

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Florida Power & Light Company for Base Rate Increase	DOCKET NO. 20250011-EI DATED: AUGUST 26, 2025
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**FLORIDIANS AGAINST INCREASED RATES, INC.’S
RESPONSE IN OPPOSITION TO JOINT MOTION FOR
APPROVAL OF SETTLEMENT AGREEMENT**

Floridians Against Increased Rates, Inc. (“FAIR”), pursuant to Rule 28-106.204(1), Florida Administrative Code (“F.A.C.”), hereby submits FAIR’s response in opposition to the Joint Motion for Approval of Settlement Agreement (“Joint Motion”) filed on August 20, 2025 by Florida Power & Light Company (“FPL”) and several other parties as identified and discussed hereinbelow. In summary, the proposed settlement asks the Commission to approve revenue requirements and rates to be paid by FPL’s customers – hereinafter referred to as the “Settlement Rates” – that are contrary to the public interest and unfair, unjust, unreasonable, and unduly discriminatory for the following reasons:

1. The proposed Settlement Rates and the revenues that FPL will realize from the Settlement Rates are egregiously excessive as compared to recognized norms of regulatory ratemaking;
2. Those Settlement Rates would charge FPL’s customers billions of dollars more than FPL needs to fulfill its statutory obligation to provide safe and reliable service;

3. The Settlement Rates are unduly discriminatory because they would unfairly impose an excessive proportion of FPL's revenue increases on FPL's residential and small business customers relative to the costs allocated to FPL's "partners" in the Joint Motion; and
4. The Settlement Rates would unnecessarily take billions of dollars out of the pockets and bank accounts of "the people of the state" where a vast amount of those dollars would be transferred to FPL's sole shareholder, NextEra Energy, Inc. This unjustified transfer will be directly adverse to FPL's customers and the Florida economy, and contrary to the public interest of all Floridians.

Accordingly, for the foregoing reasons and as discussed herein, the Commission should – FAIR would argue that the Commission must – deny the Joint Motion. FAIR is a party to this proceeding, and this response in opposition to the Joint Motion is timely.

Substantially Affected Persons and Parties to the Case

Florida Power & Light Company. FPL is a public utility subject to the Commission's plenary regulatory jurisdiction pursuant to Chapter 366, Florida Statutes. In 2026, FPL will provide service to slightly more than 6 million customer accounts and approximately 12 million persons who live and work in FPL's service area. FPL initiated the instant proceeding by filing a test year notification letter on December 30, 2024 and subsequently filed testimony, exhibits, and Minimum Filing Requirements ("MFRs") by which it asked the Commission for base rate revenue increases of \$1.545 Billion per year to be implemented in 2026 plus additional base rate increases of \$927 Million per year in

2027, plus additional increases in 2028 and 2029 through proposed Solar and Battery Base Rate Adjustments (“SoBRAs”) subject to what FPL styles a “four year rate plan.”

The Other Joint Movants. The other parties who have joined in FPL’s Joint Motion for Approval of Settlement Agreement are the Florida Industrial Power Users Group (“FIPUG”); Florida Energy for Innovation Association, Inc.; EVgo Services, LLC; Americans for Affordable Clean Energy, Inc.; Circle K Stores, Inc.; RaceTrac Inc.; Wawa, Inc.; Electrify America, LLC; the Florida Retail Federation; the Federal Executive Agencies; Walmart, Inc.; Armstrong World Industries, Inc.; and the Southern Alliance for Clean Energy (“SACE”). Nearly all of these parties are organizations and corporations that are or represent large industrial and commercial customers of utilities, including FPL. The only Joint Movant that is not a large industrial or commercial customer or an organization representing those interests is SACE, which is a charitable organization that normally participates in the Commission’s energy conservation goals dockets and related proceedings.

FPL and its Joint Movant partners are referred to collectively in this Response as the “Special Interest Parties.” Similarly, the Special Interest Parties’ proposed settlement is referred to as the “Special Interest Parties’ Settlement” or the “SIPs’ Settlement.”

FAIR. FAIR is a Florida not for profit corporation organized to advocate on behalf of Florida electric customers for lower electric rates in Florida. At present, FAIR has approximately 1,100 members who are customers of Florida investor-owned electric utilities; of this total, approximately 986 are FPL customers.

Despite specific requests, FAIR was excluded from the negotiations that ultimately produced the SIPs' Settlement. In mid-July, FAIR asked FPL, both by telephone and by email, that FAIR be included in any substantive settlement negotiations. The only response provided by FPL's representative was a statement in the telephone call that he would "keep it in mind." FAIR was subsequently invited to participate in settlement discussions on Friday, August 8, the same day on which FPL filed its notice of settlement agreement and motion to suspend the hearing scheduled to begin on August 11, 2025.

The Florida Office of Public Counsel ("OPC" or "Public Counsel"). The Public Counsel's statutory duty is "to provide legal representation for the people of the state in proceedings before the" Public Service Commission and to "appear" and "urge" the Commission to approve "any position which he or she deems to be in the public interest, whether consistent or inconsistent with positions previously adopted by the commission" Fla. § Stat. 350.0611 (2024).

Florida Rising, Inc., the League of United Latin American Citizens of Florida ("LULAC"), and the Environmental Confederation of Southwest Florida ("ECOSWF"). These three organizations, abbreviated as "FEL" in their pleadings and herein, generally represent the interests of low-income residential customers of FPL, including some small business customers who are members of the organizations.

FPL's Customers

FPL's Residential and Small Commercial Customers. According to FPL's Minimum Filing Requirements, in 2026, FPL expects to serve approximately 5,416,678 customers under its Residential Service rate schedules and tariffs. (In this context, one customer is one account; the total number of persons living in households served by FPL through its Residential Service rate schedules is estimated to be approximately 12 million persons.) FPL's MFRs also indicate that in 2026, it expects to serve approximately 554,273 customers under its General Service (non-demand-metered) rate schedules including the time-of-use alternative. These non-demand-metered General Service customers are small non-residential customers, i.e., mostly small businesses. Thus, Residential and General Service – small commercial – customers comprise approximately 6 million total customers, which is more than 98 percent of FPL's total customers. Residential and General Service customers account for approximately 61 percent of all energy used by FPL's retail customers. In 2026 FPL projects that it will serve approximately 3,635 customers under FPL's General Service Large Demand and Commercial Industrial Load Control rate schedules, including the time-of-use versions. FPL also projects that it will serve approximately 104,310 customers under its General Service Demand rate schedules. In total, these classes represent approximately 1.8 percent of FPL's total customers.

In practical terms, the only parties representing the interests of Residential and small business/small commercial customers in this multi-billion dollar rate case are the

Public Counsel, FAIR, and the FEL parties. All five of these parties oppose the Joint Motion.

Summary of FPL's Original Request and the Special Interest Parties' Settlement

FPL's originally filed rate case would cause FPL's customers to pay approximately \$9.819 Billion, consisting of \$8.9 Billion more in additional base rates, plus approximately \$858 million more in additional base rate increases through Solar Base Rate Adjustment increases, over the 2026-2029 period. The SIPs' Settlement would "only" require FPL's customers to pay approximately \$6.9 Billion more in additional base rates over the same period. Both FPL's original case and the SIPs' Settlement would also allow FPL to take significant funds already paid into FPL for future tax liabilities (and other customer-funded sources) to support FPL's earnings, with customers then effectively being required to pay over future years for the funds used by FPL to support its earnings in the 2026-2029 period. FPL generally refers to this additional funding source as a "Tax Adjustment Mechanism," or "TAM," comparable to the "Reserve Surplus Amortization Mechanism," or "RSAM," that FPL has used to support its earnings since January 2022. The originally proposed TAM would have taken \$1.717 Billion of customer-paid-in funds; as modified in the SIPs' Settlement and called a "Rate Stabilization Mechanism," FPL would take up to \$1.155 Billion in funds paid in by customers for FPL's future tax liabilities, plus additional funds supplied by customers. The total amount available to FPL pursuant to the newly proposed Rate Stabilization

Mechanism is not readily calculable but is probably of a magnitude similar to the original TAM amount.

FPL's original request would have allocated its costs of service on the basis of a cost allocation methodology known as the 12 Coincident Peak and 25 Percent Average Demand method; this method generally allocates more costs to high-load-factor customers, typically large industrial and commercial customers, and less costs to residential and small business customers. As explained below, the cost allocation and resulting revenue responsibility proposed in the Special Interest Parties Settlement disproportionately benefits the large industrial and commercial customers represented by the other Joint Movants.

Amounts at Issue: FPL's Original Request

FPL's originally proposed 2026 and 2027 increases alone would cause FPL's customers to pay approximately \$8.9 Billion over the years 2026 through 2029; through discovery, it also came to light that FPL wants to implement additional base rate increases called "Solar and Battery Base Rate Adjustment" ("SoBRA") increases of \$296 Million per year in 2028 plus an additional \$266 Million per year in 2029. All of FPL's originally proposed base rate increases are based on a requested rate of return on common stockholders' equity ("ROE") of 11.90 percent and a proportion of common equity of 59.6 percent of investor-supplied funds.

Added to the 2026 and 2027 increases, the 2028-2029 SoBRA increases bring the total of additional base revenues that FPL originally asked the Commission to authorize it to collect from its customers over the 2026-2029 period to approximately \$9.819 Billion.

However, this \$9.819 Billion of additional base revenues is not all that FPL expects to take from its customers. FPL further asked the Commission to approve a Tax Adjustment Mechanism (“TAM”) by which it would use approximately \$1.7 Billion of monies already paid in by FPL’s customers to cover future tax liabilities for FPL to use to enhance its earnings during the four-year rate plan period. FPL then expects its customers to pay back those funds over subsequent years. Based on (1) FPL’s observed use of a similar accounting mechanism, the RSAM, which was approved by the Commission in a settlement of FPL’s 2021 rate case (Docket No. 20210015-EI), and (2) FPL’s refusal to cap its actual earnings measured pursuant to normal Florida PSC accounting methods at the midpoint ROE approved by the Commission, it appears that FPL’s original request was intended to use the TAM mechanism and its customers’ money to earn an ROE of not 11.90 percent, but rather 12.90 percent or as close to that higher value as it can. For reference, operating under the RSAM mechanism beginning in January 2022, FPL achieved an ROE exactly 100 basis points above its authorized maximum ROE in nearly two-thirds of all months since the 2021 Settlement was implemented, and averaged an ROE more than 90 basis points above its authorized maximum ROE for the entire period from January 2022 through May 2025.

Amounts at Issue: FPL's Total Revenues Under the SIPs' Settlement

In their proposed settlement, the Special Interest Parties are now asking the Commission to approve base rate increases of “only” \$945 million per year in 2026 and \$705 million per year in 2027, plus SoBRA amounts of approximately \$283 million in 2028 and \$247 million in 2029, plus an additional \$65 million SoBRA in 2027. Together, these would take approximately \$6.903 Billion from FPL's customers in additional base rate charges over the 2026-2029 period. Further, the settlement proposes a reduced TAM of “only” \$1.155 Billion of customer-paid-in monies for FPL to use to support FPL's earnings, which FPL would expect its customers to replenish in subsequent years. The Special Interest Parties also ask the Commission to approve additional funds for FPL to use to enhance its earnings, i.e., over and above the \$1.155 Billion of customer-paid monies for future taxes, through what is designated as a “Rate Stabilization Mechanism.” The additional funds include any remaining balance in the RSAM Reserve Account as of December 31, 2025, which funds would otherwise accrue to the benefit of customers as a reduction in rate base; Investment Tax Credits (“ITCs”) associated with a 522 MW battery storage project added in 2025; and the FPL share of any gains generated through FPL's Asset Optimization Program during the term of the SIPs' Settlement.

In sum, the total cost to FPL's customers under the proposed settlement is at least \$6.903 Billion in additional base rate charges, plus the TAM plus the additional amounts of RSAM, ITCs, and Asset Optimization gains listed above.

Both FPL's Revenues and the "Settlement Rates" Are Egregiously Excessive

FPL's proposed base rate revenues are excessive when measured against objective standards. Even leaving aside the impacts of the TAM and the other funds that FPL would use for the benefit of FPL and NextEra Energy, the additional base rate revenues provided by the SIP's Settlement would cost FPL's customers billions of dollars more than FPL needs to provide safe and reliable service.

The major excessive cost that would be imposed on FPL's customers is its excessive return on equity. The national average ROE approved by other state public service commissions and public utility commissions for vertically integrated electric utilities like FPL in 2024 and 2025 is approximately 9.8 percent. One full percentage point, or 100 basis points in financial analysis terms, corresponds to approximately \$500 million per year for FPL. Applying the national average to FPL would result in rates and revenues being approximately \$550 million per year less than the amounts proposed in the SIPs' Settlement, or about \$2.2 Billion over the 2026-2029 period. ROE values approved in 2024 and 2025 for other utilities in the southeast U.S., e.g., Duke Energy Carolinas, Duke Energy Progress, Virginia Electric Power Company, Dominion Energy South Carolina, Duke Energy Kentucky, Appalachian Power Company, Tampa Electric Company, and Georgia Power Company, range from 9.70 percent to 10.50 percent.¹ The

¹ The ROE proposed by the Special Interest Parties violates the standard set forth by the United States Supreme Court:

A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general

average of those values is 10.10 percent; using that as the standard, FPL's revenues would be excessive by \$425 million per year, or about \$1.7 Billion over the 2026-2029 period. Even using the highest ROEs approved for any utility in the U.S. in 2024 or 2025, which are the 10.50 percent approved for Georgia Power Company and the same value approved for Tampa Electric Company (which is on appeal), FPL's excess return would be \$225 million per year, or \$900 million over the 2026-2029 period.

Moreover, the Commission cannot ignore the high likelihood that FPL would use the TAM and other Rate Stabilization Mechanism monies already paid by customers that should accrue to the long-term benefit of its customers to increase its earnings from 2026 to 2029, with future customers paying for those additional earnings through higher rates in the future. FPL used its comparable RSAM mechanism to earn ROEs (calculated on an FPSC-Adjusted basis) that averaged more than 90 basis points above the midpoint ROE approved by the Commission in the 2021 Settlement over the period from January 2022 through May 2025.

Beyond this single obviously excessive component of FPL's request, of course, the Public Counsel's team of witnesses identified substantial additional reductions to FPL's costs that could be realized without impairing FPL's ability to provide safe and reliable service. For example, simply removing the projected costs of personnel positions

part of the country on investments in other business undertakings which are attended by corresponding, risks and uncertainties

Bluefield Waterworks & Imp. Co. v. Pub. Serv. Comm'n of W.Va., 262 U.S. 679, 692-693 (2023) (emphasis supplied).

that are not filled from FPL's requests would save FPL's customers hundreds of millions of dollars over the 2026-2029 period.

The Proposed "Settlement Rates" Are Unduly Discriminatory in Favor of FPL's Fellow Joint Movants and Against the Interests of FPL's Residential and Small Business Customers.

The rates and class revenue responsibility provided by the SIPs' Settlement (the "Settlement Rates") are unduly discriminatory in favor of FPL's fellow Joint Movants because these Settlement Rates allocate disproportionately – and unfairly – more of the reduction from FPL's original request to the proposed revenues under the SIPs' Settlement to the large industrial and commercial customers represented by the SIPs than to FPL's residential and small business customers. From the vantage point of a party that was excluded from the negotiations that produced the SIPs' Settlement, it could appear that FPL retreated from its originally proposed cost allocation methodology to get results that would be supported by the other Special Interest Parties.

The total reduction in 2026 revenue requirements from FPL's original filing to those in the SIPs' Settlement is approximately \$599,780,000, which represents approximately 61.2 percent of FPL's original request. (It is worth noting here that FPL has thus effectively admitted that it asked for \$599 million a year in 2026 more than it really believes it needs to provide safe and reliable service.) In terms of impacts on the different classes of FPL's customers, the SIPs' Settlement would impose a disproportionate amount of the increases to be recovered through the Settlement Rates on Residential and General Service (small business) customers as compared to the increases

allocated to the large industrial and commercial customers represented by the other Joint Movants. Residential customers would get a reduction of about 30 percent from FPL's initially filed rates and revenue responsibility. FPL's General Service Large Demand (GSLD and GSLD Time-of-Use) customers would get reductions between 61 percent and 65 percent from FPL's original filed requests. FPL's Commercial Industrial Load Control (CILC and CILC Time-of-Use) customers would see their revenue responsibility reduced by between 60 percent and 67 percent from FPL's original proposals. Customers served under FPL's General Service Demand and its time-of-use version would see their responsibility reduced by about 59 percent from FPL's original filing.

The most egregious inequity, however, would be visited upon FPL's General Service – small commercial and small business – customers, whose revenue increase under the SIPs' Settlement would be more than three times the increase originally proposed by FPL.

These reallocations of revenue responsibility, contrary to what FPL represented it believed about proper cost allocation in its original filing, are unduly discriminatory as applied to FPL's residential customers – the people who live in FPL's service area – and to FPL's small business customers. This violates the standards for rates pursuant to Chapter 366 and similarly violates the public interest standard applied to settlement agreements.

CONCLUSIONS

The SIPs' Settlement violates multiple established principles of utility rate-setting as well as the two basic criteria applicable to proposed settlement agreements. In short, the rates proposed in the SIPs' Settlement are so excessive as to be unfair, unjust, and unreasonable, thus violating the "fair, just, and reasonable rates" standard, and the allocation of the proposed rate increases pursuant to the SIPs' Settlement is unduly discriminatory as applied to FPL's residential and small business customers. Allowing FPL to take billions of dollars from its customers above what it legitimately needs to provide safe and reliable service, most or all of which would be transferred to FPL's sole shareholder, NextEra Energy, would be directly detrimental to the welfare of the people of Florida and the Florida economy, and would therefore also be contrary to the public interest.

The SIPs' Settlement is a bundle of "sweetheart" deals that would benefit FPL by allowing it to take far more of its customers' money over the next four years (and beyond 2029 as the impacts of the proposed Tax Adjustment Mechanism flow back to the detriment of customers) than FPL legitimately needs to provide safe and reliable service. These "sweetheart" deals would benefit the large industrial and commercial customers represented by FPL's fellow Joint Movants by substantially reducing those customers' responsibility for paying FPL's costs to provide service as compared to what FPL originally claimed those customers' responsibility should be.

Accordingly, the Commission should deny the Joint Motion for Approval of Settlement Agreement filed by the Special Interest Parties on August 20, 2025.

Respectfully submitted this 26th day of August, 2025.

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CERTIFICATE OF SERVICE

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

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