroad, vague, ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. SFHHA also objected stating that it will not produce information not within its possession. FPL agreed to allow SFHHA to produce a response going back to 2012, however, SFHHA is still maintaining its objection.
9. SFHHA's objection should be overruled. The interrogatory seeks information related to "electric rates as a result of Public Utility Commission dockets" for SFHHA's members.

SFHHA's positions regarding the electric rates resulting from prior commission dockets is clearly discoverable as this information is not typically included in SFHHA witness testimony. This type of information is relevant and can be used in this proceeding to illustrate bias, motive, or prior inconsistent statements. SFHHA has raised the issue in its Petition to Intervene that their members electric rates are substantially affected by the Commission's decision. Without knowing what SFHHA members have said and are saying about their electric rates, limits, prejudices, and may even preclude FPL from challenging SFHHA's positions. FPL Parties naturally need to know what information supports or contradicts their adversaries' position.

10. Interrogatory Number 8 states:

- a. Please describe the efforts or activities undertaken by SFHHA or any member of the SFHHA or their agents and representatives from 2010 to the present to disseminate fliers, handouts, documents, materials, letters, presentation materials, videos, and any and all other written or computer generated documents to members, prospective members, and others that discuss, address, refer to or otherwise mention FPL including but not limited to the positions or issues that are the subject of this pending case.

11. SFHHA objected arguing that the interrogatory was overbroad, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. SFHHA also objected stating that it will not produce information not within its possession.

12. SFHHA's objection could be overruled in part. While FPL agrees that going back to 2010 may be somewhat overbroad as there may not be SFHHA or member efforts and activities that discuss or refer to the positions or issues in this proceeding, FPL's intent is to capture as much information that discuss or refer to the pending issues. If SFHHA or its members were previously discussing or referring to positions and issues that involve the subject of this pending case, then said information is clearly relevant and

discoverable. This type of information is relevant and can be used in this proceeding to illustrate bias, motive, or prior inconsistent statements. SFHHA has raised the issue in its Petition to Intervene that their members electric rates are substantially affected by the Commission's decision. Without knowing what SFHHA members have said and are saying about their electric rates, limits, prejudices, and may even preclude FPL from challenging SFHHA's positions. FPL Parties naturally need to know what information supports or contradicts their adversaries' position

13. Interrogatory Number 11 states:

- a. Please identify all documents provided to SFHHA's members that discuss or refer to the electric bill impact(s) resulting from the 2012 FPL settlement agreement approved in FPSC Order No. PSC-13-0023-S-EI.

14. SFHHA objected arguing that the interrogatory was irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. SFHHA also objected stating that it will not produce information not within its possession. SFHHA did state that they would attempt to clarify their response to this request, and based on the updated response, FPL will consider withdrawing its Motion to Compel regarding this question.

15. SFHHA's objection should be overruled. The interrogatory seeks information related to the discussion of "electric bill impacts as a result of 2012 FPL Settlement" provided to SFHHA's members. SFHHA's positions regarding the electric bill impacts resulting from the 2012 Settlement agreement is clearly discoverable as this information is not typically included in SFHHA witness testimony. Furthermore, this type of information is relevant and can be used in this proceeding to illustrate SFHHA's substantial interests, bias, motive, or prior inconsistent statements. SFHHA has raised the issue in its Petition to Intervene that their members electric rates are substantially affected by the

Commission's decision. Without knowing what SFHHA members have said and are saying about their electric bill impacts, limits, prejudices, and may even preclude FPL from challenging SFHHA's positions in this proceeding.

16. Interrogatory Number 12 states:

- a. Please identify all documents provided to SFHHA's members that discuss or refer to the electric bill impact estimated to result from FPL's current base rate increase which is the subject of this docket.

17. SFHHA objected arguing that the interrogatory on the grounds that FPL has the ability to perform this analysis itself. SFHHA also objected stating that it will not produce information not within its possession. SFHHA did state that they would attempt to clarify their response to this request, and based on the updated response, FPL will consider withdrawing its Motion to Compel regarding this question.

18. SFHHA's objection should be overruled. The interrogatory seeks information related to the discussion of "electric bill impacts estimated to result from FPL's current base rate increase" provided to SFHHA's members. SFHHA's positions regarding the electric bill impacts resulting from the current base rate increase is clearly discoverable as this information is not typically included in SFHHA witness testimony. Furthermore, this type of information is relevant and can be used in this proceeding to illustrate SFHHA's substantial interests, bias, motive, or prior inconsistent statements. SFHHA has raised the issue in its Petition to Intervene that their members electric rates are substantially affected by the Commission's decision. Without knowing what SFHHA members have said and are saying about their electric bill impacts, limits, prejudices, and may even preclude FPL from challenging SFHHA's positions in this proceeding.

19. Request for Production of Documents No. 3 states:

- a. Please produce any and all documents identified in your responses to FPL's First Set of Interrogatories Nos. (1-16) to SFHHA.

20. SFHHA has provided no responsive documents although it is clear that responsive documents should exist. Therefore, SFHHA's objections should be overruled.

21. Contrary to the assertions contained in SFHHA's Objections, the information sought to be obtained through discovery is relevant, admissible, reasonably calculated to lead to admissible evidence in this matter, and intended to assist FPL in the preparation of its case and for purposes of cross examination of SFHHA's outside consultants.

22. SFHHA is an Intervenor in this action whose Petition to Intervene dated April 8, 2016 specifically asserts that SFHHA "...engages in cost-effective projects and programs that benefit, or add value to the services offered by, its member organizations."(See paragraph 4 of SFHHA's Petition to Intervene Exhibit "D"). The Petition and the literally hundreds of discovery requests served on FPL by SFHHA, question all aspects of FPL's method and manner of doing business, including but certainly not limited to cost of service methodology, operation and maintenance expenses, growth rates of expenses, benefits resulting from past rate settlements, productivity issues, and many other issues too numerous to list in this Motion. FPL has the right to inquire and investigate through discovery, prior to hearing, SFHHA's substantially affected interests, and its position on issues in the proceeding.

23. Florida's Rules of Civil Procedure affords FPL the opportunity to conduct discovery on SFHHA, a party itself to this proceeding, and not limit discovery only to outside witnesses/consultants who are not in a position to speak for the SFHHA regarding its

internal operations, beyond the limited scope of their knowledge as consultants. FPL believes that it is only fair for it to have the opportunity to seek discovery from an appropriate SFHHA representative to better understand the true or perceived impacts on the member organizations, the manner in which they conduct their businesses, particularly in areas that parallel FPL, along with other matters that are particularly within the province of the actual SFHHA party rather than its paid outside consultants.

24. The courts have consistently held that discovery is designed to avoid “trial by ambush”. Allowing a party to simply walk into the final hearing and participate fully as a party at that proceeding, without FPL having the opportunity to discover relevant issues related to its intervention, amounts to just that, an opportunity for such “trial by ambush.” FPL has the right to avoid such impropriety. “Civil trials are not to be ambushes for one side or the other.” Binger v. King Pest Control, 401 So. 2d 1310 (Fla. 1981) “All the discovery rules and the extensive efforts of parties to discover the other party’s case would be for naught if one side were able to wait until after the trial started to establish key pieces of evidence such as what occurred in this case.” Grau v. Branham, 626 So.2d 1059 (Fla. 4<sup>th</sup> DCA 1993). The goals of procedural rules are to eliminate surprise, encourage settlement, and assist in getting to the truth. Spencer v. Beverly, 307 So.2nd 461, 462. See also Binger v. King Pest Control, 401 So.2d 1310.

WHEREFORE, Florida Power & Light Company respectfully requests that the foregoing motion be granted and this commission enter its Order compelling SFHHA to respond to the aforementioned discovery within ten (10) days.

Respectfully submitted this 1<sup>st</sup>, day of July, 2016.

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## CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by electronic mail this 1<sup>st</sup>, day of July, 2016, to the following parties:

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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for rate increase by Florida Power & Light Company	Docket No. 160021-EI
In re: Petition for approval of 2016-2018 storm hardening plan, by Florida Power & Light Company	Docket No. 160061-EI
In re: 2016 depreciation and dismantlement study by Florida Power & Light Company	Docket No. 160062-EI
In re: Petition for limited proceeding to modify and continue incentive mechanism by Florida Power & Light Company	Docket No. 160088-EI Filed: May 20, 2016

**FLORIDA POWER & LIGHT COMPANY’S FIRST SET OF INTERROGATORIES  
(NOS. 1-16) TO SOUTH FLORIDA HOSPITAL AND HEALTHCARE ASSOCIATION**

Florida Power & Light Company, by and through its undersigned counsel, pursuant to Rule 1.340, Florida Rules of Civil Procedure, and Rule 28-106.206, Florida Administrative Code, and this Commission’s Order Establishing Procedure PSC-16-0125-PCO-EI hereby serves its First Set of Interrogatories (Nos. 1-16) to the South Florida Hospital and Healthcare Association (“SFHHA”), their attorneys and representatives to be answered in writing, under oath within twenty-five (25) days.

**DEFINITIONS**

1. “You,” “yours” and/or “yourselves” mean SFHHA, and any attorney, employee, agent, representative or other person acting or purporting to act on the behalf of SFHHA including all persons who offered testimony on SFHHA’s behalf in any and all regulatory proceedings.

2. "Person" or "persons" means all natural persons and entities, including but not limited to: corporations, companies, partnerships, limited partnerships, joint ventures, trusts, estates, associations, public agencies, departments, bureaus or boards.

3. "Document or documents" means "documents" as defined in Rule 1.350 of the Florida Rules of Civil Procedure. In addition, the words "document" or "documents" shall mean any writing, recording, computer-stored information, or photograph in your actual or constructive possession, custody, care or control, which pertain directly or indirectly, in whole or in part, either to any of the subjects listed below or to any other matter relevant to the issues in this action, or which are themselves listed below as specific documents, including, but not limited to: correspondence, memoranda, notes, messages, diaries, minutes, books, reports, charts, ledgers, invoices, computer printouts, computer discs, microfilms, video tapes or tape recordings.

4. "FPL" means Florida Power & Light Company.

5. "Identify" shall mean: (1) when used with respect to a person, to state the person's full name, present or last known business address; and present or last known employer and position; (2) when used in respect to a document, to describe the document by character (e.g., letter, report, memorandum, etc.), author, date, and to state its present location and custodian; (3) when used with respect to an oral communication, to identify the persons making and receiving the communication, the approximate date of and time of the communication, and a summary of its content or substance.

6. "Witness" means any person, including but not limited to expert witnesses, whom has testified in a regulatory proceeding.

## INSTRUCTIONS

7. If any of the following interrogatories cannot be answered in full after exercising due diligence to secure the information, please so state and answer to the extent possible, specifying your inability to answer the remainder, and state whatever information you have

concerning the unanswered portion. If your answer is qualified in any respect, please set forth the details of such qualifications.

8. If you object to fully identifying a document or oral communication because of a privilege, you must nevertheless provide the following information, unless divulging the information would disclose the privileged information:

- a. the nature of the privilege claimed (including work product);
- b. the date of the document or oral communication;
- c. if a document; its type (correspondence, memorandum, facsimile etc.), custodian, location, and such other information sufficient to identify the document for a subpoena duces tecum or a document request, including where appropriate the author, the addressee, and, if not apparent, the relationship between the author and addressee;
- d. if an oral communication, the place where it was made, the names of the persons present while it was made, and, if not apparent, the relationship of the persons present to the declarant; and
- e. the general subject matter of the document or the oral communication.

9. If you object to all or part of any interrogatory and refuse to answer that part, state your objection, identify the part to which you are objecting, and answer the remaining portion of the interrogatory.

10. Whenever an interrogatory calls for information which is not available to you in the form requested, but is available in another form, or can be obtained at least in part from other data in your possession, so state and either supply the information requested in the form in which it is available, or supply the data from which the information requested can be obtained.

11. The singular shall include the plural and vice versa; the terms “and” and “or” shall be both conjunctive and disjunctive; and the term “including” means “including without limitation.”

12. These interrogatories shall be answered under oath by you or through your agent who is qualified to answer and who shall be fully identified, with said answers being served as provided pursuant to the Florida Rules of Civil Procedure or order of the Commission.

## INTERROGATORIES

1. Please identify each consultant, expert, witness, or other person, who has provided testimony, documents, exhibits, or other materials and/or support on behalf of SFHHA in any Public Utility Commission or Public Service Commission, the Federal Energy Regulatory Commission, or any other state or federal regulatory body in the last seven (7) years in connection with a general base rate case or similar proceeding.
  - a. For each such person or entity, identify the date initially consulted, the date of formal retention (if any), and describe the terms of the financial arrangements or agreement pursuant to which that person or entity will be compensated for work and/or services provided in this case.
  
2. With respect to each and every witness SFHHA had testify or provide pre-filed testimony in any Public Utility Commission or Public Service Commission, the Federal Energy Regulatory Commission, or any other state or federal regulatory body in the last seven (7) years in connection with a general base rate case or similar proceeding, please state the following:
  - a. The witness's business address;
  - b. The witness's qualifications;
  - c. The scope of the witness's employment or retention in the matter;
  - d. The witness's general regulatory experience, including the percentage of work performed for regulatory bodies or public counsel;
  - e. Identify with specificity the witness's appearances before regulatory or administrative bodies or courts of law, specifying which regulatory or administrative body or court, the caption or style of each proceeding or case, and the date of each appearance, where for purposes of this interrogatory the term "appearance" shall include the submittal of pre-filed testimony.

3. State in detail the subject matter, positions, and opinions on which each person named in answer to Interrogatory No. 2 above has testified.
  - a. Please state whether the Public Service Commission, Public Utility Commission, and state or federal regulatory body adopted SFHHA's positions and opinions, and if so, state in detail the outcome(s), result(s), and effect(s) on SFHHA's members.
  - b. Please state in detail the benefits achieved resulting from any and all SFHHA positions and opinions adopted by a Public Service Commission, Public Utility Commission, and state or federal regulatory body.
4. Please identify each consultant, expert, witness, or other person, including but not limited to any person or entity not yet formally retained, who will provide testimony, documents, exhibits, or other materials and/or support on behalf of SFHHA in this docket.
  - a. For each such person or entity, identify the date initially consulted, the date of formal retention (if any), and describe the terms of the financial arrangements or agreement pursuant to which that person or entity will be compensated for work and/or services provided in this case.
  - b. For each witness testifying on behalf of SFHHA, please state the amount paid to date and the total amount contracted for services performed in connection with this docket.
5. With respect to each and every witness SFHHA intends to have testify or provide pre-filed testimony in this docket of behalf of SFHHA, including but not limited to witnesses who will provide direct testimony, rebuttal testimony, public statements at the hearings, and otherwise, please state the following:
  - a. The witness's business address;



- b. The witness's qualifications;
  - c. The scope of the witness's employment or retention in the pending matter;
  - d. The witness's general litigation experience, including the percentage of work performed for regulatory bodies or intervening participants.
6. Regarding the answer to Interrogatory No. 5, please identify with specificity the witness's appearances before regulatory or administrative bodies or courts of law, specifying which regulatory or administrative body or court, the caption or style of each proceeding or case, and the date of each appearance, where for purposes of this interrogatory the term "appearance" shall include the submittal of pre-filed testimony.
  7. Please identify all materials and documents provided to SFHHA members regarding electric rates as a result of any and all Public Utility Commission dockets or Public Service Commission dockets, the Federal Energy Regulatory Commission dockets, or any other state or federal regulatory body dockets in the last seven (7) years in connection with a general base rate case or similar proceeding.
  8. Please describe the efforts or activities undertaken by SFHHA or any member of the SFHHA or their agents and representatives from 2010 to the present to disseminate fliers, handouts, documents, materials, letters, presentation materials, videos, and any and all other written or computer generated documents to members, prospective members, and others that discuss, address, refer to or otherwise mention FPL including but not limited to the positions or issues that are the subject of this pending case.
  9. Please describe any benefits that SFHHA believes it received as a result of the 2012 FPL settlement agreement approved in FPSC Order No. PSC-13-0023-S-EI.
  10. Please describe any and all electric bill impact calculations SFHHA has performed to assess the impact of FPL's current base rate increase which is the subject of this docket.

11. Please identify all documents provided to SFHHA's members that discuss or refer to the electric bill impact(s) resulting from the 2012 FPL settlement agreement approved in FPSC Order No. PSC-13-0023-S-EL.
12. Please identify all documents provided to SFHHA's members that discuss or refer to the electric bill impact estimated to result from FPL's current base rate increase which is the subject of this docket.
13. Please compare the FPL electric bills for SFHHA's members in FPL's service territory to what those SFHHA's members electric bills would be in other jurisdictions in which SFHHA members have participated in any Public Utility Commission docket or Public Service Commission docket, Federal Energy Regulatory Commission docket, or any other state or federal regulatory docket in the last four (4) years
14. Please describe any and all cost saving measures that SFHHA members have undertaken to reduce its operating budgets and costs within the last four (4) years.
15. Please describe all cost reductions measures SFHHA members have performed to reduce its electric consumption over the last four (4) years:
  - a. In FPL's service territory;
  - b. Other locations served by electric service utilities other than FPL.
16. Please identify all materials and documents provided to SFHHA members soliciting funds in connection with SFHHA's participation in this docket

Respectfully submitted this 20<sup>th</sup> day of May, 2016.

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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished

by electronic mail this 20<sup>th</sup> day of May, 2016, to the following parties:

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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for rate increase by Florida Power & Light Company	Docket No. 160021-EI
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**FLORIDA POWER & LIGHT COMPANY'S FIRST REQUEST  
FOR PRODUCTION OF DOCUMENTS (NOS. 1-3) TO  
SOUTH FLORIDA HOSPITAL AND HEALTHCARE ASSOCIATION**

Florida Power & Light Company, by and through its undersigned counsel, pursuant to Rule 1.350, Florida Rules of Civil Procedure, and Rule 28-106.206, Florida Administrative Code, and this Commission's Order Establishing Procedure PSC-16-0125-PCO-EI hereby serves its First Request for Production of Documents (Nos. 1-3) to the South Florida Hospital and Healthcare Association ("SFHHA"), their attorneys and representatives to produce the following designated items for inspection and/or copying at the offices of the undersigned attorneys within twenty-five (25) days.

## **DEFINITIONS**

1. “You,” “yours” and/or “yourselves” mean SFHHA, and any attorney, employee, agent, representative or other person acting or purporting to act on the behalf of SFHHA including all persons who offered testimony on SFHHA’s behalf in any and all regulatory proceedings.

2. “Person” or “persons” means all natural persons and entities, including but not limited to: corporations, companies, partnerships, limited partnerships, joint ventures, trusts, estates, associations, public agencies, departments, bureaus or boards.

3. “Document or documents” means “documents” as defined in Rule 1.350 of the Florida Rules of Civil Procedure. In addition, the words “document” or “documents” shall mean any writing, recording, computer-stored information, or photograph in your actual or constructive possession, custody, care or control, which pertain directly or indirectly, in whole or in part, either to any of the subjects listed below or to any other matter relevant to the issues in this action, or which are themselves listed below as specific documents, including, but not limited to: correspondence, memoranda, notes, messages, diaries, minutes, books, reports, charts, ledgers, invoices, computer printouts, computer discs, microfilms, video tapes or tape recordings.

4. “FPL” means Florida Power & Light Company.

5. “Identify” shall mean: (1) when used with respect to a person, to state the person’s full name, present or last known business address; and present or last known employer and position; (2) when used in respect to a document, to describe the document by character (e.g., letter, report, memorandum, etc.), author, date, and to state its present location and custodian; (3) when used with respect to an oral communication, to identify the persons making

and receiving the communication, the approximate date of and time of the communication, and a summary of its content or substance.

6. “Witness” means any person, including but not limited to expert witnesses, whom has testified in a regulatory proceeding.

### **INSTRUCTIONS**

7. **Scope of Production.** In responding to this request to produce, produce all responsive documents, including any and all non-identical copies of each such document.

8. **Manner of Objections and Inability to Respond.** If you object to a part of a request and refuse to respond to that part, state your objection and answer the remaining portion of that request. If you object to the scope of a request and refuse to produce documents for that scope, state your objection and produce documents for the scope you believe is appropriate.

9. If any of the requests cannot be responded to in full after exercising due diligence to secure the requested documents, please so state and respond and produce documents to the extent possible, specifying your inability to respond further. If your response or production is qualified or limited in any particular, please set forth the details and specifics of such qualification or limitation.

10. **Privileged Information.** In the event you wish to assert attorney/client privilege or the work product doctrine, or both, or any other claim of privilege, then as to such documents allegedly subject to such asserted privileges, you are requested to supply an identification of such documents, in writing, with sufficient specificity to permit the Prehearing Officer or Commission to reach a determination in the event of a motion to compel as to the applicability of the asserted objection, together with an indication of the basis for the assertion of the claim of attorney/client privilege or the work product doctrine, or any other claim of privilege. The identification called



for by this instruction shall include the nature of the document (i.e., interoffice memoranda, correspondence, report, etc.), the sender or author, the recipient of each copy, the date, the name of each person to whom the original or any copy was circulated, the names appearing on any circulation list associated with such document, and a summary statement of the subject matter of the document in sufficient detail to permit the Court to reach a determination in the event of a motion to compel.

11. Electronic Documents. All materials in Excel or similar format shall be produced in electronic format, with all spreadsheets, formulas, and links unlocked and intact.

12. Organization of Documents. With respect to the documents produced, you shall produce them as they are kept in the usual course of business, labeling them to correspond with each numbered paragraph of this Request in response to which such documents are produced. All pages now stapled or fastened together and all documents that cannot be copied legibly should be produced in their original form.

## DOCUMENTS REQUESTED

1. Please produce all direct, rebuttal and/or sur-rebuttal testimony, briefs, and pre-hearing statements filed with any Public Utility Commission or Public Service Commission, the Federal Energy Regulatory Commission, or any other state or federal regulatory body in the last seven (7) years in connection with a general base rate case or similar proceeding, as well as deposition transcripts, and/or any hearing transcripts for any appearances in any of those regulatory proceedings.
2. Please produce all articles, texts, treatises, videos, or other materials published or submitted for publication by any SFHHA witness who has appeared before any Public Utility Commission or Public Service Commission, the Federal Energy Regulatory Commission, or any other state or federal regulatory body in the last seven (7) years in connection with a general base rate case or similar proceeding.
3. Please produce any and all documents identified in your responses to FPL's First Set of Interrogatories Nos. (1-16) to SFHHA.

Respectfully submitted this 20<sup>th</sup> day of May, 2016.

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## CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by electronic mail this 20<sup>th</sup> day of May, 2016, to the following parties:

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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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

§  
§  
§  
§  
§

**Docket No.: 160021-EI**

**Dated: June 15, 2016**

**SOUTH FLORIDA HOSPITAL AND HEALTHCARE ASSOCIATION'S  
OBJECTIONS TO FLORIDA POWER & LIGHT COMPANY'S  
FIRST SET OF INTERROGATORIES (NOS. 1-16) AND  
REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 1-3)**

Pursuant to Rule 28-106.206 of the Florida Administrative Code and Rules 1.340 and 1.350 of the Florida Rules of Civil Procedure, South Florida Hospital and Healthcare Association (“SFHHA”), by and through its undersigned attorneys, hereby submits the following objections to Florida Power & Light Company’s (“FPL”) First Set of Interrogatories (Nos. 1-16) and First Set of Requests for Production of Documents (Nos. 1-3).

**General Objections**

A. SFHHA objects to each FPL request that requires information pertaining to periods that date back to 2011 or beyond. Such chronologically distant documents are not relevant, are not reasonably calculated to lead to the discovery of admissible evidence and are incurably stale unless they directly relate to FPL’s current anticipated levels of costs, revenues and/or billing determinants. Thus, the request for such older information is objectionable except in a context in which documents generated prior to 2011 contain information, for example, such as: FPL’s projections of costs it would incur in 2016, 2017 and/or 2018; or FPL’s projections or discussions of the need or reasons for it to make investments in infrastructure during the period 2016, 2017 and/or 2018, or during a period beyond 2018 to the extent FPL’s proposed rates are based in part on such a future investments. In addition, it would be unduly burdensome to

require SFHHA to research and produce information and documents from beyond five years past as any information SFHHA may have cannot remotely be relevant to any issue concerning the propriety of the rates FPL proposes in this case. Therefore, the burden to SFHHA in producing such information significantly outweighs the value of such an undertaking.

B. SFHHA objects to all requests that seek information or documents not in SFHHA's possession. To the extent an interrogatory or request for production of documents is formulated to seek relevant information, or reasonably calculated to lead to the discovery of admissible evidence, SFHHA will provide all documents and/or information SFHHA obtains after a reasonable and diligent search conducted of documents in its possession in connection with a discovery request. SFHHA will not undertake a search to identify documents in the possession of third-parties. To the extent that discovery requests propose to require more than a reasonable and diligent search of documents in its own possession, SFHHA objects on the ground that compliance is in excess of SFHHA's obligations under applicable law and would impose an undue burden and expense.

C. SFHHA objects to each discovery request that calls for information protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege or protection afforded by law, whether such privilege or protection appears at the time response is first made or is later determined to be applicable for any reason. SFHHA in no way intends to waive such privilege or protection. SFHHA objects to FPL's instructions to the extent they purport to require SFHHA to provide more information, with respect to withheld privileged documents, than required under applicable rules and law.

D. SFHHA objects to providing information that is proprietary, confidential business information without provisions in place to protect the confidentiality of the information. SFHHA in no way intends to waive claims of confidentiality.

E. SFHHA objects to each discovery request that seeks information not relevant to this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence. SFHHA expressly reserves, and does not waive, any and all objections to the admissibility, authenticity or relevancy of the information provided in its responses to the discovery requests.

F. SFHHA objects to each and every discovery request that calls for the production of documents and/or disclosure of information from SFHHA that does not deal with FPL's reasons for its proposals in this docket. Documents and/or information, aside from those involving the reasons for FPL's proposed rates or terms and conditions of service, do not affect FPL's rates or revenue requirement. Further, information that does not deal with FPL's proposals is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence. Moreover, such requests are by their very nature unduly burdensome and overly broad. Subject to and without waiving any other objections, SFHHA will respond to FPL's discovery requests only to the extent a discovery request would produce information relevant to FPL's claimed reasons for the changes it proposes to its rates and services or is reasonably calculated to lead to the discovery of admissible evidence.

G. SFHHA objects to any production location other than their attorneys' office at 1350 I Street, NW, Washington, DC 20005 or such other location of SFHHA's choosing.

H. SFHHA objects to the definitions and/or instructions set forth in FPL's First Set of Interrogatories and First Request for Production of Documents to the extent they purport to impose upon SFHHA any obligations that SFHHA does not have under applicable law.

I. SFHHA objects to each request that is vague, ambiguous, or overly broad, imprecise, or utilizes terms subject to multiple interpretations, but not properly defined or explained for purposes of such discovery requests. Any responses provided by SFHHA to FPL's First Set of Interrogatories and First Request for Production of Documents will be provided subject to, and without waiver of the foregoing objection.

J. SFHHA objects to each request that requires SFHHA to create new data, documents or studies. SFHHA will provide material in existing formats, but will not create new data or documents, conduct new studies, or acquire new software to respond to requests.

K. SFHHA objects to providing information that is already in the public record or that is as easily accessible to FPL as to SFHHA or already is in FPL's possession.

L. SFHHA objects to each discovery request to the extent that the information requested constitutes "trade secrets" which are privileged pursuant to Sections 90.506 and 366.093(3)(a) of the Florida Statutes. SFHHA also objects to provision of any document that would expose them to claims of copyright or other intellectual-property based claims, or any other adverse claim or exposure based upon provisions of licensing or other agreements.

M. SFHHA objects to discovery requests that amount to harassment of SFHHA and/or its members.

N. SFHHA objects to each request to the extent that it seeks information that is duplicative.

O. SFHHA objects to FPL Instruction No. 9. It will object to interrogatories individually, but it will not repeat an objection with respect to each subpart of an interrogatory where an objection is applicable to the interrogatory inclusive of all subparts.



P. SFHHA objects to FPL Instruction No. 10 to the extent that it would require SFHHA to guess at whether providing data to FPL would allow FPL to develop the information it is seeking through an interrogatory. To the extent that SFHHA has the information FPL requests in the form requested, or in another form, it will provide the information in the form in which it has the information.

Q. SFHHA reserves its right to count discovery requests and their sub-parts, as permitted under the applicable rules of procedure, in determining whether it is obligated to respond to additional discovery requests served by any party. By SFHHA's count, FPL has served it with 32 interrogatories and three document requests.

### **Specific Objections**

SFHHA incorporates by reference all of the foregoing General Objections into its Specific Objections set forth below as though fully stated herein.

#### Interrogatories

Interrogatory No. 1: SFHHA objects on multiple grounds to Interrogatory No. 1, which requires that SFHHA "identify each consultant, expert, witness, or other person" who has provided testimony or other support "on behalf of SFHHA" before any state or federal regulatory body "in the last seven (7) years in connection with a general base rate case or similar proceeding." SFHHA objects because the interrogatory seeks information that is irrelevant to this proceeding and is not calculated to lead to the discovery of admissible evidence. Identifying SFHHA's witnesses in other general base rate case or similar proceedings is irrelevant to any issue in this case and will not assist the Commission in making a determination of whether the rates, or terms and conditions of service, FPL proposes are just, reasonable and fair.

SFHHA further objects to this request because it is premature. SFHHA will not make a final determination of the persons who will testify on its behalf in this proceeding until slightly before it submits testimony under the procedural schedule for this proceeding. At such time as SFHHA files its testimony, FPL will be apprised of the identity of the individual(s) testifying on behalf of SFHHA in this proceeding.

SFHHA also objects to subpart (a) of Interrogatory No. 1, which requires that SFHHA, “[f]or each such person or entity” identified pursuant to the main portion of Interrogatory No. 1, “describe the terms of the financial arrangements” under which that person “will be compensated for work/services provided in this case.” To the extent that the reference to “this case” refers to the present docket, the information sought by subpart (a) is duplicative of the information FPL seeks through Interrogatory No. 4 and SFHHA objects on that basis. *See* General Objection N. *See also* objection to Interrogatory No. 4. To the extent that the reference to “this case” refers to compensation to persons or entities in other proceedings, the information sought is irrelevant to this proceeding, is not calculated to lead to the discovery of admissible evidence and is beyond that which SFHHA is required to provide under applicable law. The terms of the agreements SFHHA entered into with consultants and/or experts, and the amount that SFHHA spent on its participation in other proceedings before a state, federal, or any other regulatory body in the last seven years, neither is relevant, nor is calculated to lead to the discovery of admissible evidence that can assist the Commission in determining whether FPL’s proposed rate increase is appropriate or assist the Commission in its resolution of other issues in this case.

Interrogatory No. 2: FPL requests that SFHHA provide a panoply of information regarding witnesses testifying on behalf of SFHHA before any state and/or federal regulatory body in the

last seven (7) years in the context of a general rate case or similar proceeding. SFHHA objects to this request for the same reasons it objected to FPL Interrogatories 1 and 1(a). SFHHA further objects to this request to the extent it requests information that exceeds the requirements under Fla. R. Civ. P. 1.280 (b)(4). When SFHHA's witnesses submit testimony, each shall submit a *curriculum vitae* that lists the cases in which each has offered testimony in a professional capacity. SFHHA also specifically objects to subpart (d). Quantification of the percentage of work a witness on behalf of SFHHA performs for regulatory bodies or public counsel is irrelevant and will not lead the discovery of admissible evidence. Further, the request is vague and ambiguous as FPL has not explained the basis upon which to calculate a percentage. Additionally, to the extent that FPL believes it needs such information, FPL can determine for itself from the *curriculum vitae* of each SFHHA witness the extent, if at all, a witness has performed work for a regulatory body or public counsel.

Interrogatory No. 3: SFHHA objects to Interrogatory No. 3, which requests the subject matter, positions, and opinions on which each person named in response to Interrogatory No. 2 has testified. This request is premature for the reasons explained in the objection to Interrogatory No. 1. At such time as SFHHA submits its testimony, as noted above, attached to each witnesses testimony will be a *curriculum vitae* that lists the cases in which each has offered testimony in a professional capacity. Based upon the *curriculum vitae*, to the extent that FPL does not already have copies of prior testimonies of SFHHA's witnesses, FPL will be able to obtain copies of publicly available testimonies from the websites of the applicable regulatory commissions. See General Objection I.

SFHHA also objects to subpart (a) which requires that SFHHA state whether the state or federal regulatory body(s) identified in response to Interrogatory No. 2 “adopted SFHHA’s positions and opinions” and if so, to “state in detail the outcome(s), result(s), and effect(s) on SFHHA’s members.” SFHHA objects to this request on the ground that at least at this time, the information concerning the outcome(s) and result(s) on issues that SFHHA potential witnesses have previously testified about cannot be shown to be relevant as it is unclear what issues SFHHA witnesses will testify about in this proceeding and unclear how, if at all, their prior testimonies will relate to issues that have not yet been identified in this case. Further, SFHHA will not conduct research regarding the outcome(s) and result(s) on issues that SFHHA witnesses have previously testified about. Such information is publicly-available and FPL can access that information once it is provided the *curriculum vitae* of SFHHA’s witnesses. Thus, the information FPL seeks concerning outcome(s) and result(s) will be readily available to FPL. See General Objection I. As to information concerning the “effect(s) on SFHHA’s members,” SFHHA objects to providing such information as the request for such information neither seeks relevant information nor is the request calculated to lead to the discovery of admissible evidence. What the effects are on SFHHA’s members of outcome(s) and result(s) on issues in prior cases that SFHHA potential witnesses have previously testified about will provide no information that is relevant to a determination of whether FPL’s proposals in this case should be adopted. Further, the term “effects” is ambiguous. SFHHA will not speculate about what “effects” FPL refers to nor will it speculate about such “effects” on its members. Moreover, FPL has ready access to the amounts it bills its customers, including costs and consumption data. The “effects” on SFHHA’s members, at least from a ratemaking perspective, would have to be combined with the data for all other FPL customers under a particular rate schedule or in the aggregate to reach

conclusions that would produce relevant data; “effects” on an individual customer (or a subset of customers) would be fundamentally incomplete and useless.

SFHHA further objects to subpart (b) which seeks information concerning “the benefits achieved resulting from any and all SFHHA positions and opinions adopted by a Public Service Commission, Public Utility Commission, and state or federal regulatory body.” The interrogatory as drafted is overbroad as it does not purport to be limited to utility type proceedings. SFHHA represents its members before state and federal regulatory bodies on issues other than utility ratemaking and information concerning SFHHA’s activities before such other governmental bodies has not been shown to be relevant to the issues in this proceeding or calculated to lead to the discovery of admissible evidence. Finally, SFHHA additionally objects to subpart (b) to the extent the interrogatory requests proprietary, confidential business information. *See* General Objection D.

Interrogatory No. 4: FPL asks that SFHHA identify all those who will provide testimony on behalf of SFHHA in this docket. Subpart (a) requests that SFHHA describe “the terms of the financial arrangements or agreement pursuant to which that person or entity will be compensated.” Information responsive to subpart (a) is proprietary and SFHHA objects to the public disclosure of such information on that basis. After SFHHA makes a final determination of who its witnesses will be, SFHHA will provide the requested information subject to a Confidentiality Agreement to the extent FPL provides equivalent information regarding its witnesses pursuant to SFHHA Interrogatory No. 220. Subpart (b) requests “the amount paid to date and the total amount contracted for” “for each witness testifying on behalf of SFHHA” “in

connection with this docket.” SFHHA objects to subpart (b) as it requests information in excess of that required to be disclosed by Rule 1.280(b)(5) of the Florida Rules of Civil Procedure.

Interrogatory No. 5: FPL requests that SFHHA provide a panoply of information related to “every witness SFHHA intends to have testify” “in this docket.” SFHHA objects to this request on the grounds that it is premature. *See* objection to Interrogatory No. 1. Further, to the extent SFHHA’s witnesses in this case are the same as its witnesses in prior cases before the Commission, Interrogatory No. 5 is duplicative of Interrogatory No. 2. *See* General Objection N.

Interrogatory No. 6: FPL requests information regarding the appearances of the witnesses identified in Interrogatory No. 5 before regulatory or administrative bodies. SFHHA objects to this request on the ground that it is premature. *See* objection to Interrogatory No. 1. Further, as indicated in the objection to Interrogatory No. 2, when SFHHA’s witnesses submit testimony, each shall submit a *curriculum vitae* that lists the cases in which each has offered testimony in a professional capacity. With the receipt of that document, FPL will be able to obtain all the information it seeks through this interrogatory from publicly available records to the extent FPL does not already possess the information. *See* General Objection K.

Interrogatory No. 7: FPL requests SFHHA to identify “all materials and documents provided to SFHHA members regarding electric rates as a result of any and all . . . state or federal regulatory body dockets” in the last seven (7) years in connection with a general base rate case or similar proceeding. SFHHA objects to Interrogatory No. 7 on multiple grounds. First, SFHHA will not produce information or documents not in its possession. *See* General Objection B. Thus, to the

extent this interrogatory requests SFHHA to identify materials and documents in the possession of its members, SFHHA objects for the reasons set forth in General Objection B. SFHHA further objects that the interrogatory is overbroad, vague and ambiguous. The mere fact that a document provided to an SFHHA member relates to electric rates in connection with a rate case before a state or federal agency does not make the document in which such information appears calculated to lead to the discovery of admissible evidence in this case. The universe of documents responsive to the broad formulation “all materials” “regarding electric rates” “as a result of any and all” “state or federal regulatory body dockets in the last seven (7) years” “in connection with a general base rate case or similar proceeding” encompasses documents concerning matters that have nothing to do with any issue in this rate case, and the request as formulated is hopelessly overbroad and not reasonably calculated to lead to the discovery of admissible evidence. SFHHA also objects to this request to the extent it would require the identification of privileged documents. SFHHA will not produce privileged documents. *See* General Objection C. To the extent the Commission were to rule that any of the information FPL seeks through this interrogatory is discoverable, SFHHA will produce a log of privileged documents, if any, that contain information within the scope of the Commission’s ruling. SFHHA shall include information in any such log consistent with its obligations under applicable law.

Interrogatory No. 8: FPL requests that SFHHA describe efforts “undertaken by SFHHA or any member of the SFHHA or their agents from 2010 to the present to disseminate fliers, handouts,” etc. to members or prospective members that refer to FPL “including but not limited to the positions or issues that are the subject of this pending case.” SFHHA objects to this request on

multiple grounds. First, the information requested is overbroad. If SFHHA, a SFHHA member or any agent undertook efforts to disseminate materials that refer to FPL, such information neither is inherently relevant to any issue in this case, nor would discovery of such activities, nor of materials, if any, disseminated that refer to FPL, inherently be calculated to lead to the discovery of admissible evidence in this case. Further, documents, if any, disseminated as long ago as 2010 have no relevance to the issues in this case nor would discovery of any such documents be calculated to lead to the discovery of admissible evidence in this case. SFHHA also objects to the request to the extent it asks SFHHA to describe the activities of its members. SFHHA will not produce information not in its possession. *See* General Objection B. Further, the term ‘agent’ is not defined. To the extent FPL intends that the term include SFHHA’s attorneys, SFHHA objects to production of information or documents that are privileged. SFHHA will not produce privileged documents. *See* General Objection C. To the extent the Commission were to rule that any of the information FPL seeks through this interrogatory is discoverable, SFHHA will produce a log of privileged information, if any, that is within the scope of the Commission’s ruling. SFHHA shall include information in any such log consistent with its obligations under applicable law.

Interrogatory No. 9: FPL requests that SFHHA “describe any benefits that SFHHA believes it received as a result of the 2012 FPL settlement agreement approved in FPSC Order No. PSC-13-0023-S-EI.” SFHHA objects to this request on the ground that the information requested neither is relevant nor is calculated to lead to the discovery of relevant information. The issues to be resolved in this case concern the propriety of the rates FPL has proposed and the methodologies underlying those rates. The issues do not concern benefits obtained under the 2012 settlement



FPL entered into, *inter alia*, with SFHHA, or SFHHA's perceptions of those benefits. Any information concerning benefits in 2013-16 is stale and not relevant to the unjust and unreasonable costs FPL is proposing to charge to SFHHA's members in 2017-20. Further, FPL can determine itself what benefits SFHHA's members obtained under the 2012 settlement, and in fact is in a better position to quantify those benefits than SFHHA as FPL, unlike SFHHA, maintains all records necessary to quantify such benefits. FPL therefore is perfectly capable of calculating, or retaining an individual, witness, or expert to determine, the benefits to SFHHA's members from the 2012 FPL rate settlement based upon information in FPL's own records. *See* General Objection K. To require a party to perform an analysis that the opposing party is capable of performing does not adhere to Florida's Rules of Civil Procedure as interpreted and applied in prior Commission orders, see, e.g. Order No. PSC-07-0032-PCO-EU. SFHHA further objects to this request to the extent it would require the dissemination of privileged information. SFHHA will not produce privileged information. *See* General Objection C. To the extent the Commission were to rule that any of the information FPL seeks through this interrogatory is discoverable, SFHHA will produce a log of privileged information, if any, within the scope of the Commission's ruling. SFHHA shall include information in any such log consistent with its obligations under applicable law.

Interrogatory No. 10: FPL requests that SFHHA "describe any and all electric bill impact calculations SFHHA has performed to assess the impact of FPL's current base rate increase . . ." SFHHA objects to this request on the ground that FPL can determine itself, and has determined, what the bill impacts are of its rate proposal, and FPL, unlike SFHHA, maintains all records necessary to quantify such impacts. FPL therefore is perfectly capable of calculating, or

retaining an individual, witness, or expert to determine, bill impacts based upon the information in FPL's own records. *See* General Objection K. To require a party to perform an analysis that the opposing party is capable of performing does not adhere to Florida's Rules of Civil Procedure as interpreted and applied in prior Commission orders, *see, e.g.*, Order No. PSC-07-0032-PCO-EU. SFHHA further objects to this request to the extent it would require the production of privileged information. SFHHA will not produce privileged information. *See* General Objection C. To the extent the Commission were to rule that any of the information FPL seeks through this interrogatory is discoverable, SFHHA will produce a log of privileged information, if any, within the scope of the Commission's ruling. SFHHA shall include information in any such log consistent with its obligations under applicable law.

Interrogatory No. 11: FPL requests SFHHA to identify "all documents provided to SFHHA's members" that refer to the electric bill impacts of the 2012 FPL Settlement Agreement, as approved by the Commission. SFHHA objects to this request on multiple grounds. First, SFHHA objects to Interrogatory No. 11 because it is not reasonably calculated to lead to the discovery of documents that are relevant to this proceeding. The issues to be resolved in this case concern the propriety of the rates FPL has proposed and the methodologies underlying those rates. The issues do not concern bill impacts under the 2012 settlement that FPL entered into, *inter alia*, with SFHHA, or SFHHA's perceptions of those impacts. SFHHA further objects to this request to the extent the interrogatory seeks identification of documents that are not in SFHHA's possession. SFHHA is not privy to documents in the possession of its members except for documents, if any, that SFHHA provided itself. SFHHA will not produce information or documents not in its possession. *See* General Objection B. SFHHA also objects on the basis

that to the extent FPL wants to know the electric bill impacts on SFHHA's members resulting from the 2012 settlement, FPL unlike SFHHA, maintains all records necessary to quantify such impacts. FPL therefore is perfectly capable of calculating, or retaining an individual, witness, or expert to determine, bill impacts based upon the information in FPL's own records. *See* General Objection K. To require a party to perform an analysis that the opposing party is capable of performing does not adhere to Florida's Rules of Civil Procedure as interpreted and applied in prior Commission orders, *see, e.g.*, Order No. PSC-07-0032-PCO-EU. Lastly, SFHHA objects to the extent the request would require the production of privileged documents. SFHHA will not produce privileged documents. *See* General Objection C. To the extent the Commission were to rule that any of the information FPL seeks through this interrogatory is discoverable, SFHHA will produce a log of privileged documents, if any, within the scope of the Commission's ruling. SFHHA shall include information in any such log consistent with its obligations under applicable law.

Interrogatory No. 12: FPL requests that SFHHA "identify all documents provided to SFHHA's members that discuss" the estimated electric bill impact of FPL's current base rate increase in this docket. SFHHA objects to this request on the ground that FPL can determine itself, and has determined, what the bill impacts are of its rate proposal, and FPL, unlike SFHHA, maintains all records necessary to quantify such impacts. FPL therefore is perfectly capable of calculating, or retaining an individual, witness, or expert to determine, bill impacts based upon the information in FPL's own records. *See* General Objection K. To require a party to perform an analysis that the opposing party is capable of performing does not adhere to Florida's Rules of Civil Procedure as interpreted and applied in prior Commission orders, *see, e.g.*, Order No. PSC-07-

0032-PCO-EU. SFHHA further objects to this request to the extent it seeks the identification of documents that are not in SFHHA's possession. SFHHA is not privy to documents in the possession of its members except for documents, if any, that SFHHA provided itself. SFHHA will not produce information or documents not in its possession. *See* General Objection B. SFHHA further objects to this request to the extent it would require the provision of privileged information. SFHHA will not produce privileged information. *See* General Objection C. To the extent the Commission were to rule that the information FPL seeks through this interrogatory is discoverable, SFHHA will produce a log of privileged documents, if any, within the scope of the Commission's ruling. SFHHA shall include information in any such log consistent with its obligations under applicable law.

Interrogatory No. 13: FPL requests that SFHHA "compare the FPL electric bills for SFHHA's members in FPL's service territory" to those members' estimated bills "in other jurisdictions in which SFHHA members have participated in any" state or federal regulatory docket "in the last four (4) years." SFHHA objects to this request on the ground that the information sought is irrelevant to this case and is not reasonably calculated to lead to the discovery of admissible evidence. The cost of electric service in the FPL service territory is at issue in this proceeding, not the cost of electric service by any other utility in Florida, or the cost of electric service in any other jurisdiction, state or federal. Further, to the extent FPL's interrogatory seeks information about the electric bills of affiliates of SFHHA's members where the affiliates are located in the service territory of another utility, a comparison to the electric bill of an SFHHA member in FPL's service territory to the affiliate's electric bill from another utility neither constitutes relevant evidence nor will lead to the discovery of admissible evidence because it is FPL's

proposed rates that are at issue, not the rates of any other utility. In addition, SFHHA objects to this request on the grounds that it would require SFHHA to conduct a new study and to obtain information not in its possession. SFHHA will not produce information not in its possession. *See* General Objection G. SFHHA also objects that this request would impose an undue burden upon it, likely requiring hundreds, if not thousands, of man hours to acquire the requested information, assuming the request aims to obtain information about the electric bills of affiliates of SFHHA's members where the affiliates are located in the service territory of another utility. The burden of preparing such a comparison significantly outweighs the benefits of such a comparison because the data produced would be irrelevant as discussed above. Further, to the extent the request is intended to refer to the electric bills from another utility to a SFHHA member that is served by FPL, the request makes no sense because a SFHHA member in FPL's service territory is not served by a different utility.

Interrogatory No. 14: FPL requests that SFHHA "describe any and all cost saving measures" undertaken by SFHHA members "to reduce [their] operating budgets" in the last four (4) years. SFHHA objects to Interrogatory No. 14 as irrelevant to this proceeding and overly burdensome. The measures taken by SFHHA's members to reduce their operating budgets are not at issue in this rate proceeding, and information responsive to this request is not reasonably calculated to lead to the discovery of admissible evidence. This request is also unduly burdensome in that it would require SFHHA to perform a new study and to obtain information that is not in its possession. *See* General Objection K. SFHHA can only estimate that on a combined basis, such efforts would encompass hundreds, if not, thousands of man hours. The burden of undertaking such a study significantly outweighs the value of the study given that the data produced by the

study would be irrelevant. This request also would harass SFHHA and its members, and SFHHA objects on that additional basis. Further, SFHHA objects to this request to the extent it would require SFHHA to provide information that is not in its possession. *See* General Objection K. SFHHA further objects that the interrogatory is overbroad. This is an additional reason why information provided in response to this request would be irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 15: FPL requests that SFHHA describe all measures taken by SFHHA members to reduce their electric consumption over the last four years, both in FPL's service territory and in other locations served by electric utilities other than FPL). SFHHA objects to Interrogatory No. 15 as irrelevant to this proceeding and overly burdensome. *See* objections to Interrogatory Nos. 13 and 14. Further, FPL has comprehensive information concerning the consumption levels of SFHHA's members. FPL, unlike SFHHA, maintains all records necessary to quantify the actual consumption levels of SFHHA's members. FPL therefore is perfectly capable of calculating, or retaining an individual, witness, or expert to determine, the consumption levels of SFHHA's members based upon the information in FPL's own records. *See* General Objection K. To require a party to perform an analysis that the opposing party is capable of performing does not adhere to Florida's Rules of Civil Procedure as interpreted and applied in prior Commission orders, *see, e.g.*, Order No. PSC-07-0032-PCO-EU.

Interrogatory No. 16: FPL requests that SFHHA "identify all materials" provided to SFHHA members soliciting funds for participation in this docket. SFHHA objects to Interrogatory No. 16 on the grounds that the information sought is irrelevant. The means by which SFHHA solicits

any funds from its members has no relevance to FPL's proposed rates and such information is not reasonably calculated to lead to the discovery of admissible evidence. Further, any such information is privileged. SFHHA will not produce privileged information. *See* General Objection C. To the extent the Commission were to rule that the information FPL seeks through this interrogatory is discoverable, SFHHA will produce a log of privileged documents, if any, within the scope of the Commission's ruling. SFHHA shall include information in any such log consistent with its obligations under applicable law. SFHHA further objects that this request would harass SFHHA and its members. *See* General Objection M.

#### Document Requests

Document Request No. 1: FPL requests all testimony, briefs, and pre-hearing statements filed with any state or federal regulatory body in the last seven years in connection with a rate case, as well as deposition transcripts or hearing transcripts in any of those proceedings. SFHHA first objects that this request is vastly overbroad. As formulated, it would require SFHHA, without limitation or qualification, to produce all testimony, briefs, and pre-hearing statements filed with any state or federal regulatory body in the last seven years in connection with a rate case, as well as deposition transcripts or hearing transcripts without regard to whether SFHHA were a participant in the proceeding or had anything to do with the proceeding. Assuming FPL intended the request to be more limited by seeking such materials in which SFHHA participated, FPL already is in possession of all such information as SFHHA only has participated in FPL's rate cases and FPL therefore has possession of all materials it has requested. If the request is intended to refer to SFHHA's witnesses in the instant case, SFHHA objects to this requests on the grounds that it is premature. *See* objections to Interrogatory Nos. 1, 2 and 3.

Document Request No. 2: FPL requests all testimony submitted by any of SFHHA's witnesses to any PUC or PSC or FERC, as well as all published materials for the last seven years. SFHHA objects to this request on the grounds that it is premature. *See* objections to Interrogatory Nos. 1, 2 and 3.

Document Request No. 3: FPL requests that SFHHA provide any and all documents identified in SFHHA's answers to FPL's first set of interrogatories. SFHHA objects to this request to the extent that it would require SFHHA to produce documents that are responsive to interrogatories to which it has objected.

Respectfully submitted this 15th day of June, 2016.

*/s/ Kenneth L. Wiseman*  
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Attorneys for South Florida Hospital and Healthcare Association

June 15, 2016



**CERTIFICATE OF SERVICE**  
**DOCKET NO. 160021-EI**

I HEREBY CERTIFY that a copy of the foregoing has been furnished by electronic mail,

U.S. Mail or Federal Express, this 15th day of June, 2016 to the following:

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<p><b>Florida Industrial Power Users Group</b> Jon C. Moyle, Jr. Karen A. Putnal Moyle Law Firm, PA 118 North Gadsden Street Tallahassee, FL 32301 Phone: (850) 681-3828 Fax: (850) 681-8788 Email: jmoyle@moylelaw.com kputnal@moylelaw.com</p>	<p><b>Wal-Mart Stores East, LP and Sam's East, Inc.</b> Stephanie U. Roberts Spilman Law Firm 110 Oakwood Drive, Suite 500 Winston-Salem, NC 27103 sroberts@spilmanlaw.com</p> <p>Derrick Price Williamson Spilman Law Firm 1100 Bent Creek Boulevard, Suite 101 Mechanicsburg, PA 17050 Phone: (717) 795-2741 Fax: (717) 795-2743</p>

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/s/ Kevin C. Sigveland  
Kevin C. Sigveland

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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

**Docket No.: 160021-EI**

**Filed: April 8, 2016**

**PETITION TO INTERVENE OF SOUTH FLORIDA  
HOSPITAL AND HEALTHCARE ASSOCIATION**

The South Florida Hospital and Healthcare Association (“SFHHA”), pursuant to Chapter 120, Florida Statutes, and Rules 25-22.039, 28-106.201 and 28-106.205 of the Florida Administrative Code, hereby petitions the Florida Public Service Commission (“Commission”) to intervene in the captioned docket regarding the rates and charges proposed to be charged by Florida Power & Light Company (“FPL”). FPL is a public utility that is subject to the Commission’s jurisdiction over the rates and service of public utilities in Florida.

In support of their Petition to Intervene, SFHHA states as follows:

1. The name and address of SFHHA is:

South Florida Hospital and Healthcare Association  
1855 Griffin Road  
Dania Beach, Florida 33004  
Phone: (954) 964-1660  
Fax: (954) 964-1260

2. All pleadings, orders and correspondence should be directed to Petitioners' representatives as follows:

Kenneth L. Wiseman  
Mark F. Sundback  
William M. Rappolt  
Andrews Kurth LLP  
1350 I Street NW, Suite 1100  
Washington, D.C. 20005  
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kwiseman@andrewskurth.com  
msundback@andrewskurth.com  
wrappolt@andrewskurth.com

3. The agency affected by this Petition to Intervene is:

Florida Public Service Commission  
2540 Shumard Oak Blvd  
Tallahassee, Florida 32399-0850

4. SFHHA is an association of healthcare providers acting as an advocate, facilitator and educator for its members, primarily in South Florida and a voice for improving the health status of its community. Particularly, SFHHA advocates the interests, and encourages involvement, of its member organizations in communications with the public, to elected and government officials, and to the business community and engages in cost-effective projects and programs that benefit, or add value to the services offered by, its member organizations.

5. The individual healthcare institutions that are members of SFHHA are engaged in providing, *inter alia*, acute healthcare services. They receive electric power from and pay the rates of FPL.

6. **SFHHA Standing:** Under Florida law, to establish standing as an association representing its members' substantial interests, an association such as SFHHA must demonstrate three things:

- a. that a substantial number of its members, although not necessarily a majority, are substantially affected by the agency's decisions;
- b. that the intervention by the association is within the association's general scope of interest and activity; and
- c. that the relief requested is of a type appropriate for an association to obtain on behalf of its members.<sup>1</sup>

7. SFHHA satisfies all of these "associational standing" requirements. First, substantially all of SFHHA's members are located in FPL's service area and receive their electric service from FPL, for which they are charged FPL's applicable service rates. Hence, they will be substantially affected by the Commission's determination of FPL's rates. Second, SFHHA exists, as previously noted, to act as an advocate, facilitator and educator for its members and advocates the interests of its member organizations to elected and government officials, such as the Commission. SFHHA was, in fact, an intervenor in FPL's four prior general rate cases and a signatory to the 2012, 2010 and 2005 settlements that resolved the issues in each docket, respectively. Therefore, intervention is within the association's general scope of interest and activity. Third, the relief requested -- intervention, and with it, the right to seek the lowest rates consistent with the Commission's governing law and policy -- is relief that will help reduce electric

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<sup>1</sup> Florida Home Builders Ass'n v. Dep't of Labor and Employment Security, 412 So. 2d 351, 353-54 (Fla. 1982).

costs to SFHHA's members. Therefore, the requested relief is of a type appropriate for an association to obtain on behalf of its members. As demonstrated, SFHHA has established standing as an association representing its members' substantial interests.

8. **Statement of Substantial Interests Affected:** This docket was initiated by a petition dated March 15, 2016 by FPL requesting authority to increase its base rates effective on the first billing cycle day of January 2017. FPL's petition also proposed a subsequent year base rate increase of \$262 million to be effective January 1, 2018, as well as a subsequent base rate step adjustment to be effective on the Okeechobee Clean Energy Center's expected in-service date of June 1, 2019.

9. This proceeding thus will examine the rates that FPL will be authorized to charge to its customers. The Commission will necessarily have to decide whether any rate increases or decreases are justified, and if so, the Commission also will have to approve rates and charges in order to implement such increases or decreases. Thus, the disposition of this case will affect the rates charged by FPL, as well as the terms and conditions of service, impacting FPL's customers, including SFHHA's members that are connected to FPL's facilities. SFHHA's members require reliable, consistent and reasonably-priced electricity. Because SFHHA and its members will be directly and substantially affected by any action the Commission takes in FPL's current docket, SFHHA has a substantial interest in the proceeding that is not adequately represented by other parties to this proceeding.<sup>2</sup>

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<sup>2</sup> Insofar as this is a petition for intervention and because there is presently no agency decision pending in this docket, SFHHA states that Rule 28-106.201(c) of the Florida Administrative Code is not applicable.

10. For a potential intervenor to demonstrate that its substantial interests will be affected by a proceeding, the potential intervenor must show: (a) it will suffer injury in fact as a result of the agency action contemplated in the proceeding that is of sufficient immediacy to entitle it to a hearing; and (b) the injury suffered is a type against which the proceeding is designed to protect.<sup>3</sup> SFHHA satisfies these provisions. SFHHA seeks to protect its members' substantial interests as they will be affected by the Commission's decision in this case, and they face injury if the Commission were to approve FPL's proposed rates, which are not just and reasonable and would be unduly discriminatory. SFHHA's participation in this rate case is designed to protect against that injury. If granted leave to intervene, SFHHA will be able to attempt to protect its members' substantial interests, including the ability to receive reliable and consistent electricity at fair, just and reasonable and not unduly discriminatory rates.

11. **Disputed Issues of Material Fact:** Disputed issues of material fact in this proceeding may include, but will not necessarily be limited to, the issues listed below. The following statement of issues is general in nature and SFHHA reserves the right to identify and develop additional issues and refine those listed below as this docket progresses in accordance with the Commission's rules. SFHHA expects that, as in past rate cases, numerous additional, specific issues will be identified and developed as this docket progresses.

Issue 1: Determining appropriate jurisdictional levels of FPL's Plant in Service, Accumulated Depreciation, and Rate Base for setting FPL's rates.

Issue 2: Determining appropriate jurisdictional values of FPL's operation and maintenance expenses for setting FPL's rates.

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<sup>3</sup> See Ameristeel Corp. v. Clark, 691 So. 2d 473, 477 (Fla. 1997).

- Issue 3: Determining whether FPL's expenditures sought to be included in the derivation of the cost of service were prudently incurred.
- Issue 4: Determining the appropriate capital structure for FPL for the purpose of setting FPL's rates.
- Issue 5: Determining the appropriate rate of return on equity for FPL for the purpose of setting FPL's rates.
- Issue 6: Determining the appropriate allocation of FPL's costs of providing retail electric service among FPL's retail customer classes
- Issue 7: Determining the appropriate rates to be charged by FPL for its services to each customer class.
- Issue 8: Determining the appropriate amount to be included in FPL's base rates for storm restoration accrual.
- Issue 9: Determining the appropriate amount to be included in FPL's base rates for storm hardening accrual.
- Issue 10: Determining the appropriate amount to be included in FPL's base rates for gas reserve expense accrual.
- Issue 11: Designing rates for recovery of revenue requirements.
- Issue 12: Determining the propriety of FPL's proposed projected twelve-month period ending December 31, 2017 as the test year for the 2017 base rate increase.
- Issue 13: Determining the propriety of FPL's proposed projected twelve-month period ending December 31, 2018 as the test year for the permanent rate increase beginning January 1, 2018.
- Issue 14: Determining the propriety of FPL's proposed base rate step adjustment based on the in-service date of its new Okeechobee Clean Energy Center plant.

12. **Ultimate Facts Alleged:** Because SFHHA and the institutions supporting this filing have substantial interests that are subject to determination in this docket, SFHHA is entitled to intervene and participate in the proceeding which will determine the fair, just, and reasonable rates to be charged by FPL upon the expiration of 2012 settlement rates on the last billing cycle day of December 2016.



13. **Specific Statutes and Rules:** The applicable statutes and rules, include, but are not limited to:

- Chapters 120 and 366 of the Florida Statutes; and
- Florida Administrative Code Chapters 25-22 and 28-106.

14. **Relation of Alleged Facts to the Statutes and Rules:** Chapter 120 of the Florida Statutes relates to agency decisions which affect the substantial interests of a participant and related procedures.<sup>4</sup> Chapter 366 of the Florida Statutes declares the Commission's jurisdiction over FPL's rates and provides the Commission the statutory mandate to ensure that FPL's rates are fair, just and reasonable, and that those rates are not unduly discriminatory. The facts alleged here demonstrate that: (1) the Commission's decisions herein will have a significant impact on FPL's rates and charges; (2) FPL's customers represented by SFHHA will be directly impacted by the Commission's decisions regarding FPL's rates and charges herein; and (3) accordingly, that the statutes herein, among others, provide the basis for the relief requested by SFHHA.

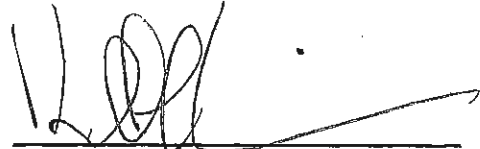
15. Rules 25-22.039 and 28-106.205 provide that persons whose substantial interests are subject to determination or will be affected through an agency proceeding are entitled to, and may petition for, leave to intervene. Both rules also state that the petition to intervene must conform with subsection 28-106.201(2) of the Florida Administrative Code. Because SFHHA's members are FPL electricity customers, they have a substantial interest in the rates determined by the Commission and will be affected by the Commission's decisions in this docket. Accordingly, as the representative association of its members who are FPL customers, SFHHA is entitled to intervene.

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<sup>4</sup> See Sections 120.569 and 120.57(1), Florida Statutes.

16. **Conclusion:** Consistent with the purposes of the SFHHA and the substantial interests of its members, SFHHA seeks to intervene in this general rate case docket. Because SFHHA has satisfied the elements necessary for standing as an association and because SFHHA members have a substantial interest in FPL's proposed rates and charges which will be affected by the proceeding, the Commission should allow the intervention of SFHHA, as prayed herein.

17. **Relief Requested:** WHEREFORE, SFHHA respectfully requests that the Commission grant this Petition to Intervene. SFHHA also respectfully requests that the Commission require that all parties to this proceeding serve copies of all pleadings, notices, and other documents on the SFHHA representatives indicated in paragraph 2 above.



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Attorneys for the South Florida Hospital and Healthcare Association

April 8, 2016

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by electronic mail, U.S. Mail, or Federal Express, this 8th day of April, 2016, to the following:

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