

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In re: DOCKET NO. 20250011-EI
Petition for rate increase by
Florida Power & Light Company.

VOLUME 13
PAGES 2737 - 2948

PROCEEDINGS: HEARING

COMMISSIONERS
PARTICIPATING: CHAIRMAN MIKE LA ROSA
COMMISSIONER ART GRAHAM
COMMISSIONER GARY F. CLARK
COMMISSIONER ANDREW GILES FAY
COMMISSIONER GABRIELLA PASSIDOMO SMITH

DATE: Monday, October 13, 2025

TIME: Commenced: 9:00 a.m.
Concluded: 5:30 p.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: DEBRA R. KRICK
Court Reporter

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1 P R O C E E D I N G S

2 (Transcript follows in sequence from Volume
3 12.)

4 CHAIRMAN LA ROSA: All right. If we can go
5 ahead and take our seats and we can get started
6 where we left off all right. All right. If we can
7 go ahead and grab our seats, we can pick up where
8 we left off.

9 All right. So, of course, the witness is
10 still in the witness stand, transitioning from OPC
11 to FEL. FEL, you are recognized for questions.
12 Oh, I am sorry, were you not done?

13 MR. PONCE: Yeah, I was done with that subject
14 area.

15 CHAIRMAN LA ROSA: Oh, my fault. I apologize.
16 I thought it was very perfect timing.

17 So, OPC, you are recognized to continue
18 questioning.

19 MR. PONCE: I apologize myself.

20 CHAIRMAN LA ROSA: All good.

21 Whereupon,

22 TIFFANY C. COHEN

23 was recalled as a witness, having been previously duly
24 sworn to speak the truth, the whole truth, and nothing
25 but the truth, was examined and testified as follows:

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2

EXAMINATION continued

3

BY MR. PONCE:

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6

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Q Your testimony -- actually, excuse me, let me ask this: When it comes to the CIAC tariff, that's not intended to cover FPL's -- any cost that FPL has for incremental generation?

8

9

A No, it's transmission and distribution only, which is per Commission rule.

10

11

12

13

14

Q That's Rule 25-6.064?

A I don't know the number.

Q Okay. But when it comes to recovering those incremental generation costs, those would be the proposed by LLCS tariffs, right?

15

16

A Yes, to the extent that the customer qualifies under the LLCS tariffs.

17

18

19

20

Q Well, speaking of that, the thresholds for the LLCS at the time of your direct were 25 megawatts or more at a load factor of 85 percent or more?

A Yes.

21

22

23

Q Okay. When it comes to that load factor of 85 percent or more, if you could give a brief explanation of what is meant by that?

24

25

A It's meant for a customer who has a load factor of 85 percent or more. Load factor is your

1 average usage compared to your peak usage. It's more in
2 Witness Jarro's land, but it was intended, a customer
3 who is running at 85 percent load factor is essentially
4 running 20 hours a day.

5 They don't look like any other customer on our
6 system today. So we have no customers, in fact, that
7 are over 50 megawatts and 85 percent load factor today.
8 So the intent was to capture that type of customer in
9 this new tariff in the new rate class.

10 **Q And these apply to any commercial or**
11 **industrial customer that meets these thresholds?**

12 A Yes, with incremental load.

13 **Q Is it fair so say that the objective of these**
14 **tariffs is to protect the general body of ratepayers**
15 **from incremental generation costs that, but for these**
16 **customers, FPL would not have otherwise incurred?**

17 A Yes, and it's intended to protect our general
18 body of customers from all costs, right. The tariff
19 that we are proposing has a 20-year contract tied to it
20 with exit notice, and so it's intended to protect
21 customers from a very large customer taking service
22 under our system, having to build generation, and also
23 if they were to leave before the end of their 20-year
24 term, there are strict, very strict terms in the tariff
25 that would protect our general body of customers.

1 **Q So when we are talking about the incremental**
2 **generation charge, do any of FPL's currently existing**
3 **tariffs have that kind of charge?**

4 A No, they do not.

5 **Q It's proposed as part of the LLCS tariffs**
6 **because of the significant cost of these customers'**
7 **incremental generation, right?**

8 A Yeah, so since 2023, we have had over 50
9 customers come to us asking for service pulling about 21
10 gigawatts of energy. That's about 75 percent of our
11 system today. So we are going to have to build
12 incremental generation to serve new load. And so the
13 intent is that if a very large customer, the generation
14 would not be built but for that customer load, so we are
15 proposing that 100 percent of the incremental generation
16 charge be recovered from the customer.

17 **Q So in other words, these customers'**
18 **incremental generation would not otherwise be needed to**
19 **serve FPL's general body of customers, right?**

20 A Not at the size that we are looking at from
21 the -- the customers that are asking for service today
22 are in the hundreds of megawatts. As I just mentioned,
23 we have had 21 gigawatts of interest, and so at that
24 level, we have to build new generation to serve the
25 customer.

1 **Q** And it wouldn't be necessary to meet FPL's
2 **reserve margin, right?**

3 **A** I don't speak to reserve margin in my
4 testimony.

5 **Q** But -- well, let me rephrase. Absent these
6 **tariffs, these customers would otherwise take service**
7 **under either a GSLD-3 or GSLDT-3, right?**

8 **A** Generally, yes, those are our transmission
9 level rate schedules. So if a customer, a large
10 customer that wants transmission level service, those
11 would be the applicable rate schedules for them to take
12 service under today.

13 **Q** And as you said, unlike the LLCS tariffs,
14 **GSLD-3 and GSLDT-3 don't have a charge for incremental**
15 **generation, right?**

16 **A** They do not.

17 **Q** So in other words, if a customer were to take
18 **service under GSLD-3 or GSLDT-3, the cost of their**
19 **incremental generation would fall on FPL's general body**
20 **of ratepayers?**

21 **A** Yes.

22 **Q** Okay. Now, initially when it comes to LLCS-1,
23 **the charges associated with this tariff were calculated**
24 **along the idea of a three-gigawatt cap, right?**

25 **A** It was intended to -- so yes and no. What we

1 did was we looked at where on our system could we serve
2 large load customers. And we identified three areas, or
3 about three gigawatts that we could reasonably serve
4 customers with very little incremental transmission cost
5 to connect the customer to our grid. And that's how the
6 three gigawatt cap came about.

7 But if you want to locate outside of those
8 areas, we have LLCS-2 tariff. You can locate obviously
9 wherever you want in our territory, it's just a matter
10 of how we serve you and the cost that it costs to serve
11 -- or to connect you from a transmission perspective.

12 **Q You mentioned LLCS-2. The incremental**
13 **generation charge for this particular tariff was going**
14 **to be determined by a formula, right?**

15 A It will, and it's conceptually the same as how
16 we determined LLCS-1. It's just we don't know where you
17 are going to locate in the territory, and so we have to
18 figure out how and when we can serve you, and that's the
19 formula that we are asking for. But it's essentially --
20 it's the same theoretical calculation as LLCS-1.

21 **Q When it came to the three-gigawatt for LLCS-1,**
22 **that was going to be taken up on a first come, first**
23 **serve basis?**

24 A Yes. To the extent we can serve a customer on
25 the load ramp that they are requesting, the customers

1 who can -- we have to jointly agree on the customer's
2 load ramp. It has to be both FPL can reasonably and
3 reliably serve the customer, and we have to build
4 incremental generation, and we want to ensure we are
5 matching the customer's load ramp, so we are building
6 generation in tandem with a customer's projected load
7 ramp.

8 **Q These customers will, nonetheless, have to**
9 **have their own backup generation, right?**

10 A I can't speak to what the customers will do.

11 **Q Give me one moment.**

12 **Along with the LLCS tariff, there was also a**
13 **service agreement, right?**

14 A Yes. The service agreement defines the,
15 essentially the Ts and Cs, the terms and conditions that
16 a customer would take service under.

17 **Q This included a, at least at the time of your**
18 **direct, a 20-year minimum term?**

19 A Yes.

20 **Q As part of that service agreement, weren't**
21 **customers responsible for the upfront cost of, I believe**
22 **it was 20 years of incremental generation charge?**

23 A So as part of the service agreement, the
24 initial -- it's a tariff, I believe, but regardless, the
25 collateral that was initially requested in our as-filed

1 case was 100 percent of the incremental generation
2 charge, which could be in the billions of dollars for a
3 customer with 100 megawatts, or couple hundred
4 megawatts.

5 In some of the intervenors' filed testimony
6 saying it was commercially infeasible. And so as part
7 of our rebuttal, we changed the collateral requirement,
8 or requested to change the collateral requirement and
9 say -- we said that something less than that could also
10 be commercially reasonable.

11 **Q As of this time, FPL is not expecting any LLCs**
12 **customers to take service until, at the earliest, 2028?**

13 A That's correct.

14 **Q This is despite -- I think you mentioned you**
15 **had 50 some conversations with potential LLCs customers?**

16 A We have had about 50 inquiries from customers
17 requesting 21 gigawatts of load. We have two
18 engineering studies, which is the precursor to -- a
19 customer comes to us in order to connect that size of
20 customer, we have to do an engineering study to look at
21 how their load impacts our system. What do we need from
22 our side and their side. And so we have seven
23 engineering studies in progress, two complete. But
24 looking at the load ramps and what customers are
25 requesting, we are not expecting anyone to be in-service

1 before 2028.

2 **Q And of the two that are complete, are you able**
3 **to tell us how much time they have left to accept those**
4 **engineering studies or not?**

5 A I need to look at my attorney.

6 MR. CHRISTOPHER WRIGHT: The studies are
7 confidential, themselves. I don't know that she
8 would know. I believe Mr. Jarro spoke about the
9 timing on acceptance of those, but, yeah, as far as
10 specific on those, and how long they have to
11 accept, that would be confidential, she would not
12 able to disclose those.

13 CHAIRMAN LA ROSA: Thank you. Fair response
14 to the question?

15 BY MR. PONCE:

16 **Q Let me try asking this, then: So we went --**
17 **you went from 2023 -- since 2023, 50 inquiries to nine**
18 **of those 50 inquiries, those resulted in nine**
19 **engineering study requests total?**

20 A Yes.

21 **Q So it's fair to say that FPL does not have a**
22 **specific number of customers it's anticipating will take**
23 **up service under LLCs?**

24 A No, we don't. We could have zero. We get
25 calls every day from customers. It doesn't always

1 result in an engineering study. It doesn't always -- no
2 customers have accepted engineering studies at this
3 point in time, so it's fluid right now.

4 **Q It's true that FPL won't agree to an**
5 **in-service date from an LLCS customer unless and until**
6 **there is sufficient generation capacity to provide their**
7 **service?**

8 A Yes. We have to ensure we have got the
9 generation and can safely serve our existing general
10 body of customers and a new customer. So part of the
11 negotiation in signing the agreement, is that FPL and
12 the customer will mutually agree upon their load ramp.

13 **Q And when it came time for the test years in**
14 **this case, FPL didn't take into account any revenues**
15 **associated with LLCS customers?**

16 A In 2026 and 2027 test years, no, because I
17 have no customers in those years.

18 **Q This is basically a related question, so I**
19 **will just go for it -- dive into it.**

20 **This is the reason, or the a least part of the**
21 **reason why FPL didn't do a cost of service for these**
22 **customers, right?**

23 A We did not do a cost of service study because
24 the projected test years were 2026 and 2027, so I have
25 zero costs, zero revenues. I have nothing to show in a

1 cost of service study.

2 We did say in our testimony that, to the
3 extent we have customers taking service under LLCS, that
4 would be -- that would go through the normal course of
5 business and a normal cost of service study in our next
6 rate case, which would be 2029 if the four-year rate
7 plan is approved.

8 **Q Well, speaking of that, in FPL's next rate**
9 **case, FPL anticipates that it's going to be making**
10 **changes to these tariffs, right?**

11 MR. CHRISTOPHER WRIGHT: Objection. We are
12 getting beyond what we are here for in this case.
13 She certainly spoke that whatever changes will be
14 made the next rate case, but I don't think we can
15 sit here and speculate what we are going to do in
16 the next rate case.

17 CHAIRMAN LA ROSA: Sustained.

18 BY MR. PONCE:

19 **Q Let me ask you -- now, let's go into your**
20 **rebuttal testimony.**

21 **Per your rebuttal testimony, the three**
22 **gigawatt cap was recalculated to one gigawatt, right?**

23 A I am going to say that a little differently
24 it's still a three gigawatt tariff. The incremental
25 generation price that was initially proposed in direct

1 was based on building enough generation to serve three
2 gigawatts.

3 As we sit here today, and we have got seven
4 engineering studies still in progress looking at
5 customers' load ramps, and talking with customers and
6 what it takes on their end, permitting and even building
7 the facilities in order to accept transmission level
8 service, we don't think it's going to be as fast as we
9 had initially proposed in our filing. So we
10 recalculated the incremental generation charge to assume
11 that we would have no more than one gigawatt on our
12 system by 2029.

13 So all that does is change the incremental
14 generation charge that the customer pays. Had we kept
15 it at three gigawatts, and I am only serving one
16 gigawatt hypothetically, I would be overcharging those
17 customers.

18 What we did say is, regardless of how much we
19 have -- how much load we have on our system, right,
20 there is costs, obviously, in order to serve those
21 customers, but they would all flow through the next cost
22 of service study in the next rate case, and their
23 incremental generation charge would be reset based on
24 whatever it is that we build to serve the load in that
25 rate class.

1 Q If we can go to E, as in Eric, 61707. You
2 cosponsored this response, right?

3 A I am sorry, it's not on my screen yet.

4 Q You cosponsored this response, right?

5 A It's not on my screen yet. One second.

6 Q Oh, sorry. Sorry.

7 A Yes.

8 Q It says here that FPL anticipates a load ramp
9 of one gigawatt by 2028?

10 A Yes. That's what it says.

11 Q FPL doesn't anticipate being able to serve
12 more than that in 2028, right?

13 A We don't anticipate that.

14 Q Well, regardless of the changes to the LLCS-1
15 charges, the intention is still to recoup the full
16 incremental generation amount, right?

17 A The intent is to recover whatever it is we
18 build in incremental generation from the new LLCS rate
19 class customers, whatever that is.

20 Q From your direct to your rebuttal testimony,
21 the eligibility threshold also changed from 25 to 50
22 megawatts, right?

23 A Yes, it did.

24 Q Won't this have the effect of the tariff
25 applying to fewer customers?

1 A Potentially, but as I look at who is
2 requesting service from today, I don't think we have
3 anyone who is looking at less than 100 megawatts.

4 If you look around the country, there are
5 really no tariffs that are -- there are very few, if
6 any, that are 25 or 50 megawatts. Most of them are
7 100 megawatts and above.

8 **Q I am sure there may not be any right now, but**
9 **it's possible that FPL could vet get a 49.9-megawatt**
10 **customer, right?**

11 A It's possible. We have a handful of customers
12 on our system today that are over 25 megawatts, and only
13 one that's over 50, so it's possible. I don't think
14 it's likely.

15 **Q Also, as you mention in your direct, these**
16 **tariffs had a take-or-pay requirement of 90 percent,**
17 **right?**

18 A Yes. So they initial -- we initially proposed
19 a 90-percent take-or-pay in the as-filed case. That is
20 essentially to recover slice of system costs. So think
21 about -- we are going to build generation for a new
22 customer. They are going to recover -- we are going to
23 charge 100 percent of that to the customer, but they are
24 still taking service on our system. They are still
25 using our grid. And so to the extent they leave, they

1 are required to pay 90 percent of whatever they
2 contracted on their load ramp.

3 In rebuttal, and intervenors also filed and
4 said 90 zero percent was too strict. There were no
5 other tariffs in the country that were that strict.
6 Most of them are in the 70 to 80 percent range. And so
7 in rebuttal, we proposed that changing it to 70 percent
8 would be entirely reasonable.

9 And you have to think about that in
10 conjunction with all of the protections around the
11 tariff. They are still paying 100 percent of their
12 incremental generation charge. It's a 20-year contract,
13 a two-year exit notice, significant collateral
14 requirements. We are making sure that we are matching
15 the customer's load ramps, so all of that needs to be
16 taken together as a whole, but we did -- it is a
17 90-percent take-or-pay as-filed.

18 **Q And then just to be clear, from your rebuttal**
19 **-- or in between your direct and rebuttal, this was**
20 **changed to 70 percent?**

21 **A Yes.**

22 **Q If we could look at E61712?**

23 **This notes the costs to -- this notes the**
24 **costs to different kinds of customers -- excuse me -- so**
25 **this chart here represents the demand charges to**

1 customers based on different circumstances, right?

2 A It does.

3 Q And that was at the original 90 percent?

4 A Yes.

5 Q So, for example, for somebody with 250
6 megawatts, without the minimum bill, their demand charge
7 would have only been about 1.7 million?

8 A Yes, under this scenario. It's also important
9 to note that they are paying 100 percent of their
10 incremental generation charge. So under all three --
11 all three columns here, they are still paying \$14
12 million, which is the vast majority of their base
13 charge.

14 Q That's fair enough for incremental generation,
15 but I am talking about the demand charges here.

16 Subject to check, if you look at that same
17 amount, if you look under the 70-percent demand
18 charge -- excuse me, I am talking here about for
19 250-megawatt with the demand -- with the minimum bill.
20 With the 90-percent, that's the 3.1 million, right?

21 A Can you repeat your question, please?

22 Q Sure. Let me try to make that a little
23 clearer.

24 And when you look at the customer, the
25 250 megawatts and the 90-percent demand charge, it comes

1 out to 3.1 million, right?

2 A Yes.

3 Q Now, if that demand charge was actually
4 70 percent, subject to check, wouldn't it be about 2.4
5 million?

6 A I don't have that math in front of me.

7 Q An again, subject to check, that mean about a
8 \$700,000 difference?

9 A Again, I don't have the math in front of me.

10 Q Okay. Isn't it fair to say that this change
11 increases the level of risk to the general body of
12 ratepayers in the circumstances where somebody's load
13 does not material materialize?

14 A Mathematically, it's a lower demand charge,
15 but I think we have -- as I just explained, we have to
16 take the tariff as whole. They are still paying 100
17 percent of their incremental generation charge. They
18 are still subjected to two-year exit notices. They are
19 still subject to very strict collateral requirements.
20 So holistically, it's still very protective, and in my
21 opinion, it's the most protective tariff of general body
22 for large load customers in the United States.

23 Q So that's an increase of exposure to customers
24 when it comes to the demand charge of 20 percent?

25 A Can you repeat your question?

1 **Q Sure.**

2 **By lowering the demand charge from 90 to 70**
3 **percent, that's an increase of potential exposure to**
4 **FPL's general customers by 20 percent?**

5 **A I don't know that I would characterize it that**
6 **way. I don't think you can say it's a change of --**
7 **increases their exposure by 20 percent. I don't agree**
8 **with your characterization.**

9 **Q Isn't it true that in developing the LLCs**
10 **schedules, FPL reviewed AEP Ohio's proposed schedules in**
11 **Case No. 24-508?**

12 **A We did look at AEP Ohio's tariffs.**

13 **Q Didn't they end up with a minimum demand**
14 **charge of 85 percent?**

15 **A Subject to check, potentially. But Ohio is**
16 **also deregulated, and they don't have to pay any**
17 **incremental generation charge in that state, which is a**
18 **very, very important feature in our tariff.**

19 **Q We talked about the collateral requirements.**
20 **These were also changed from your direct to your**
21 **rebuttal, right?**

22 **A That's correct.**

23 **Q And in your rebuttal, they are now based on a**
24 **customer's credit worthiness?**

25 **A Yes.**

1 **Q And again, isn't this also a decrease in the**
2 **amount of protections afforded to FPL's general body of**
3 **ratepayers?**

4 A Mathematically, but the credit worthiness is
5 important, and the amount of collateral a customer puts
6 forth will be determined by their credit worthiness.

7 **Q You mentioned that at least some of these**
8 **changes were as a result of discussions with other**
9 **intervenors?**

10 A It was as a result of other intervenor
11 testimony in the case.

12 **Q Is it fair to say, then, since these changes**
13 **were as a result of intervenor testimony, that these**
14 **changes were made to make the tariffs more appealing to**
15 **these intervenors?**

16 A The intervenor parties noted that the initial
17 collateral requirements were too strict and commercially
18 infeasible. As I mentioned earlier, it could be in the
19 billions of dollars for a couple hundred megawatts of
20 load.

21 We did look around the United States and look
22 at what over customers, what other utilities are doing,
23 and so in rebuttal, we did say that it would be
24 commercially reasonable to have a different threshold.
25 There is a lot of different ways that you can look at

1 collateral.

2 It's important to remember as well, that
3 collateral is really just there in case the customer
4 can't perform. They are still tied to a 20-year
5 contract. The collateral is meant to be a backstop if
6 the customer exit and then cannot pay 100 percent of
7 their incremental generation charge in their two-year
8 exit notice.

9 **Q If we can go to F, as in frank, 2-3404, again,**
10 **that was F2-3404? Feel free to read this if you need**
11 **to.**

12 A Okay.

13 **Q Now, you mentioned specifically when it comes**
14 **to a demand charge, that the change was made considering**
15 **the concerns raised by FEIA witnesses, right?**

16 A Yes.

17 **Q Let me ask this, then: Did FPL make these**
18 **changes to balance protecting customers while also**
19 **enticing large load customers to come to FPL's**
20 **territory?**

21 A Yes and no. We definitely would want a
22 commercially viable tariff, and at the same time, we
23 need to absolutely ensure we are protecting our general
24 body of customers, and that's why it's important to look
25 at the tariff provisions as a whole.

1 **Q So you would agree, then, that it is not a**
2 **utility's function to attract business development?**

3 A I don't think it's our function, but it is --
4 economic development is important to our state. It's
5 important to FPL. To the extent that we have more load
6 on our system, it's a good thing for all customers. It
7 gives you a bigger base of megawatt hours to spread your
8 costs over. I think economic development is important
9 in general.

10 **Q But does FPL know what impact large load**
11 **customers will have on FPL's grid in 2028?**

12 A I don't think I can answer any questions about
13 our grid in 2028.

14 **Q How about revenues, then?**

15 A No. We have no contracts as I sit here today.

16 **Q It's fair to say that -- well, you mentioned**
17 **that it's theoretically possible that by 2028, FPL would**
18 **still have no large load customers, right?**

19 A Yes, it's possible.

20 **Q Even those who have taken the step of asking**
21 **for and paying for an engineering study may not accept**
22 **those results, right?**

23 A Correct.

24 **Q I am just making sure if I have any questions**
25 **I can cross off here.**

1 It's fair to say that none of the -- well,
2 when I say the magnificent seven tech companies, do you
3 know who I am referring to?

4 A I am sorry, can you repeat your question?

5 Q Sure.

6 When I say the magnificent seven tech
7 companies, do you know who I am referring to?

8 A No.

9 Q These would be Alphabet, Amazon, Apple, Meta,
10 Microsoft, Broadcom, are you familiar with these
11 companies?

12 A Yes, I have heard of them.

13 Q They are the ones -- and Nvidia, they are the
14 ones driving most data center growth, right?

15 A I don't necessarily agree with that.

16 Q Okay. And so given that FPL doesn't expect
17 any customers until 2028, and it's not even clear if FPL
18 will have any customers by 2028, doesn't that give us
19 sufficient time for the Commission to have a workshop on
20 these large load customer issues?

21 A No, I disagree. I believe we need a tariff
22 now in order to, one, incentivize economic development
23 in our state.

24 Customers of the size that we are now talking
25 to that are asking for service in our territory, they

1 will need to spend a significant amount of money to
2 build their facilities to take service. No one is
3 moving to Florida without knowing the terms and
4 conditions or rates that they are going to take service
5 under.

6 And if they were to move here today, they
7 would take service under GSLD-3, which is our largest
8 rate schedule today. They are not paying incremental
9 generation on that rate schedule. And so unless we put
10 something in place today, where customers can see a
11 vision into what their terms and condition and rates
12 are, and also balance that with ensuring we have enough
13 protections for our general body of customers, there is
14 no way to protect our customers from large load
15 customers.

16 Our tariff was filed in February of this year.
17 We have had plenty of time to look at it. I can look
18 across the United States, and I have done a lot of this
19 research over the last few years, our tariff is by far
20 the most protective of our general body.

21 **Q Well, we have gone from 50 inquiries in 2023,**
22 **to now, as we sit here this in October, only two**
23 **engineering studies completed. I mean, it doesn't seem**
24 **like there really is a whole lot of interest, right?**

25 **A I just mentioned we had 50 gigawatts, or 50**

1 inquiries. Our economic development team fields calls
2 from customers every single day looking to locate in
3 Florida tomorrow, in 2030, right. It's significant
4 interest that we are seeing, and so I believe that we
5 need to put forth the right protections for our general
6 body today, and ensure that they are protected from
7 customers that want to locate in our territory.

8 An engineering study, it's a six-month process
9 to complete the study. Customers have six months to
10 accept. These are extremely large load. They could be
11 spending billions of dollars of their own to build
12 facilities. It's not a small decision.

13 As I sit here today, we don't have a tariff
14 that -- companies know that we are in for a rate case.
15 They know that we have put forth a large load tariff.
16 So until we have something approved, they are not going
17 to be willing to locate in Florida until they know the
18 terms and conditions that they take service under. So
19 it's important to put something in place today that we
20 can have that visibility, but also protect our general
21 body by things such as customers paying 100 percent of
22 their incremental generation costs.

23 **Q These customers have to have site control over**
24 **their property, right?**

25 A Yes.

1 **Q** If we could go to E90563. And things may have
2 evolved since this discovery was issued, but at least at
3 the time this was issued, of the seven projects, FPL is
4 only aware of two that actually control their property,
5 right?

6 A That is what this says.

7 **Q** Again, doesn't this demonstrate how
8 speculative this all is?

9 MR. CHRISTOPHER WRIGHT: Asked and answered.
10 She gave a pretty robust answer.

11 MR. PONCE: Well, I am asking based on this
12 discovery that we have just asked about here.

13 CHAIRMAN LA ROSA: I will allow the question.

14 THE WITNESS: I don't think it's speculative
15 for all the reasons I just stated, and why we need
16 to have a tariff in place today to protect our
17 general body of customers.

18 BY MR. PONCE:

19 **Q** If there was sufficient existing generation on
20 FPL's grid, there wouldn't be any need for an
21 incremental generation charge, right?

22 A Potentially. To the extent we have existing
23 capacity, and you can use that with customers that want
24 to take service, that's a good thing for everyone. It's
25 a good thing for your general body as well, because it

1 puts downward pressure on rates if you have enough
2 capacity to spread more fixed costs over.

3 Q One moment, please. That will be it for me.
4 Thank you very much, Ms. Cohen.

5 CHAIRMAN LA ROSA: Thank you, OPC.

6 Let's go to FEL. You are recognized.

7 MR. MARSHALL: Thank you, Mr. Chairman.

8 EXAMINATION

9 BY MR. MARSHALL:

10 Q I am going to do some jumping around to try
11 not to retread ground, but we will pick up on the LLCs
12 tariffs to start with.

13 You were already asked about if there were any
14 current customers on FPL's system with over 25 megawatts
15 and 85 percent load factor, and I believe the answer was
16 no, but I want to ask, in the original threshold that
17 there are no current customers on FPL's system that
18 would have over 25 megawatts and an 85 percent load
19 factor, is that right?

20 A There are no customers over 25 megawatts and
21 85 percent load factor today.

22 Q And FPL has not done any kind of analysis to
23 show that 50 megawatts is the right number as opposed to
24 25 megawatts as initially proposed?

25 A Not analysis, per se. I believe we have

1 stated that we did consider multiple thresholds. We
2 worked with our power delivery folks as well, and there
3 is a number of right answers. You can look around the
4 United States and see tariffs really vary from 50 here,
5 and over 100 in other places. So it's very disparate.
6 It really depends on the utility and regulatory
7 environment as well.

8 **Q** If you could get the red binder, the one with
9 the tabs out, and we will be going through a few
10 documents in here. If we could go to FEL-279C, which is
11 Exhibit 1153 on the CEL?

12 A I am sorry, can you repeat that, Bradley, CEL?

13 **Q** Yeah, CEL 1153, but going to be under tab
14 FEL-279C.

15 A Okay.

16 **Q** Now, although this is a confidential document.
17 The nature of what this document is not confidential,
18 correct?

19 A I agree.

20 **Q** And so this is a memorandum of understanding
21 with potential LLCs applicants?

22 A It is.

23 **Q** And if you go to appendix D, as in delta, this
24 contains essentially proposed LLCs tariffs?

25 A You said Appendix D?

1 **Q Starting at Appendix D.**

2 A E, mine says irrevocable standby letter of
3 credit.

4 **Q What does yours say, I am sorry?**

5 A Appendix E, right?

6 **Q D as in delta.**

7 A Okay. D says, notices.

8 **Q Do you have a Bates stamp? I want to make**
9 **sure we are looking at the same thing, because it**
10 **doesn't sound like it.**

11 A Bates stamp 057892.

12 **Q Okay. I think that might be --**

13 MR. CHRISTOPHER WRIGHT: Chairman, if I can
14 help, I believe there is an earlier appendix D in
15 that packet.

16 MR. MARSHALL: Yes. I was just figuring that
17 out too. Yes, there is multiple appendix Ds. This
18 is going to be an earlier appendix D in that
19 document, starting at Bates sample 057863. Thank
20 you, Mr. Wright.

21 THE WITNESS: Okay.

22 BY MR. MARSHALL:

23 **Q And my question is, is that this -- these**
24 **proposed LLCs tariffs match what was originally filed in**
25 **February in your direct testimony, is that right?**

1 A I would assume so. I am not positive
2 100 percent that it's word-for-word what was as-filed.

3 Q But generally, it's got the same sort of
4 charges -- charge amounts in it, like, in terms of the
5 incremental generation charge, et cetera?

6 A It's the same type of charges, yes.

7 Q Can if we could go next to CEL tab 387A?

8 A You said 387A?

9 Q Yes. And this will be CEL tab, so it's go to
10 be earlier.

11 A Okay.

12 Q And this is part of CEL Exhibit 387.

13 I believe you already discussed earlier that
14 there were two completed engineering studies that would
15 be in regards to the LLCS -- or customers that would
16 take service under the LLCS tariffs?

17 A Yes.

18 Q And this would be an excerpt of one of them?

19 A That's what it appears to be. My team does
20 not perform engineering studies. I have not seen them.

21 Q If we go to -- if we just flip that first page
22 over, there is a table at the top there regarding -- and
23 that table, itself, is not confidential, correct?

24 MR. CHRISTOPHER WRIGHT: Chairman, I am -- we
25 are under an NDA on all this. I know that this is

1 a confidential document. She is not the
2 appropriate witness. I don't know if she is can
3 even speak to whether she is able to disclose that
4 or not. This is more Mr. Jarro's area. So my
5 preference would be that we do not vocalize any of
6 the material contained on this confidential
7 document.

8 MR. MAY: Mr. Chairman, these two documents,
9 these two engineering studies are highly
10 confidential. They were executed by our clients,
11 and we are under NDA too, so I support Mr. Wright's
12 request to keep these documents strictly
13 confidential.

14 CHAIRMAN LA ROSA: Okay.

15 MR. MARSHALL: I am having a slight issue with
16 this, Mr. Chairman, because we had this discussion
17 during the depositions, and it was all kept
18 nonconfidential and agreed upon that these tables
19 were not confidential, and those depositions are
20 still not designated confidential and include
21 information in these tables, and so I am --

22 CHAIRMAN LA ROSA: With that concern, FPL?

23 MR. CHRISTOPHER WRIGHT: I don't know that.
24 That was not Ms. Cohen's deposition. I did not
25 defend that deposition. If you would like me to

1 check, I can certainly check, or if we can try not
2 to verbalize it, that would be, you know,
3 efficient.

4 CHAIRMAN LA ROSA: Can we --

5 MR. MARSHALL: There is some important
6 information here that we would like in the public
7 record that we do believe is not confidential. If
8 we could check on that, I would --

9 CHAIRMAN LA ROSA: Yeah, can we check and can
10 you point, because it was it in a different
11 deposition?

12 MR. MARSHALL: No, it was in Ms. Cohen's
13 deposition.

14 CHAIRMAN LA ROSA: Okay. So --

15 MR. CHRISTOPHER WRIGHT: Okay. Can you give
16 me a moment, please?

17 CHAIRMAN LA ROSA: Sure.

18 MR. MARSHALL: We could come back to this
19 after lunch, if that makes things easier from a
20 time saving perspective.

21 MR. CHRISTOPHER WRIGHT: That's fine.

22 CHAIRMAN LA ROSA: I think that's fair to,
23 yeah, to all parties.

24 Mr. Marshall, but just out of curiosity,
25 anything else in here -- well, we will clarify that

1 at lunch.

2 MR. MARSHALL: We would be discussing the
3 document right after that, but we will do that the
4 same time we come back to that after lunch. I
5 think we can put this aside, at least for now.

6 CHAIRMAN LA ROSA: Okay.

7 MR. MAY: And, Mr. Chairman, just to follow
8 up, we don't want to prolong this, maybe at a break
9 we can talk with Mr. Marshall and agree on some
10 ground rules there.

11 MR. MARSHALL: Yeah, absolutely. I think --

12 CHAIRMAN LA ROSA: Perfect, I appreciate it.

13 MR. MARSHALL: -- sort it out on the lunch
14 break.

15 CHAIRMAN LA ROSA: Great. Thank you.

16 BY MR. MARSHALL:

17 Q Ms. Cohen, I had one follow-up question
18 regarding the take-or-pay discussion that you had with
19 Mr. Ponce.

20 You would agree that the 90-percent
21 take-or-pay threshold as originally proposed was a
22 reasonable proposal?

23 A We believed it was reasonable. That's why we
24 put it forth, and there were intervenor testimony as
25 well saying it was not reasonable.

1 Q You would agree that for some large load
2 customers, speed to be able to serve them could be more
3 important than the bottom line price per kilowatt hour?

4 A I believe that is the sentiment in general
5 throughout the United States right now.

6 Q I am going to turn to the incremental
7 generation charge topic next. Incremental generation
8 charge pace for batteries to serve the LLCs-1 customers,
9 is that right?

10 A It does, and I believe Witness Whitley
11 testified that that was the most cost-effective, or most
12 reasonable resource we could add to our system to add to
13 serve three gigawatts of load.

14 Q And those would be charged from the grid?

15 A Yes.

16 Q And the grid and the current resources on the
17 grid have been paid for by FPL's current customers?

18 A Yes.

19 Q If we could next go to master page E58826:
20 Which is part of Exhibit 356 on the CEL. Let me know
21 when you have that open.

22 A It's open.

23 Q Okay. This is one of your workpapers?

24 A Yes.

25 Q And this provides the support for calculating

1 the incremental generation charge as calculated in your
2 original testimony in February?

3 A Yes.

4 Q If we go to the tab summary, this calculation
5 has 1,000 megawatts of load in year one, is that right?

6 A Yes.

7 Q And the incremental generation charge is
8 calculated based on adding 1,300 megawatts of batteries
9 to support that load?

10 A Yes.

11 Q And year two has 2,000 cumulative megawatts of
12 load with a corresponding 3,700 megawatts of battery?

13 A Yes.

14 Q And then just year three has that 3,000
15 cumulative megawatts of load with 6,100 megawatts of
16 batteries to support that?

17 A Yes.

18 Q And would you agree that under how the
19 incremental generation charge was calculated here, FPL
20 is consistently bringing more megawatts of battery onto
21 the grid than the load?

22 A Yes. And that's probably a better question
23 for Witness Whitley.

24 Q If we could go to master E82536? Also going
25 to be part of -- and let me know when you have that

1 document up.

2 A It's open.

3 Q And probably go to the tab summary would be
4 most helpful. This is, again, one of your workpapers?

5 A Yes.

6 Q And this workpaper supports the calculation of
7 the incremental generation charge as contained in your
8 rebuttal testimony?

9 A Yes.

10 Q If we go to year one for the calculation of
11 the incremental generation charge, it assumes an
12 incremental 500 megawatts of load?

13 A Yes.

14 Q And under this calculation, there is zero
15 megawatts of incremental batteries being brought on-line
16 in that year to support that load?

17 A Correct.

18 Q In year two, it assumes another incremental
19 500 megawatts of load?

20 A Yes.

21 Q And so it would be a cumulative load by the
22 end of year two of 1,000 megawatts?

23 A Yes.

24 Q And then in year two, it also brings on 1,000
25 megawatts of batteries to support that load, is that

1 **right?**

2 A In year two? Yes.

3 Q And so that would be a ratio in year two of
4 **one megawatt of load to one megawatt of battery?**

5 A Mathematically. Again, that's probably
6 Witness Whitley.

7 Q And then year three would be 2030, is that
8 **right?**

9 A Yes.

10 Q And that would be assumed to be in the next
11 **rate case?**

12 A Correct.

13 Q And then -- and that's -- it would be subject
14 **-- there could be a reset of how the incremental**
15 **generation charge is calculated at that time?**

16 A That's correct. The intent is that we would
17 **-- in 2029, we would file cost of service with**
18 **whatever costs on our system at that point in time, just**
19 **like we would for any other customer.**

20 Q If you scroll down under 2029 to the
21 **incremental generation charge dollars per kilowatt month**
22 **in column H, row 42, that -- do you see that \$12.18?**

23 A Yes.

24 Q And that would be the same \$12.18 supported by
25 **your rebuttal testimony as the incremental generation**

1 **charge for LLCS-1?**

2 A Subject to check.

3 **Q And that is projected to double between 2029**
4 **and 2033?**

5 A It is expected to increase as more load is
6 added to the system that needs to be paid for by this
7 subset of customers.

8 **Q And so it would be -- I mean, as it's**
9 **currently projected here, it would be expected to double**
10 **between 2029 and 2033?**

11 A That is the math on this. I have to say, this
12 is a point in time. So whatever load is added to the
13 system, whatever resources are added to the system would
14 be reset in 2029 and every other future rate case as
15 well. This is a projection as of a point in time.

16 **Q And based on this projection, if FPL were,**
17 **instead, to do a levelized charge, it would actually be**
18 **higher \$18.67 per kilowatt month?**

19 A It was levelized, it would be a higher charge.
20 It would be 18.67.

21 **Q And the ITCs, you know, the calculation itself**
22 **is confidential, but how they are treated, normalized**
23 **versus flow-through, is not confidential, correct?**

24 A I agree.

25 **Q And so the ITCs for this calculation here are**

1 **normalized, is that right?**

2 A They are normalized. The intent was that it
3 lowers the overall incremental generation charge in each
4 of the 20 years for the customer. So if a customer were
5 to terminate in year 10 or 11, you -- they -- if someone
6 were to come in and take their capacity, they would also
7 have access to the same incremental -- to the same ITC
8 as the first customer.

9 **Q FPL owns land at all of the LLCs-1 sites, is**
10 **that right?**

11 A Yes, I believe so.

12 **Q And any solar plants at those sites would be**
13 **system assets?**

14 A Any solar? I think that's probably a better
15 question for Witness Oliver.

16 **Q Well, let me ask it this way: The incremental**
17 **generation charge does not contemplate paying for the**
18 **cost of any solar assets, correct?**

19 A It does not. However, we do say whatever we
20 build, and it may not be batteries in a few years, but
21 whatever we build it serve this group of customers would
22 be charged to that customer group.

23 **Q All right. Going back to the big red binder.**
24 **If we could go to what is marked tab FEL-344C? This is**
25 **Exhibit 1218 on the CEL.**

1 A FEL-344C?

2 Q Yes. In fact, actually, I think we have a
3 extra -- a separate copy of that specific document for
4 you so that the pages are a little bit bigger. It's
5 going to be Bates stamp page 041592. And I apologize, I
6 am looking at this now, and we should probably resolve
7 the confidentiality of some of this over the break, so I
8 am going to come back to that.

9 CHAIRMAN LA ROSA: Okay. No problem.

10 BY MR. MARSHALL:

11 Q All right. I am sorry, we will come back to
12 that later. I apologize.

13 If we could go to master number E82554? If we
14 could go to tab monthly bill amount.

15 This table shows a comparison of the GSLD-3,
16 the LLCS-1 as-filed and then the LLCS-1 rebuttal rates,
17 is that right?

18 A Hold on. I am not there yet.

19 Q I apologize.

20 A Sorry. Am I supposed to work the tabs?

21 Q Yes. I think you should have a mouse to be
22 able to click on the tabs.

23 A It's not going to monthly bill amount tab. I
24 am on the 2028 clause tab, but I can't change it.

25 MR. SCHULTZ: Let me just take control for

1 just one second and close.

2 THE WITNESS: Thank you. I am there.

3 BY MR. MARSHALL:

4 **Q And does this show a comparison of the GSLD-3,**
5 **the LLCS-1 original as-filed rates and the LLCS-2**
6 **rebuttal, basically, like, possible bill differences --**
7 **the differences between those three rates?**

8 A Yes, that's what it shows.

9 **Q And these would be the as-filed GSLD-3**
10 **proposed rates?**

11 A Yes.

12 **Q Comparing the difference between the LLCS-1**
13 **as-filed and LLCS-1 rebuttal, would you agree that it's**
14 **the incremental generation charge between the two on**
15 **line 23, would be the biggest different difference?**

16 A It is the biggest difference. As I mentioned
17 earlier, we changed the sizing of the pricing to one
18 gigawatt, as that's all that we were expecting to
19 reasonably serve under this four-year plan.

20 **Q And so that -- the result of that change**
21 **lowers the dollar amount per megawatt hour, is that**
22 **right?**

23 A It does. The incremental generation charge is
24 a very large piece of the overall cost a customer pays.
25 And in rebuttal, we said if we only get one gigawatt of

1 load, and we are charging a three gigawatt price to
2 those customers, they would be paying overpaying for
3 their incremental generation charge.

4 Q And subject to check, you would accept that's
5 about 15 percent less than the original as proposed
6 amount on a per megawatt hour basis?

7 A I don't -- I will accept your math subject to
8 check.

9 Q If we could next go to master page F10-3802?
10 Which is going to be part of Exhibit 1015 on the CEL.

11 A Okay.

12 Q All right. And am I understanding correctly
13 that under the LLCs-1 tariff, there is not a specific
14 load ramp demand and load ramp period being prescribed
15 by FPL?

16 A No, we wouldn't -- we would work with customer
17 by customer basis to ensure that we have got the
18 resources and can safely and reliably meet their
19 requested load.

20 Q And if we could next go to F10-3803? Which is
21 part of CEL Exhibit 1016.

22 And so is it the same idea with the parent
23 company guarantee that we just discussed with the load
24 ramp period -- load ramp demand and load ramp period?

25 A The parent guarantee would be subject to

1 whatever is in the tariff of the service agreement. So
2 as initially filed, it was -- you could have a parent
3 guarantee for the incremental generation charge.

4 **Q That's also going to be subject to negotiation**
5 **between FPL and the individual LLCs customers?**

6 A So as we filed in rebuttal, we said that it
7 could be something less to be determined between FPL and
8 the customer based on the credit worthiness of the
9 customer, and that was in response to our as-filed case,
10 where it could be billions of dollars of collateral for
11 a couple hundred megawatts of load.

12 **Q If we could next go to master page E63842?**
13 **Part of CEL 387, and go to the tab resource plans.**

14 A I am there.

15 **Q Does this show various data center scenarios**
16 **of various data center loads coming onto FPL's system?**

17 A It does, we analyzed a number of scenarios.

18 **Q And that includes up to the addition of 3.4**
19 **gigawatts of new load between 2027 and 2030?**

20 A Yes.

21 **Q If we could next go to F10-16009? CEL Exhibit**
22 **1109.**

23 This is just a predicate to moving on to the
24 next document that's part of this chain, but FPL was
25 asked to produce if there were any additional workpapers

1 related to the production of the revised incremental
2 revenue requirement model, is that right?

3 A Yes.

4 Q And here, you reference the FPL EDM data
5 center 2028 to 2033. That would be that Excel doc --
6 one of those Excel documents we looked at earlier?

7 A Subject to recheck the name on the Excel file.
8 I don't know -- I don't remember.

9 Q If we could next go to master page F10-16010?
10 This is CEL Exhibit 1110.

11 A I am there.

12 Q And this is that additional document that was
13 attached to the previous response?

14 A I don't see an Excel file name on here, so I
15 am not positive, Mr. Marshall.

16 Q Does it have in the top left-hand corner what
17 it's responding to?

18 A Okay. I see it. Yes.

19 Q Okay. And this shows, right-hand column, of
20 adding three gigawatts of data center load onto FPL's
21 system, is that right?

22 A Yes.

23 Q And as a result, the reserve margin -- the
24 summer reserve margin starts to go down in the
25 right-hand column starting in 2028?

1 A I see the reserve margin column. Witness
2 Whitley owns these documents.

3 Q Fair enough. But comparing the left-hand and
4 column to the right-hand column, new resources do not
5 start getting added to the system until 2030 under this
6 scenario, correct?

7 A Again, that's -- Witness Whitley would be a
8 better person to answer that question.

9 Q Okay. If we could next go to master page
10 E92944? This is going to be part of CEL Exhibit 445.

11 During Mr. -- your conversation with Mr.
12 Ponce, do you recall talking about the inquiries that
13 FPL has received about, you know, looking for possible
14 large loads?

15 A Yes.

16 Q And if you scroll down a page, this would be
17 the list of though inquiries?

18 A That is what appears to be.

19 Q And a some of those inquiries are for over one
20 gigawatt, is that right?

21 A Yes.

22 Q And would you agree that they -- that this
23 list has various requested start dates?

24 A Yes.

25 Q And if you go to the bottom of the -- yes,

1 right there, does this show that FPL continued to get
2 inquiries in 2025 between the time it filed the original
3 -- your original testimony in this case and then when
4 your rebuttal testimony was filed?

5 A It does. It's my understanding, from our
6 economic development team, that they get inquiries every
7 day.

8 Q And that included an inquiry that started that
9 wanted to start in 2028?

10 A In column -- requested start date. Yes.

11 Q And do you see above that inquiry number 63
12 for January 15th, 2025?

13 A I am sorry, can you repeat that?

14 Q Do you see in row 63, the inquiry from January
15 15th, 2025?

16 A Yes.

17 Q Would they have been given that confidential
18 memorandum of understanding that we were looking at
19 earlier?

20 A I have no idea. I am not involved in -- I
21 have no direct contact with our customers that are
22 requesting service. It's through our economic
23 development team.

24 Q Thank you, Ms. Cohen, that's all my questions
25 on data center load stuff until we resolve some of those

1 **confidentiality issues.**

2 **CHAIRMAN LA ROSA:** **Mr. Marshall, is it a good**
3 **time to transition, or do you have another subject**
4 **area?**

5 MR. MARSHALL: We do have other subject areas,
6 but, yeah, now would be an excellent time for a
7 break from our perspective.

8 CHAIRMAN LA ROSA: All right. Let's go ahead
9 and do that. Obviously, I would ask the parties if
10 they can, you know, come together and discuss the
11 area so we can move smooth after lunch.

12 Let's go ahead and take a lunch break now.
13 It's A few minutes after 12:00 noon. So let's
14 reconvene here at 1:05, so one hour from now, 1:05,
15 let's reconvene for lunch.

16 Thank you.

17 (Lunch recess.)

18 CHAIRMAN LA ROSA: All right. I think we can
19 go ahead and get started.

20 Let's talk about, any resolution to some the
21 concerns at lunch?

22 MR. MARSHALL: Yes, we did. I think we have a
23 path forward on what questions we have agreed can
24 be asked and answered.

25 CHAIRMAN LA ROSA: Okay. Parties, sound

1 right?

2 MR. MAY: Yes, Mr. Chairman. I think we have
3 got it sweared away.

4 CHAIRMAN LA ROSA: Okay. Awesome.

5 MR. CHRISTOPHER WRIGHT: Yes.

6 CHAIRMAN LA ROSA: So I will just hand it back
7 over to FEL to continue with questioning.
8 Obviously, the witness is already in the witness
9 box.

10 BY MR. MARSHALL:

11 Q Thank you. We will pick up where we, on the
12 LLCS, the confidential materials on the questions we
13 were able to agree to. If you could go first to the --
14 yes, that binder, and go to CEL 387A and 387B.

15 A I am there.

16 Q The question is, is that without saying the
17 numbers, but for the year 2027, in both engineering
18 studies, load was requested in 2026, is that right?

19 A In both tabs A and B?

20 Q Yes.

21 A Yes, load was requested in 2027.

22 Q And FPL is not proposing to meet that load?

23 A I think I would say it differently. This is
24 an engineering study. We have no contracts. So
25 historically we have only included customers where we

1 have a contract in this type of forecast. And so there
2 is no guarantee that the customer's load is going to
3 materialize at this amount or year, and there is no
4 guarantee FPL can serve it either. So it's a part of us
5 working with the customer to ensure we understand their
6 load ramp, and that's part of the engineering study.

7 **Q Let me ask it this way: Under what the tables**
8 **indicated here, FPL does not propose to meet the**
9 **requested load in 2027, is that right?**

10 A No, I don't agree with you. The customer is
11 requesting load in these years, and that is what FPL is
12 studying through the engineering process.

13 **Q Well, let me ask it this way: Under the --**
14 **what FPL proposes to meet, it's not the same answer for**
15 **2027 as the other years, correct?**

16 A When you say, proposing to meet, do you mean
17 what's in our documents for '28 -- '27, '28 and '29,
18 what we are proposing?

19 **Q For '28 and '29 for these engineering studies,**
20 **it's a different answer from FPL for the load, is that**
21 **right?**

22 A It absolutely is a different answer, as it
23 should be. Just because a customer is requesting load
24 doesn't mean that -- doesn't mean it's going to
25 materialize. It doesn't mean they are going to accept

1 the results of this study. It's not a signed contract
2 in any way, shape or form.

3 Q Since we are in this document, if we could go
4 to tab FEL 446, which is Exhibit 1502 on the CEL?

5 A I am at the tab. Is there a page number?

6 Q Oh, first a general question. Would you agree
7 that there continues to be LLCS -- that there continues
8 to be interest in taking service understood the LLCS
9 tariff?

10 A Yes.

11 Q If we could go to the last page of that
12 document?

13 A Yes.

14 Q If a potential data center had a load factor
15 of less than 85 percent, then they would not be taking
16 service under the LLCS tariff, is that right?

17 A That's correct. They would move to GSLD-3,
18 which is our largest rate schedule today.

19 Q And now if you could go to the other big red
20 binder? This is going to be back to Bates stamp page
21 FPL 041592?

22 A Can you repeat that, Mr. Marshall?

23 Q Yes, FPL 041592.

24 A Okay. I am there.

25 Q Okay. And this was as of April 23rd, 2025,

1 **this slide? You have to go back, I think, five slides**
2 **to get to the date.**

3 A Yes.

4 Q And at the bottom, there is a total cumulative
5 **load ramp of some of the existing studies in progress?**

6 A Yes, as of this point in time.

7 Q And as of 2029, it has a number of 1,925 total
8 **megawatts?**

9 A Yes.

10 Q All right. Thank you, that's all my questions
11 **on the LLCS confidential material.**

12 If we could next go to master page E60067?

13 A Okay.

14 Q Would you agree that EDR discounts are to
15 **entice economic activity?**

16 A Yes. The Commission has an economic
17 development rule that is to encourage economic
18 development.

19 Q And those are paid for by the general body of
20 **ratepayer?**

21 A Yes.

22 Q And the estimated amounts for the test years
23 **are contained on this page?**

24 A Yes.

25 Q Switching topics back to forecasting. We are

1 going to try not to retread ground that was earlier, but
2 would you agree generally that if sales come in higher
3 than predicted, there will be higher revenue?

4 A All things being equal, but all things are not
5 equal. If sales are higher, there is also -- and I
6 think we said this earlier, and I know I said it, so I
7 apologize, but we are running our plants more. We have
8 more capital O&M spend that we have to maintain our
9 facilities, so there is a lot of things that go into
10 your question.

11 Q You would agree that there has been a warming
12 trend in recent years?

13 A I believe we have stated in discovery that the
14 last 10 years are warmer.

15 Q If that trend continues and FPL continues to
16 use a 20-year normalized forecast, doesn't that mean
17 that FPL will continue to forecast sales lower than
18 non-weather normalized actual sales?

19 A No, I don't agree. We don't know what the
20 weather is going to be. I can't predict tomorrow's
21 weather. But if the last 10 years had been warmer, as
22 we said, they are included in the 10 years -- in the 20
23 years that we are -- that we use.

24 Q Just to be clear, those 10 years are going to
25 be balanced by the 10 years prior to that, right, so

1 it's a 20-year forecasting --

2 A Yes.

3 Q -- based -- okay.

4 If we could next go to master page E58877?

5 That would be a demonstrative. If you go to the tab
6 weather.

7 A Okay.

8 Q This is one of your workpapers, correct?

9 A Yes.

10 Q And this is utilized in helping to create the
11 20-year weather normalized forecast?

12 A Yes.

13 Q Do you see at the top it has CDH?

14 A Yes.

15 Q Does that stand for cooling degree hour?

16 A It does.

17 Q What's a CDH 72, then?

18 A It's the number of hours above 72 degrees.

19 Q And if we go down to column O, row 268?

20 A Okay.

21 Q Does that contain the 20-year average of
22 cooling degree hours for CDH 72?

23 A That's what it appears to do. It had
24 reference errors a well.

25 Q And the forecast for 2026 would be based on

1 **that 20-year average?**

2 A It is.

3 Q **Subject to check, would 2018 be the most**
4 **recent year with less than 1,600 -- with less than an**
5 **average of 1,689 CDH 72?**

6 A Can you repeat that, please?

7 Q **Subject to check, would 2018 be the most**
8 **recent year with less than 1,689 CDH 72?**

9 A I don't know. I would have to go through
10 this.

11 Q **Well, let me ask it this way: How would I --**
12 **to figure it out for 2023, for example, would I add up**
13 **the numbers in row -- in column D from 232 to 243?**

14 A Yes.

15 Q **And that would be true for all the years in**
16 **the 20-year period?**

17 A Yes.

18 MR. CHRISTOPHER WRIGHT: Chairman, I
19 apologize. I don't mean to interrupt here, but we
20 have had -- we have been back here almost 20
21 minutes. We have been asked several questions
22 about what the document says. You know, this is --
23 if we could move this along rather than just have
24 the witness repeat what a document says or doesn't
25 say. Now we are asking her to try to do math here

1 on the stand. You know, I think we are just not
2 being very efficient.

3 I offered during the break if there is
4 something we could do to mitigate just some of the
5 just foundational questions to Mr. Marshall. We
6 are happy to stipulate to the documents that are
7 sponsored by FPL. They are authentic. The
8 foundation is established. We will put them into
9 the record. No issue there. But we are just
10 spending a lot of time asking about does a document
11 say what it says? We are just -- we are not moving
12 very quickly here.

13 CHAIRMAN LA ROSA: I understand.

14 MR. MARSHALL: If I may respond?

15 CHAIRMAN LA ROSA: Sure.

16 MR. MARSHALL: I mean, CDH 72 and these
17 numbers and how they roll up into FPL's forecast do
18 not speak for themselves. This requires witness
19 interpretation as to how the numbers roll together.

20 I mean, I think we are at -- at this point, we
21 have got what we need as to how it works, that you
22 add up the numbers for the year, and that's how you
23 derive these numbers that are being used in FPL's
24 forecast. So I think we are ready to move on from
25 this, but I would argue strongly that a document

1 like this, an Excel sheet like this does not speak
2 for itself and requires witness interpretation.

3 And that is most of FPL's direct testimony in
4 this case is, is interpreting and helping to
5 explain the tariffs and the documents. And I
6 haven't heard Mr. Wright suggest that they withdraw
7 Ms. Cohen's testimony, which is largely explaining
8 what's in the tariffs and other documents that
9 would speak for themselves under FPL's argument.

10 CHAIRMAN LA ROSA: I understand. Let's move
11 on and just, you know, if there is, you know,
12 opportunity to stipulate to things, let's certainly
13 try.

14 BY MR. MARSHALL:

15 **Q You would agree that a shorter period to**
16 **forecast sales, say, for example, 10 years, could**
17 **capture current patterns better?**

18 A No, I don't. It may capture current patterns.
19 I don't agree with the word better. It's going to
20 capture current trends. It could capture anomalies.
21 Using a more robust dataset is going to capture trends
22 better.

23 **Q I just want to make sure I understand your**
24 **answer correctly. So do you agree that shorter periods**
25 **could capture current patterns?**

1 A Shorter periods will capture current patterns.
2 I don't agree that that is a better predicator.

3 Q You don't have evidence that 2026 will be
4 colder than the last few years?

5 A No, I do not.

6 Q And so far, 2025 has also been warmer than the
7 20-year normalized forecast?

8 A It has been slightly -- yes, it's been warmer.
9 Again, the 2025 forecast is within one percent of
10 weather normalized forecast.

11 Q All right. If we could next go to master page
12 F10-3780? Scroll down to the bottom table.

13 This table is a comparison of FPL's energy
14 sales forecast versus non-weather normalized actuals, is
15 that right?

16 A Yes.

17 Q And a negative number indicates that the
18 actual non-weather normalized sales were above the
19 forecasted sales, is that right?

20 A It does. I believe I explained that to
21 Mr. Ponce earlier, that it's not the right way to look
22 at it.

23 Q All right. If we could next go to master page
24 F10-3801, which is Exhibit 1014 in the CEL? If we could
25 go to the tab CDH. This would, again, be for cooling

1 degree hours, is that right?

2 A Yes.

3 Q And there is a computation on the right there
4 of, for FPLE, would that be for peninsular FPL?

5 A Yes.

6 Q And 2005 to 2009, that's going to be in the
7 20-year period that FPL uses for -- as part of its
8 weather normalization forecast?

9 A Yes.

10 Q And subject to check, would you accept that
11 the 2019 to 2023 number versus the 2005 to 2009 number
12 was 16 percent higher?

13 A I will accept your math subject to check. I
14 believe we have already established the last 10 years
15 were warmer.

16 Q If we could next go to master page E91990? If
17 you go down to the, yeah, the second table there.

18 Is this the equivalent of the label we were
19 looking at earlier for FPL's sales forecast generally,
20 but this is just residential customers?

21 A Yes.

22 Q If FPL forecasted residential sales to be 4.7
23 percent higher than their current forecast, would that
24 lower the kilowatt hour rate, all else equal?

25 A Repeat your question.

1 **Q If FPL forecasted residential sales to be 4.7**
2 **percent higher than their current forecast, would that**
3 **lower the kilowatt rate, all else qualify?**

4 A What we are looking at here is historicals,
5 but I believe your question is if our forecast were
6 higher, would it lower the residential rate, all else
7 equal? All else equal, yes.

8 **Q If we could next go to master page F10-2184?**
9 **Part of CEL Exhibit 968.**

10 **Did you sponsor this interrogatory answer?**

11 A Yes.

12 **Q And is one of the reasons you state for**
13 **consistently using the 20-year average is to avoid**
14 **introducing volatility or bias?**

15 A That is one reasons. It's also consistently
16 done by FPL, by other utilities throughout the United
17 States. A lot of utilities still use 30 years as well.

18 **Q My question is: Is avoiding volatility more**
19 **important than accuracy?**

20 MR. CHRISTOPHER WRIGHT: Objection. There is
21 nothing in here that talks about accuracy.

22 MR. MARSHALL: Right. It's not in here, so
23 that's why there is the question.

24 CHAIRMAN LA ROSA: I will go to my Advisor on
25 this.

1 MS. HELTON: Mr. Chairman, could we hear the
2 question one more time?

3 CHAIRMAN LA ROSA: Restate the question.

4 MR. MARSHALL: Yeah, the question was: Is
5 avoiding volatility more important than accuracy?

6 MS. HELTON: That seems like a fair question
7 to me, Mr. Chairman.

8 CHAIRMAN LA ROSA: Okay. Overruled. Go
9 ahead.

10 BY MR. MARSHALL:

11 **Q Is avoiding volatility more important than**
12 **accuracy?**

13 A Avoiding volatility is very important,
14 forecasts are not measured necessarily on accuracy.

15 Volatility in our it forecast -- as I
16 explained earlier, our forecasts are used for all
17 planning purpose, not just rate setting. They are also
18 used to look at our ten-year site plan. We may over- or
19 under-invest and build generation to serve load that's
20 higher or lower in our forecast. That can also lead to
21 bill increases or decreases, bill volatility in general.

22 With respect to accuracy, forecasts are stable
23 and reliable if they are prepared -- at the time they
24 are prepared you use the best inputs at a point in time.
25 When you look at our weather normalized forecast, we are

1 within one percent.

2 As I mentioned earlier, we have 128,000
3 gigawatt hours on our system, and our forecasts are
4 showing what we are within one percent variance of that.

5 **Q And just to clarify your answer, that's for**
6 **weather normalized, not non-weather normalized actuals**
7 **where you are within one percent?**

8 A It is for weather normalized, and that's
9 because weather normalization appropriately accounts for
10 variances in your actuals. Your weather will always be
11 hotter or colder than what you forecasted. It will
12 always -- there will always be a variance.

13 **Q Do you find that if you used a ten-year**
14 **weather normalized instead of 20 years, that that would**
15 **result in a forecast of additional sales of an**
16 **additional 1.38 million megawatt hours in 2026?**

17 A I don't know the numbers.

18 **Q Let's go to master page E92786.**

19 **Did you sponsor the result -- the answer to**
20 **this interrogatory?**

21 A Yes.

22 **Q And this indicates that if ten-year**
23 **normalization was used instead of 20 years, that this**
24 **would be the resulting increase in energy sales?**

25 A That would be the change in the math, yes.

1 And I just explained what also happens when the math
2 changes.

3 Q If we could next go to master number
4 F10-16014, which is Exhibit 1111 on the CEL?

5 As a predicate question, FPL was asked whether
6 there were particular documents to support its 20-year
7 normal weatherization approach?

8 A Yes.

9 Q And they did attach an additional document in
10 response to this request, is that right?

11 A Yes, it appears so.

12 Q If we could next go to master page F10-16015.

13 MR. CHRISTOPHER WRIGHT: Chairman, I am going
14 to renew my objection about not being terribly
15 efficient here. I don't know what the point of
16 this is. We are just going back and forth between
17 discovery responses. This says this. This says
18 this. You agree. If we could move it along and
19 try to ask the question at issue, we will accept
20 the foundation.

21 CHAIRMAN LA ROSA: I will ask for a response,
22 and is this a setup of foundation?

23 MR. MARSHALL: Yes. This is setting up a
24 foundation, and, you know, I think we are getting
25 to that question here, is that that -- that --

1 well, let me ask this.

2 BY MR. MARSHALL:

3 **Q What is -- do you see this document?**

4 A Yes.

5 **Q What is --**

6 MR. MARSHALL: You know, and, again, Mr.
7 Chairman, I am trying to be efficient, but plan, I
8 do know, is self-explanatory. I don't think I can
9 just say what plan is in my brief. I think I need
10 the witness to say what that means.

11 CHAIRMAN LA ROSA: Well, continue then.

12 THE WITNESS: The plan is our estimate for a
13 given year.

14 BY MR. MARSHALL:

15 **Q And so would WN, then, be weather normalized?**

16 A Yes.

17 **Q And so it this would be the difference for**
18 **2025 between those two?**

19 A Yes.

20 **Q All right. If we could next go to master page**
21 **F10-36, which is Exhibit 882 on the CEL?**

22 This document shows FPL's winter peaks from
23 **2021 through 2025?**

24 A Yes.

25 **Q Would you agree that 2021 and 2024, that those**

1 **peaks would not be based on heating needs?**

2 A Would not be based on what?

3 **Q Heating needs.**

4 A What years? I am sorry, Mr. Marshall.

5 **Q 2021 and 2024.**

6 A Yes.

7 **Q If we could next go to master page E92026?**

8 And this contains average minimum winter
9 **temperatures for various decades versus forecast for the**
10 **future?**

11 A Yes.

12 **Q And it's forecasted to go down from the**
13 **current last decade actual, right?**

14 A Yes.

15 **Q And is that because of the 20-year**
16 **normalization effect of using the prior 10 years before**
17 **the immediately preceding decade to now?**

18 A It's based on 20 years.

19 **Q Okay. If we could next go to -- switch topics**
20 **and go to master page F10-3804? Part of CEL Exhibit**
21 **1017.**

22 **First a foundational question. What are**
23 **LIHEAP customers?**

24 A That would be a better question for Ms.
25 Nichols, but my understanding is it's customers that

1 receive federal funding to pay their electricity bill.

2 **Q And if we could next go to master page**
3 **F10-3806, which is Exhibit 1019 on the CEL?**

4 **Does this indicate that 12 percent of FPL's**
5 **LIHEAP population was impacted by the minimum -- current**
6 **minimum bill in 2024?**

7 A It does, and so that also means in the
8 inverse, 88 percent of the customers receiving LIHEAP
9 were not impacted.

10 One thing that's important to note, though, is
11 the average bill was \$4. So that means that these
12 customers had enough usage in their base charge as well,
13 so their bill was roughly \$21, so they were charged an
14 incremental \$4 to get to the minimum bill of \$25.

15 **Q And if we go to the last page of this**
16 **document, I mean, that shows the impact by dollar amount**
17 **and month, is that right?**

18 A Yes.

19 **Q And would you expect these numbers to increase**
20 **if the minimum bill is increased from \$25 to \$30?**

21 A I would expect the numbers to decrease. The
22 number of customers subject to a minimum bill would
23 decrease as rates are higher.

24 **Q But doesn't the minimum bill also increase**
25 **from \$25 to \$30 under F -- under the proposed tariffs?**

1 A It does.

2 Q Shouldn't there be some number of customers,
3 then, following between that \$25 and that under \$30
4 threshold?

5 A Yes, there could be.

6 Q If we could next go to master page E5883? I
7 am sorry. I misspoke. E58883.
8 This is one of your workpapers?

9 A Yes.

10 Q And it's to support the \$30 minimum bill?

11 A It does.

12 Q If we go to the tab minimum bill. Would you
13 agree that the largest component of the cost in the
14 minimum bill are -- is demand-related distribution
15 costs?

16 A Yes, mathematically.

17 Q And then the other portion of that cost would
18 be customer related costs?

19 A Yes.

20 Q And what are customer related costs?

21 A Customer related costs are generally billing,
22 customer service and meeting.

23 Q And ballpark, that would be about \$10 per
24 month her customer?

25 A From our customer charge?

1 **Q Yes.**

2 A Yes, so these costs would be incremental to
3 that.

4 **Q And you don't have income data on your**
5 **residential customers?**

6 A We do not have income data.

7 **Q And you do discuss seasonal homeowners in your**
8 **rebuttal testimony in relation to the minimum bill?**

9 A I do. I provide, as an example of a type of
10 customer that would be subject to a minimum bill is a
11 customer with, perhaps, a second home that they are not
12 here for a portion of the year, and, therefore, they
13 would pay a minimum bill. But it's one type of customer
14 that would be subject to a minimum bill. Really, any
15 customer with usage below a certain level is subject to
16 the minimum bill.

17 **Q You would expect seasonal homeowners to be**
18 **residing in FPL's territory generally in the cooler**
19 **months?**

20 A Generally.

21 **Q If we could go to master page E82560? And**
22 **this is one of your workpapers for your rebuttal**
23 **testimony?**

24 A Yes.

25 **Q And for 2026, to incur a minimum bill, a**

1 customer would need to use less than 233 kilowatt hours?

2 A Can you point me to the line you are seeing
3 that?

4 Q I am not seeing that in a specific line on
5 this document, if you know.

6 A It's in the ballpark of -- yes.

7 Q And if you go to the raw data tab, this has
8 the number of customers at each kilowatt hour usage for
9 each month in 2024?

10 A Yes.

11 Q Would you accept, subject to check, that if
12 you add up all the customers in January who have zero to
13 232 kilowatt hours of usage, it would be 565,153
14 customers?

15 A I will accept your math, subject to check.

16 Q And December, accepting subject to check, that
17 it would be 609,611?

18 A Again, subject to check, I have not done the
19 calculation.

20 Q And then for August, subject to check, it
21 would be 273,888 customers?

22 A Subject to check.

23 Q And so subject to check, assuming that's true,
24 that would mean that more customers would be subject to
25 the minimum bill in the cooler months than the warmer

1 months?

2 A Yes.

3 Q And you would agree that a seasonal customer
4 would be more likely to have usage low enough to incur a
5 minimum bill in the summer months when they are probably
6 not here?

7 A Sure. That's fair. Again, I said in my
8 testimony it's one example. It's cooler -- in cooler
9 months, I would expect customers to have less usage and,
10 therefore, more customers could be subject to the
11 minimum bill in cooler months than warmer months. That
12 is -- that's logical.

13 The purpose of the minimum bill is that all
14 must customers, regardless of their income level,
15 everyone -- the grid has to be there to serve any
16 customer at any time when they turn on their lights. So
17 the intent is that -- I believe we just established
18 around 233 kilowatt hours give or take, anyone below
19 that amount should pay a minimum bill. Our customer
20 charge today is \$9.61, which is the lowest among all
21 Florida IOUs. It's below the Florida average. It's
22 below the national average. So another Florida utility
23 also has a minimum bill as well. The intent is to
24 ensure that all customers pay their fair share of fixed
25 costs.

1 **Q And do you know if the increase in the minimum**
2 **bill from \$25 to \$30 is expected to increase revenue by**
3 **over \$20.4 million in 2026?**

4 A I don't know the math offhand, but what I will
5 say is it doesn't increase revenue. Whatever we collect
6 from the minimum bill is then offset by the amount that
7 is collected from the remaining customers in the class.
8 So it's not incremental revenue in any way.

9 **Q How about revenue from the minimum bill**
10 **specifically?**

11 A How much did you say?

12 **Q 20.4 million.**

13 A I will accept it subject to check. I would
14 have to check in my testimony. But, again, it's not
15 incremental revenue.

16 **Q Switching topics a bit to cost of service and**
17 **to rate design. Am I correct that you take the cost of**
18 **service from Ms. DuBose post and then design the rates?**

19 A Yes. So customer service -- I'm sorry, cost
20 of service at current rates is the beginning point.
21 It's a tool or guide and what we use to design rates
22 ultimately.

23 **Q And in your rate design process, you apply**
24 **gradualism?**

25 A Yes.

1 Q And that includes the idea of helping move
2 customers closer to parity while ensuring that no class
3 receives an overly large increase?

4 A That is the definition of gradualism.

5 Q And you did that in your rate design in this
6 case?

7 A Yes.

8 Q And parity ensures that a customer class is
9 paying their cost as defined by the methodology used in
10 the cost of service?

11 A Yes.

12 Q Would another way of saying that would be that
13 they are paying their fair share of the cost of the
14 system?

15 A That is a way to define parity, that customers
16 pay their costs to serve.

17 Q If we could go to your Exhibit TCC-5 for 2026
18 and 2027? Would you agree that -- well, let me -- just
19 a foundational question.

20 This would be parity under FPL's as-filed cost
21 of service study and as-filed proposed rates, is that
22 right?

23 A Yes, as compared to current rates.

24 Q Is and would you agree that this has
25 residential customers moving closer to parity?

1 A Yes, they decrease in parity under the
2 proposal as filed.

3 Q But they would still be above parity according
4 to the numbers on here?

5 A Yes.

6 Q You have testimony regarding FPL having one of
7 the lowest bills in the top 20 utilities in the U.S. as
8 part of your testimony, is that right?

9 A Yes.

10 Q And that would be based off of the 1,000
11 kilowatt hours of usage?

12 A It is.

13 Q You would agree that FPL residential customers
14 have an approximate average usage of 1,125 kilowatt
15 hours?

16 A That is average usage. We also have over
17 55 percent of our customers use less than 1,000 kilowatt
18 hours a month. And also during the shoulder months of
19 November to March, our average bill is actually less
20 than 1,000 kilowatt hours.

21 Q In your rebuttal testimony, you lay out for --
22 all your reasons for disagreeing with the significance
23 of the numbers in Mr. Marcelin's testimony, is that
24 right?

25 A Can you point me to where that is?

1 Q Well, let me just ask it this way: You don't,
2 in your rebuttal testimony, disagree with any of the
3 math presented in Mr. Marcelin's testimony, correct?

4 A On what topic?

5 Q Regarding FPL's bills, residential bills?

6 A I am not sure I am following. I am sorry.

7 Q There is nowhere in your rebuttal testimony
8 that you disagree with the numbers, you know, as in
9 terms of FPL's residential bills with Mr. Marcelin's
10 testimony, correct?

11 A I would need to see exactly what you are
12 referring to.

13 CHAIRMAN LA ROSA: Hold on.

14 MR. CHRISTOPHER WRIGHT: Mr. Chairman, sorry.
15 Whether she address it is or not in her rebuttal,
16 it's in her rebuttal. I don't know what we are
17 wasting time for. If there is a disagreement with
18 the numbers that she addresses, it's in there. If
19 he wants to brief that she doesn't address it, then
20 he is free to do that based on what's here. I
21 don't know why we need to hunt around for this.

22 CHAIRMAN LA ROSA: Mr. Marshall?

23 MR. MARSHALL: I mean, I think it goes to
24 establishing exactly what the witness disagreed
25 with from the testimony that we filed in this case

1 and her rebuttal, and understanding exactly where
2 those lines are. And I can point to the witness to
3 her testimony to address what she did address and
4 did not address.

5 CHAIRMAN LA ROSA: Let's proceed, but if we
6 can try to maybe pick up the pace a little bit?

7 BY MR. MARSHALL:

8 **Q I think this is starting on page 10 of your**
9 **rebuttal testimony.**

10 A Is your question whether I disagree with the
11 math in his testimony?

12 **Q Correct.**

13 A I don't think I disagree specifically with the
14 math, but I don't know that I recalculated anything that
15 he did.

16 I specifically disagree that he is trying to
17 compare Florida's average bill to other states, such as
18 Wyoming and Colorado, that have a significantly lower
19 amount of electricity used by their customers. It is
20 definitely warm in Florida, and our customers use 90
21 percent of -- 90 percent of their electricity needs, or
22 their energy needs comes from electricity. The states
23 that he is comparing us to are the lowest states that
24 have a lower average bill. Electricity is roughly
25 20 percent of their energy burden.

1 So my point is that he is understating the
2 energy burden of the customers in those states, and he
3 is overstating the energy burden by customers that live
4 in Florida.

5 **Q And you would agree that the -- some of the**
6 **temperatures in those other territories in the tables**
7 **that you include in your rebuttal testimony, that they**
8 **tend to be colder than in FPL's service territory?**

9 A They are 43 percent hotter than Florida -- I
10 am sorry, other way. Florida is 43 percent hotter.

11 **Q If we could next go to your Exhibit TCC-2?**
12 **And the two-and-a-half percent compound annual growth**
13 **rate of bills is based on the numbers presented in this**
14 **graph, is that right?**

15 A Yes.

16 **Q And the current charge -- the current bill**
17 **for, on the left-hand side there, does that include**
18 **storm charges?**

19 A It does. It's shown in the gray right there.

20 **Q And there is an assumption that for the**
21 **numbers presented here, for 2026 through 2029, that**
22 **there won't be future storm charges?**

23 A That's the assumption as I sit here today. I
24 don't know of, fortunately -- hopefully we won't have
25 any storms, but this was prepared at a point in time

1 with the data that I knew at that point in time. So as
2 I sit here, we have no other storm charges. It's also
3 based on an assumption of fuel, which could go up or
4 down from where we are today. So it's based on a point
5 in time when the best available information I have.

6 **Q And the 2028 and 2029 numbers would be**
7 **estimates based on the SoBRAs, is that right?**

8 A It is.

9 **Q In total, does this show that there is an**
10 **estimate that residential base rates would increase in**
11 **28.7 percent from now to 2029?**

12 A Total bill increase is 2.5 percent?

13 **Q I was talking about the base portion?**

14 A About the base? I don't have that math in
15 front of me, but I will accept your math subject to
16 check.

17 **Q If we go to the next page. This would be for**
18 **general service customers, is that right?**

19 A Yes.

20 **Q And it shows a compound annual growth rate of**
21 **one percent per year?**

22 A Yes.

23 **Q If we could next go to master page J1112? And**
24 **this would be part of MFR E-5, the 2026 test year, is**
25 **that right?**

1 A Yes.

2 Q And you would be the witness sponsoring this
3 **MFR?**

4 A Yes.

5 Q Now, at the top, there is -- in line number
6 **six, there is CILC/CDR credit offset, do you see that?**

7 A Yes.

8 Q And so what is represented by the numbers on
9 **that line?**

10 A That's the amount of credits that are paid for
11 today by all customers.

12 Q And they appear as a revenue on this MFR E-5
13 **for those classes receiving those credits?**

14 A Yes. It's part of the revenue responsibility
15 of those classes, and they get credit for their
16 participation in the program.

17 Q And if you go down to row 34, does that show
18 **the as-proposed reduction in the CILC/CDR credits?**

19 A It does.

20 Q And so if I am looking at the actual increase
21 **to the large commercial and industrial classes in retail**
22 **base revenues as proposed, looking at CILC-1D, for**
23 **example, it would be 37.408 million, is that right?**

24 A You said for CILC-1D?

25 Q Yes.

1 A For base revenue, yes.

2 **Q And the total proposed increase is actually**
3 **less than that because of the reduction in the CILC/CDR**
4 **credits that class is receiving under FPL's proposal?**

5 A Yes.

6 **Q Just a couple more follow-up questions on the**
7 **CIAC tariff changes as discussed earlier. You would**
8 **agree that the proposed tariff changes shifts the risk**
9 **to the cost causer?**

10 A The proposed tariff changes?

11 **Q Yes.**

12 A The change that we are proposing in the sense
13 that we are asking for a change to the tariff to recover
14 those costs up front?

15 **Q Yes.**

16 A So, yes, it shifts -- it shifts some of the
17 risk to the cost causer.

18 **Q And does that try to follow the principle of**
19 **cost causation?**

20 A It does. It also ensures that the customer is
21 the one who ensures that their load materializes on our
22 system. So it's putting some of the onus on them to
23 ensure that their load does materialize.

24 **Q And what is the principle of cost causation?**

25 A That a customer should pay, in their rates,

1 the costs to serve them.

2 **Q And you would agree that that's a principle**
3 **that FPL tries to follow?**

4 A It's one of a few principles that we follow,
5 yes.

6 MR. MARSHALL: If you will just give me one
7 second, Mr. Chairman. I think we may be -- that's
8 all my questions. Thank you.

9 CHAIRMAN LA ROSA: Thank you.

10 FAIR, you are recognized.

11 MR. SCHEF WRIGHT: Thank you, Mr. Chairman.

12 EXAMINATION

13 BY MR. WRIGHT:

14 **Q Good afternoon, Ms. Cohen. How are you doing?**

15 A Good, Mr. Wright.

16 **Q Good. I have a very few questions for you.**

17 **You had -- I am not going to belabor this.**

18 **You had a conversation with Mr. Ponce about your load**
19 **forecasting. My questions are fairly straight -- I**
20 **think they are entirely straightforward.**

21 **Who does the forecasting for FPL? Is it you?**
22 **Is it a team? Is it contractors? All the above? Can**
23 **you help me out there?**

24 A It's done on my team.

25 **Q Thank you.**

1 **My question for you is: Is your team's**
2 **performance evaluated on the basis of the accuracy of**
3 **your forecasts?**

4 A I disagree with the term accuracy of the
5 forecast. As I explained earlier, right, if you are
6 preparing a forecast at a point in time, you are using
7 the best available information. That's it.

8 **Q So when -- does anybody at FPL look ex post at**
9 **whether your forecasts matched actual data as it**
10 **occurred?**

11 A We look at weather normalized sales every
12 month, and our forecast is within one percent of our
13 actuals, weather normalized, they are in one percent of
14 our forecast.

15 **Q Is the performance of the forecasting team**
16 **evaluated at all on the basis of whether the actual**
17 **forecast numbers are over, under or right on the money**
18 **with the forecast?**

19 A What do you mean by -- what do you -- I am
20 sorry, can you please rephrase your question?

21 **Q Sure.**

22 **My question is: Does anybody at FPL**
23 **evaluating the forecasts with respect to whether they --**
24 **the actual values experienced in a given period, whether**
25 **it's a month or a year, how closely they match to the**

1 **forecast values prepared ex ante?**

2 A I think I just explained. We evaluate the
3 weather normalized forecast performance every month
4 compared to our forecast.

5 Q Well, I think I understood your answer to be
6 you look at that, and you look at it on a weather
7 normalized basis. My question is: Is the performance
8 of the forecasters evaluated on the basis of how closely
9 the forecasts match the actuals?

10 A You mean as part of, like, an incentive
11 mechanism, like incentives?

12 Q As part --

13 A I am not following your question. I am sorry.

14 Q Yeah, as part of performance of the person who
15 is supposed to be doing the forecast. I used to do
16 forecasts. I got evaluated on the basis of how closely
17 they matched actuals. That's my question.

18 A I don't believe it's part of their -- I don't
19 believe it's part of their annual evaluation.

20 Q Thank you.

21 I have a few questions for you relating to the
22 LLCS tariffs. I just want to understand as completely
23 as I can the protections that are built in for the
24 general body of FPL's customers.

25 Does the take-or-pay provision apply to

1 **100 percent of the incremental generation charges?**

2 A So we are conflating two things in that
3 question. The incremental generation is 100 percent
4 changed to the large load customer. The take-or-pay is
5 specifically referring to fixed system costs. And that
6 is 70 percent, as proposed in our rebuttal. So they are
7 two different things. One is slice of system cost as a
8 way to look at it, and one is incremental generation.
9 So holistically, that is the charge to the large load
10 customer.

11 Q Well, is the -- do I understand correctly that
12 when a customer comes on, there will be an incremental
13 generation charge applied to their service, correct?

14 A If they meet the requirements of LLCs, yes.

15 Q Sure. And would they -- does FPL expect them
16 to pay the IGC, whatever that is as it changes through
17 the years, for 20 years?

18 A Yes. They will sign a 20-year contract, and
19 the IGC will be set with this commission in each rate
20 case.

21 Q Does the take-or-pay provision apply to the
22 IGC at all?

23 A The IGC is 100 percent.

24 Q Thank you. That got to what I was trying to
25 understand.

1 With resp -- I have a couple of questions with
2 respect to the guarantee provision, the parent
3 guarantee. And I understand it's five years if the
4 party meets a certain credit worthiness criterion, and
5 10 years if it doesn't, correct?

6 A That's collateral. That's different than the
7 -- did you say performance guarantee?

8 Q No, I said -- actually, I am pretty sure I
9 said the parent guarantee --

10 A Okay. Sorry.

11 Q -- as to the -- which I think is a form of
12 collateral protection, is that accurate?

13 A Yes.

14 Q Thanks.

15 Does -- if it's -- if the customer or its
16 parent has posted a credit security for five years, does
17 that roll forward on a continuing basis through time?

18 A So it does adjust, but as filed in rebuttal,
19 it's based on a customer's credit worthiness. What you
20 are specifically referring to, I believe, was in
21 settlement.

22 Q I understand it's based on the customer's
23 credit worthiness. What I am trying to ask is, if the
24 customers post, say, a security guarantee of whatever
25 form for -- it's required to post that for five years,

1 correct?

2 A It depends on their credit worthiness, and
3 that's specific to a term in our settlement agreement.

4 Q I am really just trying to ask whether that
5 goes forward. So if we get to year four of the customer
6 service, will the guarantee still be in effect in year
7 nine?

8 A It's a rolling guarantee, if that helps.

9 Q That's what I was trying to ask.

10 Again, focusing on customer protection, what
11 will -- to the extent you know, what will FPL do if an
12 LLC customer were to terminate service?

13 A So we have a number of customer protections,
14 and protections built into the agreement. If a customer
15 wants to terminate service, they are still responsible
16 for 100 percent of their incremental generation charge.
17 They have to provide a two-year exit notice, during
18 which time they are paying their minimum take-or-pay for
19 the two years under that as well.

20 Q Is their obligation to pay the incremental
21 generation charge, does that continue for 20 years from
22 the date on which they initiated service?

23 A It's a 20-year contract from the date they
24 initiated service, yes.

25 Q If you know, would FPL collect against a

1 guarantee if -- as bills come due, or would they go
2 against the guarantee all at once?

3 A I don't know.

4 Q And do you know what FPL would do if the
5 scenario were to occur, that the guarantee were to be
6 exhausted?

7 A I don't know what you mean by that.

8 Q Well, if the guarantee were not sufficient to
9 cover the remaining period of time for which they are
10 obligated to pay the incremental generation charges,
11 what would FPL do, if you know?

12 A Well, the guarantee is for 100 percent of the
13 incremental generation charge as filed in the initial
14 case.

15 Q But the guarantee only applies for -- to
16 either -- in the -- I am sorry. I may have wandered
17 off.

18 Is the guarantee filed in the initial case a
19 guarantee for 20 years?

20 A Yes.

21 Q Thank you. That answers my questions.

22 MR. SCHEF WRIGHT: Thanks, Mr. Chairman.

23 CHAIRMAN LA ROSA: Great. Thank you.

24 FIPUG?

25 MR. MOYLE: FIPUG has no questions.

1 CHAIRMAN LA ROSA: FRF?

2 MR. BREW: No questions.

3 CHAIRMAN LA ROSA: Walmart?

4 MS. EATON: No questions.

5 CHAIRMAN LA ROSA: FEIA?

6 MR. MAY: No questions.

7 CHAIRMAN LA ROSA: Staff?

8 MR. STILLER: We have a few, Mr. Chair.

9 CHAIRMAN LA ROSA: Sure, you are recognized.

10 MR. STILLER: If we could access Case Center
11 echo 92002?

12 MR. SCHULTZ: You said 92002?

13 MR. STILLER: Yes.

14 EXAMINATION

15 BY MR. STILLER:

16 Q And, good afternoon, Ms. Cohen.

17 A Good afternoon.

18 Q In this FPL response to staff Interrogatory
19 No. 224, is it correct that FPL provided the company's
20 most recent summer and winter actual demand and
21 projected demand for FPLE and Northwest Florida
22 divisions?

23 A Yes, that's what this appears to be.

24 Q And the data here is presented in megawatt
25 hours, is that correct?

1 A Yes.

2 Q At the time of this response, which was May
3 27th, 2025, the company did not have data for indicating
4 the summer demand for 2025, so it provided summer demand
5 data for 2024, is that correct?

6 A Yes.

7 Q Does this response show that the July 2024
8 peak demand was forecasted to be 25,359 and the actual
9 demand was 25,241, indicating an over-forecast of summer
10 demands of 118 megawatts?

11 A It's a difference of 118 megawatts.

12 Q Do you happen to have with you today the
13 actual summer demand for FPLE and the Northwest Florida
14 divisions?

15 A I don't think I do, unless you can point me to
16 somewhere in my testimony.

17 Q No. That was the question, and your answer is
18 no.

19 If I can have one minute?

20 Thank you very much. Those are all our
21 questions.

22 CHAIRMAN LA ROSA: Thank you.

23 Commissioners, any questions?

24 Commissioner Passidomo Smith.

25 COMMISSIONER PASSIDOMO SMITH: I jumped in

1 front of you. Just a quick question, Mr. Chair.

2 I am kind of following up on Mr. Wright's
3 questions about those customer protections that are
4 kind of summarized on page 27 of your testimony.
5 If any of those parameters were modified, would
6 these customer protections still exist?

7 THE WITNESS: Were they modified in rebuttal?

8 COMMISSIONER PASSIDOMO SMITH: If they were to
9 be modified, would they still exist? Would the
10 cust -- if any of it were to be modified, would any
11 of those customer protections still exist?

12 THE WITNESS: I think you have to look at it
13 as a whole, right, that a lot of these actually are
14 still in effect today. The only things that really
15 changed in rebuttal was changing the take-or-pay to
16 70 percent from 90 percent.

17 In looking -- you have to take this as a whole
18 that it's making sure that we can serve the
19 customer's load, that our load ramp matches what
20 the customer is requesting. We may not have the
21 generation to serve the customer at the rate that
22 they want to be served. So we have to be sure that
23 we can build our generation and whatever we need to
24 serve the customer reliably and still maintain
25 whatever reliability that we need for the general

1 body.

2 There is two-year exit requirement notice.
3 100 percent of the incremental generation charge is
4 paid by the customer regardless of whether they
5 terminate their contract or not. Two-year exit
6 provision as well, where the customer still has to
7 pay their bill for two years, and that gives us
8 enough time to try to recontract the load if
9 necessary. But the customer is still paying
10 100 percent of that incremental generation charge
11 even if they choose to terminate their contract.

12 There is exit fees, right, as well, of making
13 sure that if they can't pay, we have got enough
14 collateral as well to serve them.

15 So does that answer your question?

16 COMMISSIONER PASSIDOMO SMITH: It does. Thank
17 you.

18 CHAIRMAN LA ROSA: Commissioner Clark.

19 COMMISSIONER CLARK: Thank you, Mr. Chairman.

20 Ms. Cohen, I have two questions, if you are
21 the right person to answer them.

22 Going back to the minimum monthly bill that is
23 proposed in the rate, if I remember right, your MDS
24 number for the system is around \$32, I think is the
25 2025 number for your minimum system, is that

1 correct?

2 THE WITNESS: So it's actually about \$70 in
3 fixed costs is what it costs to serve a residential
4 customer, so we are charging 25 today. We are
5 asking to increase that to 30. And again, it's not
6 incremental revenue. All it does is reduce the
7 amount that you recover from your remaining
8 customers in the class.

9 COMMISSIONER CLARK: And is that in addition
10 to the \$9 a month charge, which is -- what do you
11 call it?

12 THE WITNESS: It's a base charge, but it's
13 not -- it is not in addition to. It's part of. So
14 every customer pays their customer charge, and then
15 if they don't have enough usage to get them to \$25,
16 they would pay that incremental amount.

17 COMMISSIONER CLARK: So you are spreading the
18 fixed costs and recovering it through a variable
19 recovery mechanism being energy, is that correct?

20 THE WITNESS: Yes.

21 COMMISSIONER CLARK: So would it make more
22 sense to actually fix the base charge to something
23 much closer to the correct amount, would you not
24 then be able to actually lower the kilowatt hour
25 cost?

1 THE WITNESS: If we -- is your question if
2 weigh were to change the kilowatt hour amount?

3 COMMISSIONER CLARK: Raise the facilities
4 charge to \$40, which is halfway to your actual
5 fixed cost number, would you not be able to lower
6 the kilowatt hour cost?

7 THE WITNESS: You absolutely could do it under
8 your math, even more customers -- you would
9 definitely see more customer having -- their bills
10 would increase as well, low use customers would
11 have a higher bill in your scenario.

12 COMMISSIONER CLARK: But when you say lower
13 use customers, that would be probably lower than
14 the system average, is that correct?

15 THE WITNESS: Yes.

16 COMMISSIONER CLARK: Okay. So if they are
17 above the system average, they would actually have
18 a reduction in the kilowatt hour cost?

19 THE WITNESS: That's correct. They would.

20 COMMISSIONER CLARK: And my second question
21 is, as part of the rate structure under this
22 four-year rate plan, do you still intend to use
23 inclining block rates?

24 THE WITNESS: We do. We have evaluated a
25 number of rate designs. We are always evaluating

1 rate designs as a part of normal course of
2 business.

3 We do have a fixed rate program, actually
4 Legacy Gulf had a fixed rate program, where
5 customers can pay one amount for the whole month.
6 And in the '21 rate case, we asked permission, and
7 received authorization, to extend that program to
8 Legacy FPL customers. So we do have customers that
9 are on a fixed rate today.

10 But, yes, we are intending to maintain the
11 inclining block. As I mentioned earlier, at least
12 55 percent of our customers use less than 1,000
13 kilowatt hours. And in the shoulder months -- in
14 the shoulder months of November to March, our
15 average usage is actually less than 1,000. So it
16 does give me some information that 1,000 is still
17 the right number today.

18 COMMISSIONER CLARK: Wouldn't that, though,
19 kind of balance out the customers' bills actually
20 on a monthly basis through the end of the year if
21 you actually made that change?

22 THE WITNESS: Would their bill balance out?
23 It would. I do think it would cause an increase to
24 lower use customers at different parts of the year.

25 COMMISSIONER CLARK: Yes. Okay.

1 Can you support the inclining block rate
2 theory with any financial data that shows where
3 that is actually aligning cost causers with the
4 actual recovery?

5 THE WITNESS: We do capture a lot of data on
6 the number of customers and the amount of usage
7 over and under 1,000 kilowatt hours. And so as I
8 mentioned before, we do continue to evaluate
9 whether or not that is -- that's the right number.
10 But as I sit today, I do think that it's the right
11 block today.

12 COMMISSIONER CLARK: But does that line up
13 with, as Mr. Marshall said, the philosophy of cost
14 causation?

15 THE WITNESS: I think that it does. If we
16 were to change it, we would probably be pushing
17 more costs to lower use customers. However --

18 COMMISSIONER CLARK: But that's irrelevant of
19 actual cost causers, not -- their income is not --
20 or their usage isn't --

21 THE WITNESS: Fair -- no, that's fair. And so
22 if its costs \$70 to serve a lower -- to serve any
23 customer today, you could almost say, then, that
24 one group could be subsidizing the other today.

25 COMMISSIONER CLARK: Okay. Thank you.

1 CHAIRMAN LA ROSA: Anything further,
2 Commissioners?

3 Commissioner Fay, you are recognized.

4 COMMISSIONER FAY: Thank you, Mr. Chairman.

5 Just one quick question. You were asked about
6 this mean absolute percentage fair component. Just
7 so I can understand, is that something that is a --
8 it's a diagnostic component of -- that you use on
9 historical data to apply to your forecasting, or is
10 it something you take that number and then push it
11 forward for your, like, more of like a calibration
12 or, like, a forward-looking calculation?

13 THE WITNESS: You -- the word you used,
14 diagnostic, is a great word in this, in that there
15 are a number of different statistical analysis that
16 we to do evaluate the validity of our forecast.
17 They are actually all in TCC-4, in what we call
18 MAIP is one of them. There is a number of other
19 ones as well.

20 So when we run a forecast, we look at how all
21 those variables stand up, and we look at all the
22 numbers and what they should be. If you are -- the
23 MAIP statistic should be something close to zero.
24 And that says that your errors are -- that you are
25 accurate, right.

1 So we look at all those together, and that's
2 how we determine whether things that we went
3 through, like cooling degree hours, heating degree
4 hours, whether that variable makes sense in the
5 model. And so if it doesn't maybe sense, it may
6 have a higher MAIP value, but there is other
7 statistics we look at as well. So you have to look
8 at it all holistically to make sure the variables
9 that we are using, they are logical, they make
10 sense, but they are also statistically reasonable
11 in the model.

12 COMMISSIONER FAY: Okay. And so then if you
13 took historical data that, by definition, would say
14 was above -- or I guess it doesn't matter, above or
15 below, you were asked a lot of questions about how
16 that impacts the data, just sort of oversimplifying
17 for me, I guess your testimony is that based on
18 that data, there are adjustments that are applied
19 to the forecasting data?

20 THE WITNESS: Based on the forecast -- based
21 on the model statistics, it tells us that it has a
22 very low MAIP, and it means that what we have been
23 doing is statistically sound and reasonable.

24 COMMISSIONER FAY: Okay. Gotcha. So if it
25 was the other direction, it would be the same

1 concept?

2 THE WITNESS: Yes.

3 COMMISSIONER FAY: Okay. Gotcha. Thank you.

4 CHAIRMAN LA ROSA: Great. Thank you.

5 Back to FPL for redirect.

6 MR. CHRISTOPHER WRIGHT: Thank you, Chairman.

7 We have no redirect. We would ask that CEL
8 Exhibits 138 through 143, 328 through 331 be moved
9 into the record. We would also ask that Exhibit
10 131, which was initially sponsored by Mr. Bores in
11 his direct testimony, and cosponsored by Ms.
12 Fuentes, Mr. Oliver and Ms. Laney, be moved into
13 the record. And with that ask that the witness
14 excused.

15 CHAIRMAN LA ROSA: Okay. Assuming no
16 objection. Then so moved.

17 (Whereupon, Exhibit Nos. 131, 138-143 &
18 328-331 were received into evidence.)

19 CHAIRMAN LA ROSA: And certainly excuse the
20 witness. Thank you, Ms. Cohen.

21 THE WITNESS: Thank you.

22 (Witness excused.)

23 CHAIRMAN LA ROSA: Anything else that needs to
24 be moved in the record, OPC?

25 MR. PONCE: Yes. OPC would offer exhibits on

1 the CEL 718 -- I will start again. OPC would offer
2 into evidence CEL Exhibit Nos. 718, 723, 748 and
3 765.

4 CHAIRMAN LA ROSA: Okay. Seeing -- any
5 objections to those? All right, seeing no
6 objections, so moved. Thank you.

7 (Whereupon, Exhibit Nos. 718, 723, 748 & 765
8 were received into evidence.)

9 CHAIRMAN LA ROSA: FEL?

10 MR. MARSHALL: Move into the record CEL
11 Exhibits 882, 968, 1031, 1014 through 1017, 1019,
12 1109 through 1112, 1153 and 1502.

13 CHAIRMAN LA ROSA: Any objections to those?
14 Seeing no objections, so moved.

15 (Whereupon, Exhibit Nos. 882, 968, 1031,
16 1014-1017, 1019, 1109, 1112, 1153 & 1502 were received
17 into evidence.)

18 CHAIRMAN LA ROSA: Anything else that needs to
19 be moved into the record? Excellent.

20 All right. So let's transition a little bit,
21 and I believe that's all your witnesses, FPL,
22 correct?

23 MR. CHRISTOPHER WRIGHT: I believe we have
24 rebuttal witnesses after the other parties'
25 witnesses?

1 CHAIRMAN LA ROSA: Okay. So let's -- awesome,
2 thank you. So let's move to OPC's witness.

3 OPC, are you ready to call your first witness?

4 MR. PONCE: Yes, we are. OPC would call to
5 the stand OPC witness Roger D. Colton.

6 CHAIRMAN LA ROSA: Mr. Colton, when you find
7 your way to the witness area, please feel free to
8 get settled and raise your right hand. Smart man
9 to get your water set up first because this thing
10 goes real quick.

11 Whereupon,

12 ROGER D. COLTON
13 was called as a witness, having been first duly sworn to
14 speak the truth, the whole truth, and nothing but the
15 truth, was examined and testified as follows:

16 THE WITNESS: Yes.

17 CHAIRMAN LA ROSA: Excellent. Great. Thank
18 you very much.

19 OPC, I will turn him over to you once you guys
20 are ready.

21 EXAMINATION

22 BY MR. PONCE:

23 Q Good afternoon, Mr. Colton. Are you --

24 CHAIRMAN LA ROSA: Your microphone might be
25 off.

1 THE WITNESS: Good afternoon.

2 BY MR. PONCE:

3 Q You were just sworn in, right?

4 A I was.

5 Q If you could please state your name and spell
6 your last name for the record?

7 A My name is. Roger, R-O-G-E-R, D, as in dog,
8 Colton, C-O-L-T-O-N.

9 Q And did you cause to be filed in this case
10 expert testimony on June 9, 2025?

11 A I did.

12 Q Do you have any corrections to your prefiled
13 testimony?

14 A I do. I have two corrections if I may?

15 Q Go ahead, please.

16 A The first correction is at page 33, line --
17 lines 14 and 15. On line 14, the word three should be
18 deleted and the word four should be inserted in lieu
19 thereof.

20 On line 15, before the word Columbia, the word
21 Bradford, comma, should be inserted.

22 And then secondly, on page 53, line 17, the
23 word greater should be deleted, and the words less than
24 should be inserted in lieu thereof.

25 And then on line 18, the word above should be

1 deleted and the word below should be inserted in lieu
2 thereof.

3 That's it.

4 **Q Corrections notwithstanding, if I were to ask**
5 **you the same questions today as are contained in your**
6 **prefiled testimony, would your answers be the same?**

7 A With those corrections, yes.

8 MR. PONCE: Okay. Mr. Chair, I would ask that
9 Mr. Colton's testimony be inserted into the record
10 as though read.

11 CHAIRMAN LA ROSA: So moved.

12 (Whereupon, prefiled direct testimony of Roger
13 D. Colton was inserted.)

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 20250011-EI

Filed: June 9, 2025

DIRECT TESTIMONY
OF
ROGER D. COLTON
ON BEHALF
OF
THE CITIZENS OF THE STATE OF FLORIDA

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1 **DIRECT TESTIMONY**
2 **OF**
3 **ROGER D. COLTON**
4 **On Behalf of the Office of Public Counsel**
5 **Before the**
6 **Florida Public Service Commission**
7 **DOCKET NO. 20250011-EI**

8 **I. Introduction**

9 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

10 A. My name is Roger Colton. My business address is 34 Warwick Road, Belmont,
11 Massachusetts.

12

13 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT POSITION?**

14 A. I am owner of the firm of Fisher Sheehan & Colton, Public Finance and General
15 Economics of Belmont, Massachusetts. In that capacity, I provide technical assistance
16 to a variety of federal and state agencies, consumer organizations, and public utilities
17 on rate and customer service issues involving water/sewer, natural gas, and electric
18 utilities.

19

20 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS PROCEEDING?**

21 A. I have been retained by the Florida Office of Public Counsel (“OPC”) to provide
22 technical assistance and expert testimony regarding Florida Power & Light Company’s

1 (“FPL” or “Company”) petition for a rate increase. Accordingly, I am appearing on
2 behalf of the Citizens of the State of Florida.

3

4 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND.**

5 A. After receiving my undergraduate degree in 1975 (Iowa State University), I obtained
6 further training in both law and economics. I received my law degree in 1981
7 (University of Florida). I received my Master’s Degree (Regulatory Economics) from
8 the MacGregor School (Antioch University) in 1993.

9

10 **Q. PLEASE DESCRIBE YOUR PROFESSIONAL BACKGROUND.**

11 A. I work primarily on low-income utility customer issues. This involves regulatory work
12 on rate and customer service issues, as well as research into low-income customer
13 usage, payment patterns, and affordability programs. At present, I am working on
14 various projects in the states of New Hampshire, Massachusetts Connecticut, New
15 Jersey, Pennsylvania, Ohio, Michigan, Wisconsin, Illinois, Missouri, and Montana. My
16 clients include state agencies (e.g., Pennsylvania Office of Consumer Advocate,
17 Maryland Office of People’s Counsel, Massachusetts Attorney General’s Office),
18 federal agencies (e.g., the U.S. Department of Health and Human Services),
19 community-based organizations (e.g., Cleveland Legal Aid Society, Legal Action of
20 Chicago, Consumers Council of Missouri), and private utilities (e.g., Toledo Water,
21 Entergy Services). Examples of my work include my current projects to assist the
22 Connecticut Office of Consumers Counsel in the annual review of the low-income
23 affordability initiatives of that state’s utilities by the Public Utilities Regulatory

1 Authority. I am also assisting the Massachusetts Attorney General's Office (AGO) in
2 the generic investigation by the Department of Public Utilities into the design of low-
3 income affordability programs, as well as the New Jersey Office of Rate Counsel in the
4 New Jersey Board of Public Utilities (BPU) generic review of the design of
5 affordability programs. In Canada, I recently developed a universal service plan for
6 Nova Scotia and prepared an income-based tiered discount program for BC Hydro.

7 In addition to state-specific and utility-specific work, I engage in national work
8 throughout the United States. For example, I have recently completed a project with
9 the Natural Resources Defense Council to develop a tool by which to assess the
10 financial impact of differing types of low-income customer bill assistance. A brief
11 description of my professional background is provided in Exhibit RDC-1.

12

13 **Q. HAVE YOU EVER PUBLISHED ON PUBLIC UTILITY REGULATORY**
14 **ISSUES?**

15 A. Yes. I have published three books and more than 80 articles in scholarly and trade
16 journals, primarily on low-income utility and housing issues. I have published an equal
17 number of technical reports for various clients on energy, water, telecommunications,
18 and other associated low-income utility issues. A summary of my publications is
19 included in Exhibit RDC-1.

1 **Q. HAVE YOU EVER TESTIFIED BEFORE THE FLORIDA PUBLIC SERVICE**
2 **COMMISSION OR OTHER UTILITY COMMISSIONS?**

3 A. I have not previously testified before the Florida Public Service Commission (“FPSC”
4 or “Commission”). However, I have previously testified as an expert witness before
5 regulatory commissions in more than 350 regulatory proceedings in 43 states and five
6 Canadian provinces on a wide range of utility issues. A list of the jurisdictions in which
7 I have testified is listed in Exhibit RDC-1.

8

9 **Q. PLEASE EXPLAIN THE PURPOSE OF YOUR DIRECT TESTIMONY.**

10 A. The purpose of my Direct Testimony is to review the impact of FPL rates on the bill
11 affordability to low- and moderate-income households. More specifically, my
12 testimony below will:

- 13 • Examine the history of FPL rate increases relative to changes in incomes in the FPL
14 service territory;
- 15 • Examine the affordability impacts of existing and proposed FPL rates on low-
16 income households;
- 17 • Examine the ability-to-pay of moderate income customers in the FPL service
18 territory;
- 19 • Examine the impacts of cost-of-living on ability-to-pay in the FPL service territory;
- 20 • Examine the disproportionate impacts which recent high inflation rates have had
21 on low- and moderate-income households in particular;
- 22 • Examine the impacts that rate unaffordability has on the ability of FPL to collect its
23 bills; and

- Examine the adverse impacts which residential rate unaffordability has on non-residential customers.

II. Rate History

Q. PLEASE EXPLAIN THE PURPOSE OF THIS SECTION OF YOUR TESTIMONY.

A. In this section of my testimony, I examine the movement in FPL prices relative to the movement in incomes for FPL customers. In examining affordability, I do not look at incomes at higher income levels. Affordability concerns instead are assessed by looking at FPL households at lower to moderate income levels. My first inquiry includes looking at recent movements in FPL rates relative to income levels at the First and Second Quintiles of income in the FPL service territory.¹ For purposes of this discussion, I define “moderate” income households to include those falling in the Second Quintile.

The first step in my analysis is to develop an index for FPL prices over time. In my analysis, I set 2016 as the Base Year (Index equals 100). The change in FPL prices over time results in the FPL Price Index being more or less than 100. An FPL Price Index of more than 100 means that rates have increased. An FPL Price Index of less than 100 means that rates have declined. Using an index such as this is a common way to measure data over time. For example, it is the way that the U.S. Bureau of Labor

¹ The Census Bureau rank orders households from lowest income to highest income for each geographic area for which it publishes data. It then divides that rank ordering into five equal parts, each part of which is called a “quintile.” The First Quintile (Q1) is sometimes also referred to as the “bottom Quintile” or “lowest Quintile” (households at the 0 to 20th percentile of income). The Second Quintile (Q2) represents households at the 21st to 40th percentiles of income.

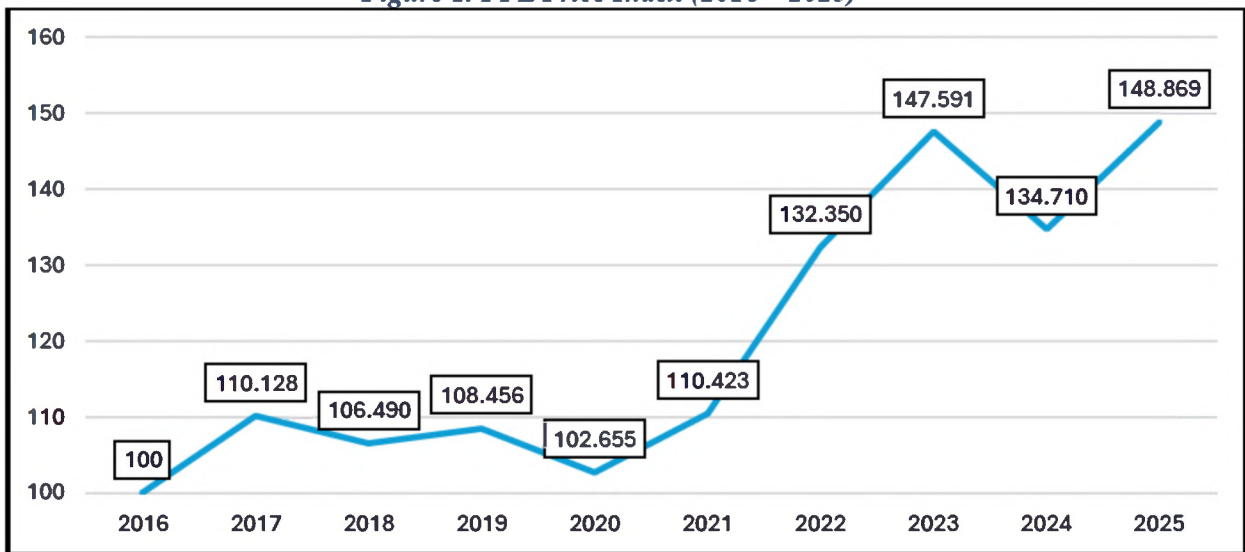
1 Statistics measures inflation (with the Consumer Price Index showing the extent of
2 increase or decrease relative to a base year).

3 Figure 1 below shows the FPL Price Index for the years 2016 through 2025.
4 The prices are based on data reported by FPL in its Energy Information Administration
5 (“EIA”) Form 861 each year.² The data shows that FPL prices³ were relatively stable
6 from 2016 through 2020. Since 2020, however, FPL prices have seen a dramatic
7 increase. The 2025 FPL Price Index reaches 148.869, indicating that FPL rates are
8 roughly 50% higher in 2025 than they were in 2016.

² 2024 and 2025 is based on a compilation of monthly Form EIA 861M filings. EIA Form 861 annual data is available at <https://www.eia.gov/electricity/data/eia861/>. EIA Form 861M monthly data is available at <https://www.eia.gov/electricity/data/eia861m/>.

³ While I use the term “price,” the actual data I examine is average revenue per customer. I divide the total residential revenue reported by FPL by the total residential usage reported by FPL.

Figure 1. FPL Price Index (2016 – 2025)



I have “checked” this data reported to EIA against the history of FPL bills (1,000 kWh) as reported each year by the Florida PSC.⁴ While the numbers are not identical, they are very close. Using the PSC numbers, the FPL PSC Price Index for 2022 is 131.702 (compared to 132.350 using EIA data). The FPL PSC Price Index for 2023 is 148.426 (compared to 147.591 using EIA data). The Florida PSC, as of the time I write this testimony, has not reported 2024 data.

Q. HOW DOES THE FPL PRICE INDEX INFORM AN AFFORDABILITY ANALYSIS FOR FPL?

A. The FPL Price Index informs an affordability analysis when it is compared to an index for incomes over the same time period. Again using 2016 as the base (Index = 100), The Schedules present the following data: (1) Figure 2 presents a comparison of the Q1 Index for 2023 to the FPL Price Index; (2) Figure 3 presents a comparison of the Q1

⁴ Florida PSC, Facts and Figures of the Florida Utility Industry, available at <https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/FactsAndFigures/>.

1 Index for 2022 to the FPL Price Index; and (3) Figure 4 presents a comparison of the
2 Q2 Index for 2023 to the FPL Price Index. In each Schedule, the FPL Price Index is
3 represented by the line. The Q1 and Q2 Indexes for each FPL county for which the
4 Census reports data are represented by the bars.⁵ The Census Bureau reports mean
5 income by quintile for 20 of the 29 FPL counties which I use.⁶

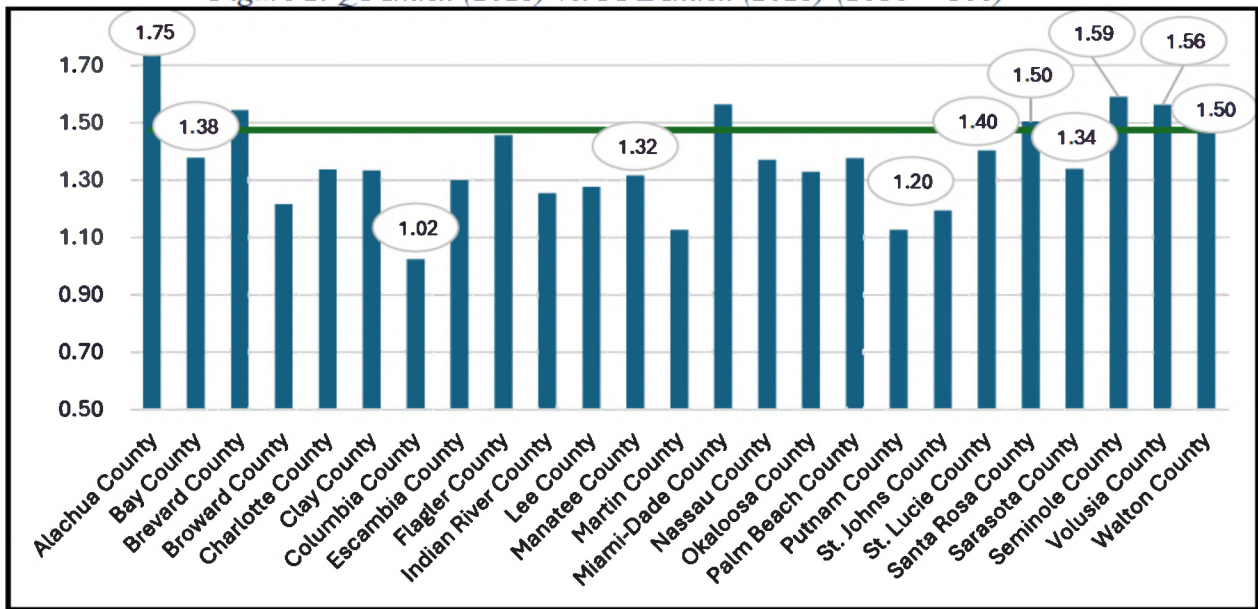
6 Figure 2 shows that of the 20 Peninsular FPL counties, in only five instances
7 did the growth in Q1 income exceed the growth in FPL rates, with one other county
8 showing a growth rate in Q1 income nearly equal to the FPL Price Index. What that
9 means, however, is that in 15 of FPL's 20 Peninsular counties for which data is
10 available, FPL customers in the bottom quintile (Q1) were worse off relative in 2023
11 FPL than they were in 2016.

⁵ I made two adjustments to the list of counties reported by FPL. First, some counties are not sufficiently large for the Census Bureau to report annual data. Second, I excluded the current FPL Northwest counties of Bay, Escambia, Okaloosa, Santa Rosa, and Walton. Prior to the acquisition of Gulf Power by FPL in 2019, residents of these counties were not FPL customers. Finally, I note that the Census Bureau did not publish 2020 one-year data due to data collection problems associated with COVID.

⁶ 2024 Census data has not yet been publicly released.

1

Figure 2. Q1 Index (2023) vs. FPL Index (2023) (2016 = 100)

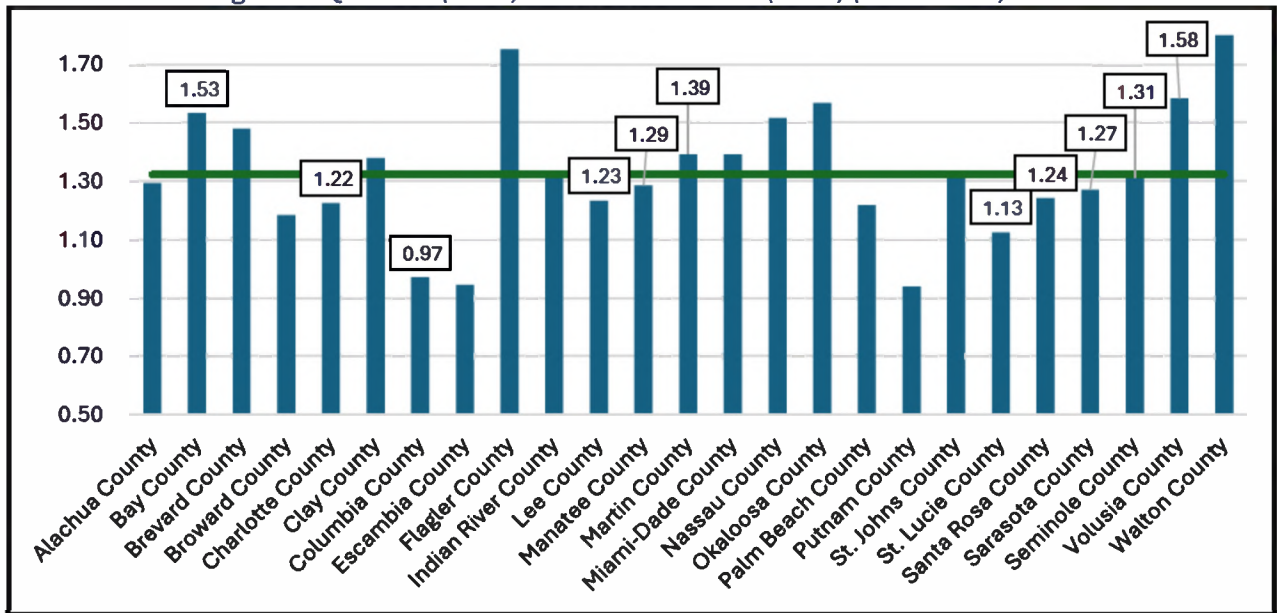


2

3 The deterioration of affordability for FPL's Q1 households is not simply attributable to
 4 this rate case or to recent increases in FPL prices. Figure 3 shows a comparison of the
 5 Q1 Index for 2022 relative to the FPL Price Index in 2022. Even in 2022, of the 20
 6 counties for which data is available, only seven had experienced a growth in income
 7 greater than the growth in the FPL Price Index.

1

Figure 3. Q1 Index (2022) vs. FPL Price Index (2022) (2016 = 100)



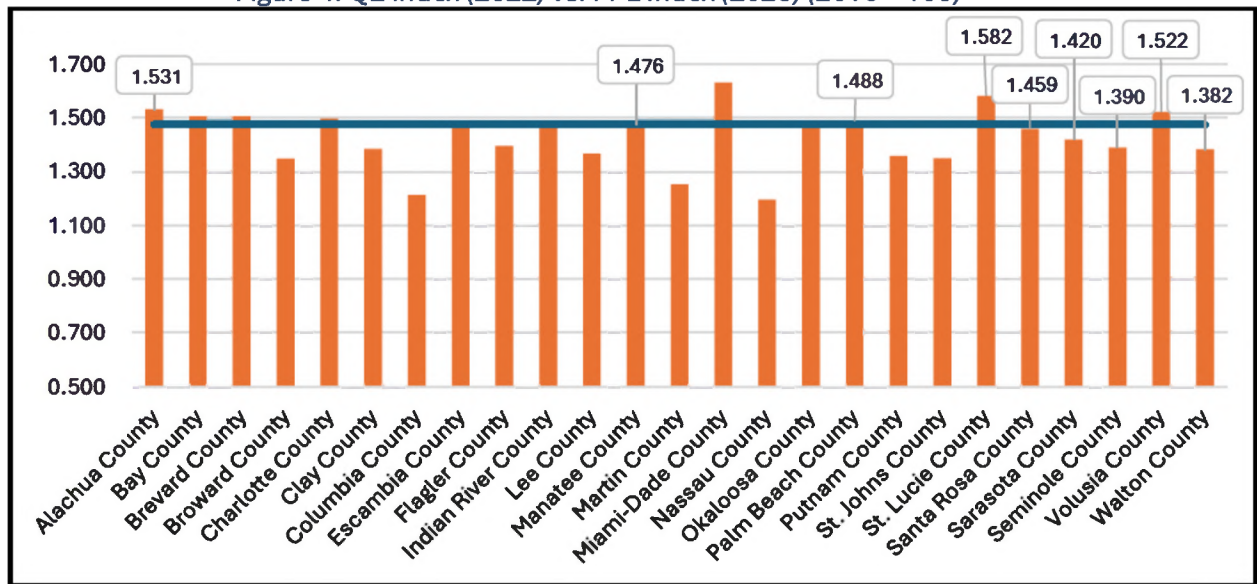
2

3

4 **Q. IS THIS DETERIORATION IN AFFORDABILITY EXCLUSIVELY THE**
5 **PROVINCE OF THE VERY POOR?**

6 A. Defining the “very poor” as being households in the bottom one-fifth of income (Q1),
7 the deterioration in FPL affordability is not limited exclusively to the very poor. Figure
8 4 compares the Q2 (Second Income Quintile) Index for 2023 to the 2023 FPL Price
9 Index. Of the 20 FPL counties, in only four did the mean Q2 income grow more from
10 2016 through 2023 than did FPL prices. In an additional five counties, the growth in
11 Q2 incomes was nearly identical to the growth in FPL prices. The significance of this
12 is that in more than half of the 20 counties for which data is available, FPL prices grew
13 faster than Q2 incomes grew during this time period. The bottom-line observation is
14 that the 40% of FPL customers with the lowest incomes throughout its service territory
15 were worse off in 2023 than they were in 2016 when comparing incomes to FPL prices.

Figure 4. Q2 Index (2022) vs. FPL Index (2023) (2016 = 100)

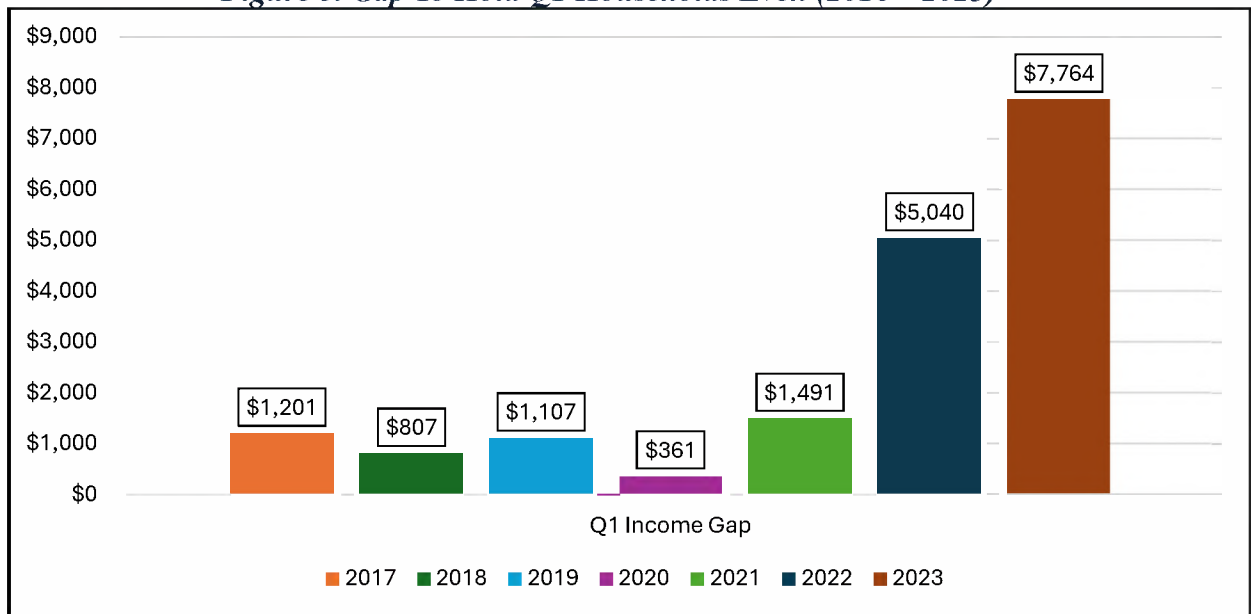


Q. PLEASE EXPLAIN THE IMPACT ON HOUSEHOLDS OF THIS MISMATCH BETWEEN THE GROWTH IN Q1 INCOMES AND THE GROWTH IN FPL BILLS.

A. The mismatch between the growth in Q1 incomes and the growth in FPL prices means that FPL bills are taking up a higher and higher proportion of total household income. The way to measure that increase is by assessing what increase in household income would be required to hold Q1 households constant in their FPL bill affordability. In setting forth this data, I emphasize that this is not the growth in income that would be needed to make FPL bills affordable. The income growth I identify below is simply that which is needed to have FPL customers being in no better or worse situation in 2023 than there were in 2016. If a household had an FPL burden of 15% in 2016, for example, this income would be required to keep that burden at 15%. Figure 5 shows that by 2022, a household falling in the First Quintile (Q1) of income would need to have experienced an income growth of \$5,040 more than its income actually grew in

1 2022 just to have their FPL Bill-to-Income Ratio stay even to that what it was in 2016.
2 In 2023, a Q1 household would need to have experienced an income growth of \$7,764
3 more than its income actually grew in 2023 just to have their Bill-to-Income Ratio stay
4 even. The “gaps” identified below are not the total growth in income that would have
5 been needed to have Bill-to-Income ratios for Q1 households to remain constant. The
6 gaps instead represent what additional income growth would have been required above
7 and beyond that which actually occurred in order for those Bill-to-Income ratio for Q1
8 households to remain the same in 2023 as they had been in 2016.

9 **Figure 5. Gap To Hold Q1 Households Even (2016 – 2023)**



10
11 To provide some context, the average Q1 income in 2022 for the State of Florida was
12 \$15,579, while the average Q1 income in 2023 for the State of Florida was \$16,315.
13 The additional income growth needed in 2023, in other words, just to remain even with
14 FPL price increases, would have represented nearly half of the actual total income for
15 Q1 households. The growing unaffordability of FPL bills to these households is thus
16 evident.

1 **Q. HAVE YOU EXAMINED THE AFFORDABILITY OF FPL BILL BURDENS**
2 **EXPERIENCED BY Q1 HOUSEHOLDS FROM 2016 THROUGH 2023?**

3 A. Yes. The final step I undertook in this part of my inquiry was to determine what
4 incomes would have been needed each year 2016 through 2025 to achieve an affordable
5 Bill-to-Income Ratio.

6

7 **Q. HOW DO YOU DEFINE “AFFORDABILITY”?**

8 A. As can be expected, there is not perfect uniformity in the burdens which various states
9 have adopted to define an affordable energy burden. However, a 6% burden has been
10 the standard most frequently relied upon by policymakers with respect to affordable
11 home energy across the country.⁷ The 6% burden has been frequently adopted,⁸
12 including in the states of Washington,⁹ Oregon,¹⁰ New Hampshire,¹¹ New York,¹² and

⁷ Throughout my testimony, unless I explicitly note to the contrary, the terms “Bill-to-Income Ratio” (BTI Ratio), “home energy burdens,” and “energy bill burdens” are intended to be used interchangeably.

⁸ Six percent is based on the recognition that total shelter costs are generally deemed to be unaffordable to the extent that they exceed 30% of income. Moreover, utility costs tend to equal 20% of total shelter costs. A multiplication of those two data points (20% times 30%) yields the 6% figure.

⁹ WASH ADMIN. CODE § 194-40-030 (2021) (“‘Energy assistance need’ means the amount of assistance necessary to achieve an energy burden equal to six percent for utility customers”).

¹⁰ Oregon Department of Energy, 2024 Biennial Energy Report, at 45 (Nov. 2024), *available at* <https://www.oregon.gov/energy/Data-and-Reports/Documents/2024-Biennial-Energy-Report.pdf>.

¹¹ New Hampshire Public Utilities Commission, Docket No. DE 06-079, Order No. 24,664, 3–4 (Sept. 1, 2006). (“[T]he current [Electric Assistance Program] was designed with the goal of making electricity affordable at 4 % of gross household income for non-electric heat customers (and at 6% of income for households with electric heat).”).

¹² New York Public Service Commission, Case 14-M-0565, *Order Adopting Low Income Program Modifications and Directing Utility Filings*, 7–48 (effective May 20, 2016) (favoring a 6% energy burden level because it appears to be a widely accepted limit for utility payments, including in New Jersey and Ohio; and also reflected by EIA data).

1 New Jersey.¹³ In addition, the Pennsylvania PUC has capped home energy burdens for
2 households with annual income at or below 50% of the Federal Poverty Level at 6% of
3 income.¹⁴ Most recently, the Connecticut Public Utilities Regulatory Authority
4 (PURA) held that a 6% burden for total home energy costs was the appropriate
5 definition of affordability.¹⁵

6 Throughout my testimony below, unless I note explicitly to the contrary, I
7 define an “affordable” Bill-to-Income Ratio as being a bill burden of no more than four
8 percent of income. This definition begins with an affordable Bill-to-Income Ratio of
9 six percent for total energy. It then assigns two-thirds of that affordable burden (4%)
10 to electricity.

11

12 **Q. WHAT DID YOU FIND WITH RESPECT TO THE AFFORDABILITY OF FPL**
13 **BILL BURDENS?**

14 A. My first finding is that Bill-to-Income Ratios for Q1 income are unaffordable
15 throughout the FPL service territory. The Q1 income I used in Figure 6 is the statewide
16 average Q1 income.¹⁶ As can be seen, in order for an FPL bill to be affordable to the
17 Q1 population, beginning in 2023, that income would need to have exceeded \$40,000
18 (in contrast to the actual mean Q1 income of \$16,315 as I observe above). In 2022, the

¹³ New Jersey Department of Community Affairs, *Universal Service Fund (USF)*, <https://www.state.nj.us/dca/divisions/dhcr/faq/usf.html#q1> (last visited Mar. 24, 2023). (Requiring USF customers who use natural gas for heating and electricity to pay 2% for their natural gas service and 2% for their electricity service. If, however, the customer uses electricity for heating, the entire 4% is devoted to the electricity service. The discount provided to customers is based on the difference between their annual utility bill (after LIHEAP is applied) and the required percentage of household income.).

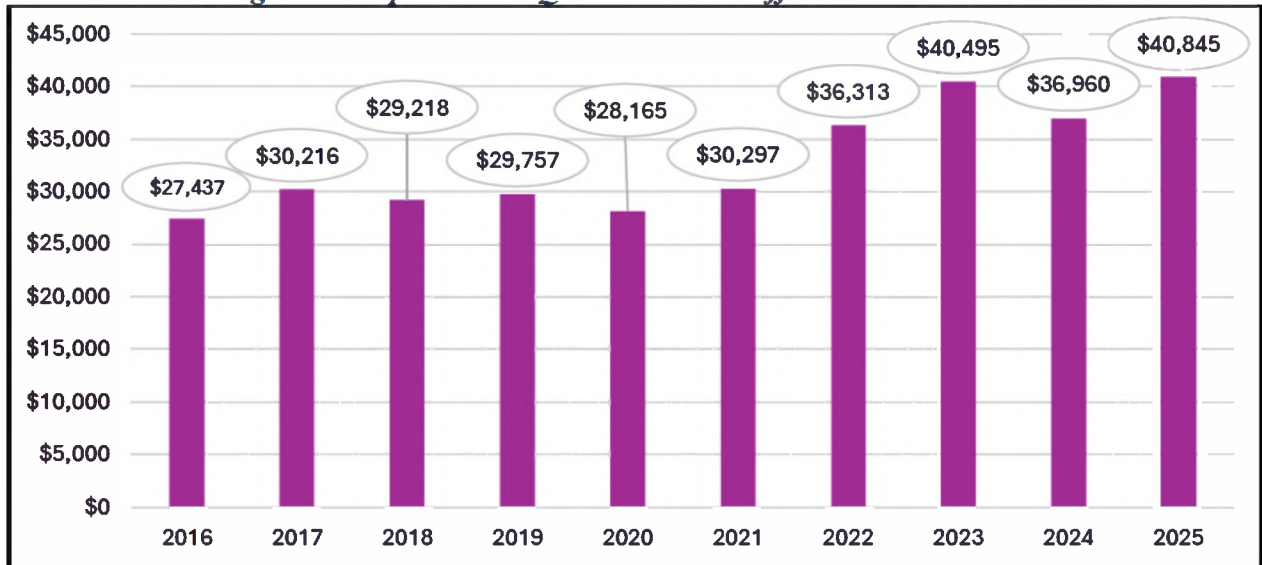
¹⁴ Pennsylvania Public Utility Commission, Docket M-2019-3012599, *Final Policy Statement and Order*, 29–31 (Sept. 19, 2019).

¹⁵ Connecticut Pub. Util. Reg. Auth., Docket No. 17-12-03RE11, *Decision*, 2 (Oct. 19, 2022).

¹⁶ A county-by-county disaggregation of Q1 and Q2 incomes is set forth in Exhibit RDC-2.

1 Q1 income would need to have exceeded \$36,000, while the 2021 Q1 would need to
2 have exceeded \$30,000.

3 *Figure 6. Gap Between Q1 Income and Affordable Income*



4
5 The growth in income that would have been needed to keep FPL bills affordable during
6 the time period 2016 through 2025 is seen in Figure 6.

7
8 **III. Affordability Impacts on Low-Income Customers**

9 **Q. PLEASE EXPLAIN THE PURPOSE OF THIS SECTION OF YOUR**
10 **TESTIMONY.**

11 **A.** In the section above, while I examined how the situation of lower income households
12 has declined in recent years, I did not present data on either the breadth or depth of bill
13 unaffordability in general. When I reference the “breadth” of unaffordability, I am
14 referring to how wide-spread unaffordability is. A population of 100,000 with
15 unaffordable bills represents a “broader” unaffordability issue than a population of
16 50,000 with unaffordable bills. In contrast, the “depth” of unaffordability measures
17 how unaffordable a bill is. A household with a Bill-to-Income Ratio (“BTI”) of 15%

1 has a “deeper” level of unaffordability than a household with a Bill-to-Income Ratio of
2 8% of income.

3

4 **Q. HAVE YOU UNDERTAKEN A DISAGGREGATED ANALYSIS OF THE**
5 **AFFORDABILITY OF FPL RATES?**

6 A. Yes. In my discussion below, I consider the affordability of FPL bills not by quintiles
7 of income, but rather by absolute dollars of income. I examine FPL burdens associated
8 with each income level. I then examine the distribution of households by those income
9 levels throughout the FPL service territory. In my analysis, I engage in four different
10 inquiries. I examine the mean¹⁷ and median¹⁸ bills combined with existing and
11 proposed rates.

12

Figure 7. Affordability Matrix by Income

Mean Bill / Existing Rates	Mean Bill / Proposed Rates
Median Bill / Existing Rates	Median Bill / Proposed Rates

13 The results of this inquiry are set forth in Table 1. The distribution of households by
14 income range is the sum of households in Zip Codes identified by FPL as being served
15 by the Company.¹⁹

¹⁷ FPL Response to OPC’s Seventh Set of Interrogatories, No. 167.

¹⁸ FPL Response to OPC’s Seventh Set of Interrogatories, No. 167.

¹⁹ FPL Response to OPC’s Seventh Set of Interrogatories, No. 160.

1

Table 1. Bill-to-Income Ratios at Mean and Median Usage by Income Range At Existing and Proposed Rates (\$0 - \$49,999)					
	Households at Income Range ²⁰	Median Bill / Existing Rates	Median Bill / Proposed Rates	BTI Ratio / Existing Rates	BTI Ratio / Proposed Rates
<\$10,000	232,111	\$1,531	\$1,617	30.6%	32.3%
\$10,000 - \$14,999	164,956	\$1,531	\$1,617	12.2%	12.9%
\$15,000 - \$19,999	151,408	\$1,531	\$1,617	8.7%	9.2%
\$20,000 - \$24,999	176,928	\$1,531	\$1,617	6.8%	7.2%
\$25,000 - \$29,999	177,290	\$1,531	\$1,617	5.6%	5.9%
\$30,000 - \$34,999	176,333	\$1,531	\$1,617	4.7%	5.0%
\$35,000 - \$39,999	181,274	\$1,531	\$1,617	4.1%	4.3%
\$40,000 - \$44,999	181,532	\$1,531	\$1,617	3.6%	3.8%
\$45,000 - \$49,999	175,309	\$1,531	\$1,617	3.2%	3.4%
	Mean Bill / Existing Rates	Mean Bill / Proposed Rates	BTI Ratio / Existing Rates	BTI Ratio / Proposed Rates	
<\$10,000	\$1,804	\$1,901	36.1%	38.0%	
\$10,000 - \$14,999	\$1,804	\$1,901	14.4%	15.2%	
\$15,000 - \$19,999	\$1,804	\$1,901	10.3%	10.9%	
\$20,000 - \$24,999	\$1,804	\$1,901	8.0%	8.4%	
\$25,000 - \$29,999	\$1,804	\$1,901	6.6%	6.9%	
\$30,000 - \$34,999	\$1,804	\$1,901	5.6%	5.8%	
\$35,000 - \$39,999	\$1,804	\$1,901	4.8%	5.1%	
\$40,000 - \$44,999	\$1,804	\$1,901	4.2%	4.5%	
\$45,000 - \$49,999	\$1,804	\$1,901	3.8%	4.0%	

2 As can be seen in this Table, the unaffordability of FPL bills is now beginning to reach
3 well into more moderate incomes. The BTI Ratio at mean usage and proposed rates is
4 4.5% for households with income between \$40,000 and \$44,999, while remaining at

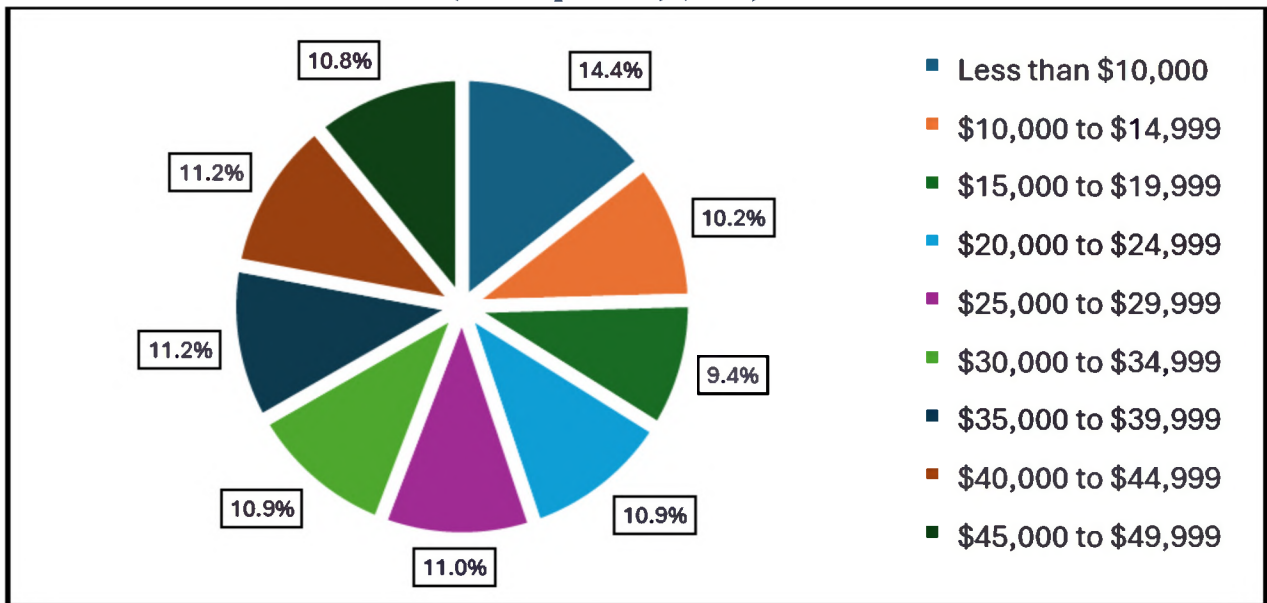
²⁰ The Census Bureau reports the number of households by annual household income in its American Community Survey, Table B19001.

1 4.0% even for households with income between \$45,000 and \$49,999. Even at the
2 somewhat lower bills at median (rather than mean) usage, BTI Ratios push the limits
3 of affordability for households with income between \$40,000 and \$44,999.

4 The number of households at these income levels is substantial. FPL's service
5 territory, in other words, does not present the situation where households with lower
6 incomes have high burdens, but few of those households exist. Of the 1.62 million
7 households in the FPL service territory with income less than \$50,000, a substantial
8 number in fact have incomes in the bottom ranges of that population. Figure 8 below
9 shows, for example, that nearly one-third of the households in the FPL service territory
10 with income less than \$50,000 in fact have income less than \$20,000 (14.9% + 10.2%
11 + 9.4%). More than one-quarter of those with income less than \$50,000 in fact have
12 income less than \$15,000. The import of this is that households with income less than
13 \$10,000 experience, at median usage and proposed rates, an FPL burden of nearly 40%
14 of their income. Even households with income in the range of \$45,000 to \$49,999, at
15 median usage and proposed rates, would experience an FPL burden of 4.0% of
16 income.²¹

²¹ A county-by-county disaggregation of households by income range by county is set forth in Exhibit RDC-3.

*Figure 8. Percent of Households with Income <\$50,000 by Income Range
(FPL Zip Codes) (2023)*



It is clear from the data above that while low-income households would bear a particular harm from high FPL burdens, the unaffordability of FPL burdens is not the exclusive province of low-income households. The needs of more moderate income households are discussed in more detail below.

Q. IS THERE ANY ADDITIONAL ASPECT OF LOW-INCOME UNAFFORDABILITY THAT YOU HAVE EXAMINED?

A. Yes. I have examined both the depth and the breadth of the unaffordability of FPL bills to low-income customers, as measured by ranges of Federal Poverty Level (hereafter "Poverty Level" or "Fed.PL"), throughout the Company's service territory at existing and proposed rates. The depth of unaffordability considers the degree to which bills are unaffordable. For example, a Bill-to-Income Ratio of 18% of income represents a deeper level of unaffordability than a Bill-to-Income Ratio of 8% of income. The breadth of unaffordability considers how many households experience an unaffordable

1 bill. For example, having 100,000 customers with an unaffordable Bill-to-Income
2 Ratio represents a broader unaffordability than having 10,000 customers experiencing
3 an unaffordable bill.

4 I examine the depth and breadth of unaffordability based on the Company's
5 demarcation of districts. The Company has stated that "FPL's primary method of
6 tracking data is based on these regional districts."²² Accordingly, to the extent possible,
7 I follow that same tracking methodology using the Company's 33 named districts.²³
8 The names of each Company district by District number are set forth in Exhibit RDC-
9 2. A summary of the systemwide average BTI Ratios at existing and proposed rates,
10 using mean and median usage, is presented in Table 2 below. For example, the Table
11 shows that, systemwide, households with income at or below 50% of the Fed.PL would
12 have an FPL bill burden of 19.0% at mean usage and existing rates. That bill burden
13 would increase to 20.1% at mean usage and proposed rates. In contrast, households
14 with income at 125% to 150% of the Fed.PL would have an FPL bill burden of 4.7% at
15 median usage and existing rates. That burden would increase to 5.0% at median usage
16 and proposed rates.

Table 2. BTI Ratios at Proposed and Existing Rates (using mean and median usage)					
	Income <50% Fed.PL	Income 50-74% Fed.PL	Income 75-99% Fed.PL	Income 100-124% Fed.PL	Income 125-150% Fed.PL
Mean existing	19.0%	12.2%	8.7%	6.8%	5.5%
Mean proposed	20.1%	12.8%	9.2%	7.1%	5.8%
Median existing	16.2%	10.3%	7.4%	5.7%	4.7%
Median proposed	17.1%	10.9%	7.8%	6.1%	5.0%

²² FPL Response to OPC's Seventh Set of Interrogatories, No. 160.

²³ For my use of Census data, I begin with zip code level data. I assign each zip code to an FPL District based on the Company's designation of zip codes to Districts. (FPL Response to OPC Interrogatory No. 160).

1 The issue of unaffordability is not one that should be viewed solely on an aggregated
2 system-wide basis. While FPL does not track information by zip code, it is possible to
3 consider the breadth and depth of unaffordability on a geographically-disaggregated
4 basis by looking at the impacts by FPL District. The District-specific results are set
5 forth in Exhibit RDC-3 and RDC-4. The District data shows the depth of
6 unaffordability. For the lowest range of incomes, the BTI Ratios are four or more times
7 higher than an affordable burden. Even for the highest range of incomes, the BTI
8 Ratios exceed an affordable burden. The same results are seen whether I use median
9 usage (Exhibit RDC-3) or mean usage (Exhibit RDC-4), and whether I use existing or
10 proposed rates. In sum, this District-specific data shows that while the unaffordability
11 of FPL rates may differ in different geographic locations within the FPL service
12 territory, FPL bills nonetheless remain unaffordable in all parts of the FPL service
13 territory.

14 15 **IV. Considering More Moderate Income Customers**

16 **Q. PLEASE EXPLAIN THE PURPOSE OF THIS SECTION OF YOUR**
17 **TESTIMONY.**

18 A. In this section of my testimony, I examine the ability-to-pay of more moderate income
19 households using the ALICE Threshold. “ALICE” is the acronym used to describe
20 Asset-Limited, Income-Constrained, Employed (“ALICE”) households with income
21 above the Federal Poverty Level but below the cost of basics included in the ALICE
22 Household Survival Budget described below.

1 **Q. PLEASE DESCRIBE THE TERMINOLOGY YOU USE IN USING THE ALICE**
2 **DATA.**

3 A. There are three basic terms that are used in presenting and assessing ALICE data for a
4 particular geographic area:

5 • **The ALICE Survival Budget.** The ALICE Budget tracks the cost of household
6 necessities that matter most to ALICE households: housing, child care, food,
7 transportation, health care, and basic technology. According to United for ALICE,
8 the United Way research arm which addresses the economic issues facing ALICE
9 households, the ALICE Budget differs from the budget used by the U.S. Bureau of
10 Labor Statistics (BLS) to calculate the Consumer Price Index (the traditional
11 measure of inflation). The budget which BLS uses tracks over 200 goods and
12 services. These include items that financially insecure households cannot afford on
13 a regular basis (e.g., full-service meals at restaurants, wine, major appliances,
14 flights, and jewelry). In contrast, the ALICE Budget is limited to household
15 essentials.²⁴

16 • **The ALICE Essentials Index:** The ALICE Essentials Index is the rate of price
17 increase for the limited market basket of household essentials: housing, child care,
18 food, transportation, health care, and a smartphone plan. According to the 2025
19 ALICE report for Florida, the ALICE Essentials Index has consistently outpaced
20 the broader CPI nationwide.²⁵ Costs for both measures increased at a faster rate
21 following the COVID-19 pandemic, peaking between 2021 and 2023. During this

²⁴ ALICE Essentials Index, available at <https://www.unitedforalice.org/essentials-index>.

²⁵The State of ALICE in Florida: Costs Over Time: The ALICE Essential Index, <https://unitedforalice.org/costs-over-time/Florida>.

1 period, the ALICE Essentials Index in Florida increased at an annual rate of 9.4%
2 compared to an average annual increase in the CPI of 6.1%.²⁶ The Florida ALICE
3 Report found that even in occupations where wages have grown faster than costs in
4 recent years, wages started from such a low level that many workers are still not
5 able to cover household essentials.²⁷

- 6 • **The ALICE Wage:** The ALICE Wage is expressed on a monthly, annual and
7 hourly basis. It represents the dollar amount needed to be earned that would exactly
8 equal the household's ALICE Survival Budget. A wage lower than the ALICE
9 Wage means the wage-earner can not meet the ALICE Survival Budget. A wage
10 higher than the ALICE Wage means the wage-earner is meeting the ALICE
11 Survival Budget with some additional earning capacity left over. The ALICE Wage
12 differs by household size and composition, as well as by the number of wage
13 earners in the household.

14
15 **Q. HAVE YOU EXAMINED THE WAGES NEEDED TO MEET THE ALICE**
16 **SURVIVAL BUDGET IN THE FPL SERVICE TERRITORY?**

17 A. Yes. As I described above, the dollars needed for a household to meet the ALICE
18 Survival Budget is known as the ALICE Wage. I have examined this ALICE Wage
19 data for selected counties throughout the FPL service territory. I selected counties to
20 represent each FPL District and each area of the State which FPL serves. The ALICE
21 Wage (i.e., the income needed on a monthly, annual, and hourly basis by household

²⁶ Id.

²⁷ Id.

1 composition needed to meet the ALICE Survival Budget) for these counties is set forth
2 in the Table below.

3

	Single Adult	One Adult One Child	One Adult One Childcare	Two Adults	Two Adults Two Children	Two Adults Two Childcare
Bradford	\$16.62	\$24.94	\$26.95	\$24.74	\$38.18	\$45.45
Brevard	\$15.00	\$24.17	\$27.07	\$23.51	\$37.57	\$44.15
Broward	\$17.57	\$26.32	\$29.10	\$25.71	\$40.63	\$47.15
Charlotte	\$15.00	\$23.26	\$25.76	\$22.84	\$36.25	\$42.54
Columbia	\$12.92	\$19.99	\$21.33	\$20.15	\$31.87	\$35.83
Desoto	\$13.27	\$20.05	\$21.29	\$20.23	\$31.04	\$36.25
Flagler	\$15.04	\$23.74	\$26.20	\$23.35	\$37.55	\$43.40
Indian River	\$14.72	\$23.94	\$26.39	\$23.56	\$37.23	\$42.75
Lee	\$16.27	\$23.63	\$25.56	\$23.48	\$36.85	\$41.63
Martin	\$16.70	\$24.82	\$27.55	\$24.28	\$39.31	\$45.71
Miami-Dade	\$17.92	\$26.83	\$28.94	\$26.57	\$41.09	\$46.43
Okaloosa	\$16.26	\$23.83	\$26.21	\$23.47	\$36.66	\$42.20
Putnam	\$12.74	\$19.53	\$20.86	\$19.70	\$31.34	\$34.77
Sarasota	\$16.71	\$26.14	\$28.99	\$25.51	\$40.92	\$46.88
Seminole	\$18.74	\$27.13	\$29.57	\$26.72	\$40.36	\$46.71
St. Lucie	\$16.35	\$23.77	\$26.19	\$23.38	\$37.24	\$42.85
Walton	\$15.22	\$23.74	\$25.78	\$23.56	\$36.65	\$41.18

4 Table 3 demonstrates how the cost-of-living varies across the State of Florida. For
5 example, Broward, Miami-Dade and Seminole counties all have noticeably higher
6 ALICE wages than do other FPL counties. In contrast, Columbia, Desoto and Putnam
7 counties have lower ALICE wages.

1 **Q. HOW DO THESE ALICE WAGES COMPARE TO WAGES THAT ARE**
2 **COMMONLY AVAILABLE IN THE FPL SERVICE TERRITORY?**

3 A. ALICE research reports that “a key contributor to the number of ALICE households in
4 Florida is the fundamental mismatch between the cost of living and what jobs pay.”²⁸
5 Common occupations throughout Florida provide insufficient wages to allow a
6 household to cover the ALICE Survival Budget. Included among those “common
7 occupations” are, for example, retail salespersons, cashiers, customer service
8 representatives, janitors and cleaners, waiters and waitresses, administrative assistants,
9 and cooks (restaurants), amongst others. Data on common occupations throughout
10 Florida is set forth in the Table below. The median hourly wage for these occupations
11 do not come close to covering the hourly wage needed to meet the ALICE Survival
12 Budget. Indeed, of the 14 occupations listed, representing a total employment of more
13 than 2.639 million workers, six had a median hourly wage (shaded in light grey) of less
14 than \$16.

²⁸ The State of ALICE in Florida, ALICE in the Labor Force, <https://www.unitedforalice.org/ALICE-in-the-labor-force/florida>.

1

Table 4. Selected Occupations, Employment, Wages, and Percentage Below ALICE Threshold, Florida, 2023			
Occupation	Total Employment	Median Hourly Wage	% Below ALICE Threshold
Bookkeeping, Accounting, And Auditing Clerks	107,950	\$22.20	27%
Other Healthcare Support Workers	110,920	\$18.67	28%
Maintenance And Repair Workers, General	102,700	\$19.13	31%
Office Clerks, General	192,850	\$18.91	35%
Customer Service Representatives	239,440	\$18.31	36%
Retail Salespersons	312,260	\$14.89	39%
Driver/Sales Workers And Truck Drivers	205,310	\$19.18	41%
Fast Food And Counter Workers	220,150	\$13.21	44%
Waiters And Waitresses	198,440	\$14.39	45%
Stockers And Order Fillers	217,000	\$16.97	47%
Laborers And Freight, Stock, And Material Movers	140,850	\$17.05	48%
Cashiers	211,570	\$14.40	50%
Janitors And Building Cleaners	192,950	\$15.04	56%
Cooks	186,640	\$15.79	57%
Total	2,639,030		

2

3 **Q. HAVE YOU EXAMINED ANY SUBSET OF ALICE HOUSEHOLDS IN**
 4 **PARTICULAR?**

5 A. Yes. Table 5 below documents what hourly wage would be required to meet the ALICE
 6 Survival Budget for senior households based on data up to 2022. Again, Broward,
 7 Miami-Dade and Seminole counties have higher ALICE Wages.

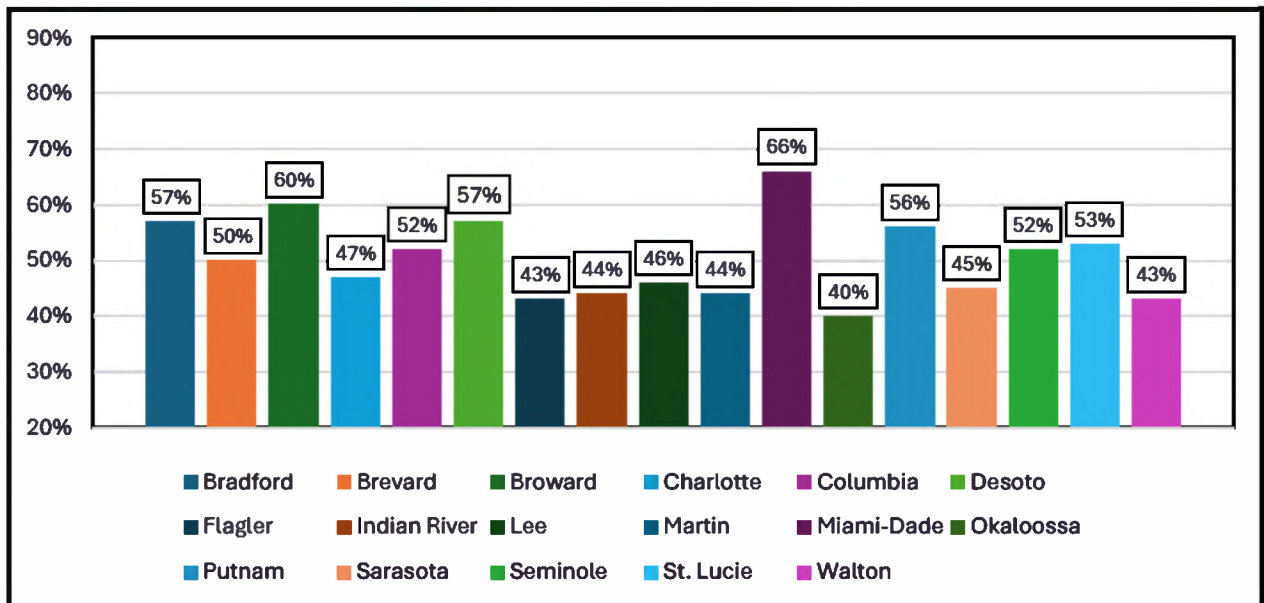
1

Table 5. Hourly Wage Needed to Meet ALICE Budget (seniors) For Selected FPL Counties (2022)		
	Single Senior	Two Seniors
Bradford	\$18.71	\$28.64
Brevard	\$17.09	\$27.43
Broward	\$20.03	\$30.37
Charlotte	\$17.09	\$26.72
Columbia	\$15.09	\$24.13
Desoto	\$15.68	\$24.71
Flagler	\$17.08	\$27.12
Indian River	\$16.77	\$27.37
Lee	\$18.34	\$27.32
Martin	\$18.89	\$28.38
Miami-Dade	\$20.41	\$31.32
Okaloosa	\$18.47	\$27.59
Putnam	\$15.01	\$23.88
Sarasota	\$18.76	\$29.38
Seminole	\$21.14	\$31.30
St. Lucie	\$18.64	\$27.67
Walton	\$17.17	\$27.18

2 As can be seen in this data, in FPL's counties, the ALICE Wage for single seniors is
3 higher than it is for single adult households overall (comparing Table 3 to Table 5).
4 Otherwise, the ALICE Wage for a two-person senior household is roughly comparable
5 to a two-person household (one adult/one child), but higher than for a household with
6 two adults (and no children). This cost-of-living leaves many, if not most, seniors in
7 the FPL service territory with inadequate income to meet their basic living expenses.
8 In nine of the 17 selected counties, half or more seniors had incomes falling below the

1 ALICE Threshold. In none of the 17 counties did the percentage of seniors falling
2 below the ALICE Threshold fall below 40%.

3 *Figure 9. Percent Population Age 65 and Older Falling Below ALICE Threshold (2022)*
4 *(Selected FPL Counties)*

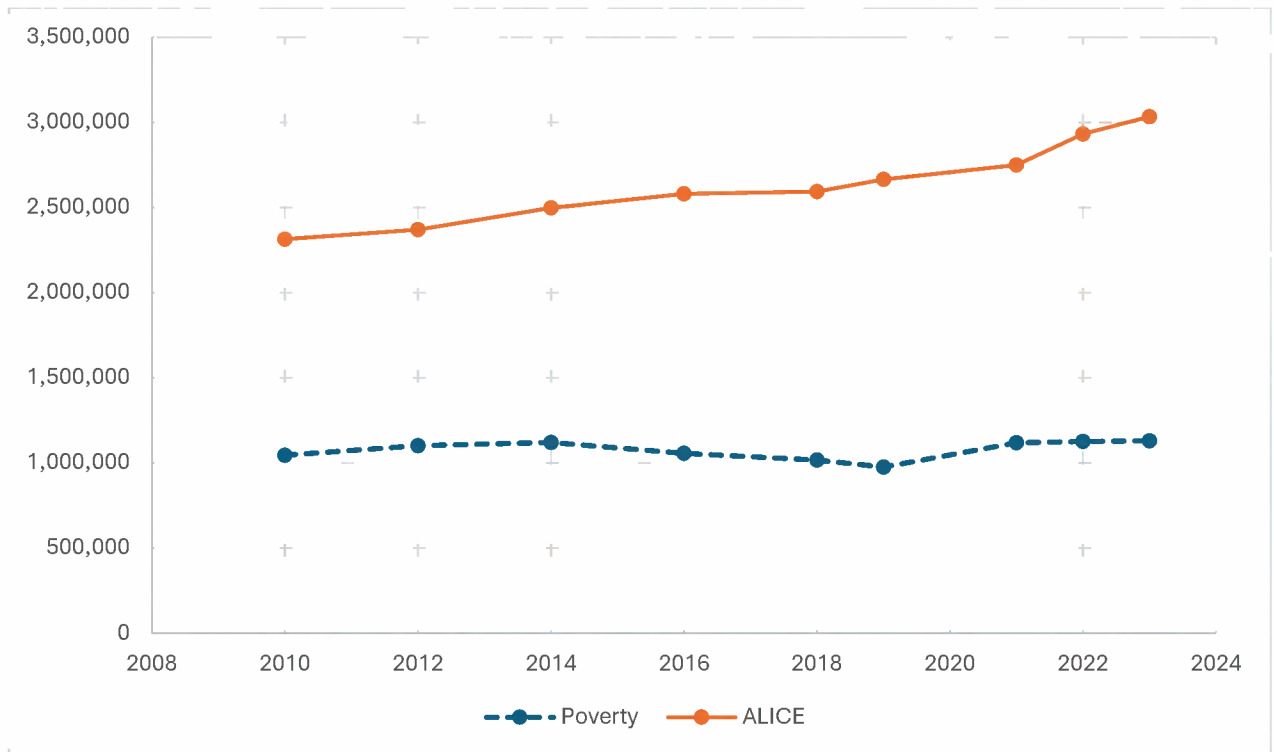


5
6
7 **Q. DO YOU HAVE ANY FINAL OBSERVATIONS ABOUT THE ALICE DATA**
8 **YOU HAVE REVIEWED FOR FPL?**

9 **A.** While the number of persons in Florida with income falling below the Fed.PL has
10 remained relatively steady from 2008 through 2024, the number of persons with income
11 falling below the ALICE Threshold has seen a steady increase. As Figure 10
12 documents, the number of Florida residents with income below the ALICE Threshold
13 has grown from fewer than 2.5 million in 2008 to more than 3.0 million in 2024.²⁹

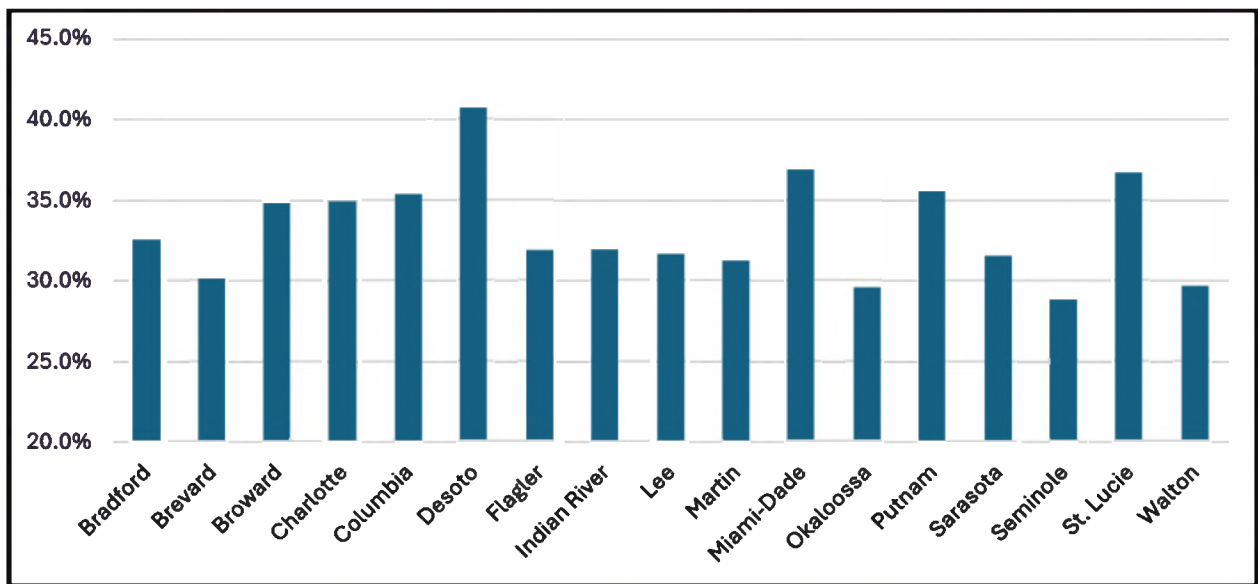
²⁹ The State of ALICE in Florida: Trends in Financial Hardship, <https://www.unitedforalice.org/trends-in-hardship/florida>.

Figure 10. No. of Persons Falling Below the Fed.PL and Below ALICE Threshold
(2008 - 2024)



My final observation is simply that while the magnitude of the problem may differ from one part of the FPL service territory to another, there is no county served by FPL that escapes these identified hardships. Figure 11 below shows, for the selected FPL counties I have been reviewing, the percentage of households with incomes falling below the ALICE Threshold in 2022. In only three counties does the percentage fall below 30%, while in no county does the percentage fall below 25%.

Figure 11. Pct Households Falling Below ALICE Threshold (2022)



The ALICE data presented above provides some insights into the cost-of-living in different parts of the FPL service territory. It is possible, however, to more directly consider FPL rate increases in light of local cost-of-living through an examination of the Self-Sufficiency Standard for Florida's counties. I turn to that Self-Sufficiency Standard in the next section.

V. The Affordability of Electric Bills and the Local Cost-of-Living

Q. PLEASE DESCRIBE THE PURPOSE OF THIS SECTION OF YOUR TESTIMONY.

A. In this section of my testimony, I assess the affordability of electricity in the FPL service territory within the context of the cost-of-living in different regions. Throughout the FPL service territory, there are regions that have a significantly higher cost-of-living. The fact that the cost-of-living can vary dramatically even within a single utility service territory is important in assessing a utility's affordability. If income does not vary

1 sufficiently to cover the increased cost-of-living, customers living in those high cost
2 areas may face affordability problems not otherwise faced by other customers with
3 equal bills and equal incomes. In other words, the same “energy burden” caused by
4 utility bills may have different impacts on real life affordability when other necessities
5 require a greater share of income.

6

7 **Q. HOW DO YOU MEASURE THE “COST OF LIVING” IN DIFFERENT PARTS**
8 **OF THE FPL SERVICE TERRITORY?**

9 A. The way I assess the cost-of-living in different regions of the FPL service territory is to
10 examine the “self-sufficiency income” periodically calculated by the University of
11 Washington’s School of Social Work. The Self-Sufficiency Standard measures how
12 much income a family of a certain composition in a given place needs to adequately
13 meet their basic needs—without public or private assistance.³⁰

14 The Self-Sufficiency Standard derives the cost-of-living by combining data for
15 housing, child care, food, transportation, health care, taxes and “miscellaneous.”³¹
16 Given that it assumes all adults work, it allocates the Earned Income Tax Credit to all
17 eligible households, and the Child Care Tax Credit to each eligible family with children.

18 The Self-Sufficiency Standard considers 719 different household compositions,

³⁰ The Self-sufficiency Standard defines the income working families need to meet a minimum yet adequate standard of living, taking into account family composition, ages of children, and geographic differences in costs. See, Self-Sufficiency Standard: Florida, available at <https://selfsufficiencystandard.org/florida/>.

³¹ “Miscellaneous items include all other essentials: clothing, shoes, paper products, diapers, nonprescription medicines, cleaning products, household items, personal hygiene items, and telephone. It does not allow for recreation, entertainment, savings, or debt repayment. Miscellaneous expenses are calculated by taking 10% of all other costs. This percentage is a conservative estimate in comparison to estimates in other basic needs budgets, which commonly use 15%.” Pearce (October 2007). Blueprint for Prosperity 2007, Florida Self-Sufficiency Standard, Methodology Appendix, at page 4, available at https://selfsufficiencystandard.org/wp-content/uploads/2021/11/FL2007_methodology.pdf.

1 ranging from a household with a single adult to a household comprised of ten adults
2 and ten children.

3

4 **Q. WHAT IS THE RESULT OF YOUR SELF-SUFFICIENCY STANDARD**
5 **ANALYSIS?**

6 A. In my discussion below, I use the Self-Sufficiency Standard for a four-person
7 household, comprised of two adults and two children (one pre-school and the other
8 school-age). This household composition is used to illustrate the impact of differing
9 levels of the cost-of-living in different parts of the FPL service territory. Table 6 sets
10 forth the Self-Sufficiency Standard in the same selected counties in FPL's service
11 territory that I use in my discussion above.³² The Table then compares the income
12 needed to reach the Self-Sufficiency Standard to incomes at four different levels of the
13 Federal Poverty Level (100% Fed.PL); 200% of Fed.PL.; 250% of Fed.PL; and 300%
14 of Fed.PL.

15 This comparison is designed to determine the extent to which, if at all, a
16 household living at the different Fed.PLs has sufficient income to be at or above the
17 Self-Sufficiency Standard. In other words, this analysis compares how actual income
18 distribution compares to the income necessary to account for geographic variations in
19 the cost of living. A negative number indicates that the income at that Fed.PL would be
20 insufficient to meet the Self-Sufficiency Standard. A positive number indicates that a
21 household with income at that Fed.PL would be above the Self-Sufficiency Standard.

³² I use the same protocol as I use elsewhere in this discussion. I do not seek to allocate customers within a county. Nor do I determine whether FPL serves a "sufficient" number of customers to include the county. I have selected roughly half of FPL's counties so as to represent all areas of the State which FPL serves.

1 The Income Deficit is defined to be the dollar amount by which an income at the
2 specified ranges of Fed.PL fall short of being adequate to meet the Self-Sufficiency
3 Standard for a four-person household (2 adults, 2 children, one preschool and one
4 school-age) in that county. Table 6 and Table 7 each demonstrate that the level of local
5 income does not track the level of the cost-of-living in a given area.

6 Table 6 shows that there is an Income Deficit for each of the selected FPL
7 counties for households with annual income at 200% of Fed.PL or less. That
8 observation, however, does not tell the complete story. In only four counties (Bradford,
9 Columbia, Desoto and Putnam) is the Income Deficit less than \$10,000. In contrast,
10 there are three counties (Broward, Seminole, St. Lucie) where the Income Deficit
11 exceeds \$30,000 (but is less than \$40,000), and one additional county (Miami-Dade)
12 where the Income Deficit exceeds \$40,000 at 200% of Fed.PL.

13 By definition, as incomes increase, the Income Deficit in each county decreases.
14 Nonetheless, at 250% of Fed.PL, there are only ~~three~~ **four** counties that do not continue to
15 have an Income Deficit ~~(Columbia, Desoto, Putnam)~~ **(Bradford, Columbia, Desota, Putnam)**. At 250% of Fed.PL, the Income
16 Deficit in Miami-Dade County remains at (\$26,156), while in Broward, Seminole, and
17 St. Lucie counties, the Income Deficit remains greater than \$14,000 but less than
18 \$20,000. Only when incomes reach 300% of Fed.PL do the Income Deficits in the
19 Company's counties largely disappear. Only Broward, Miami-Dade, and St. Lucie
20 counties continue to have an Income Deficit at 300% of Fed.PL.

21 The conclusion to be drawn from this data is not simply the fact that FPL bills
22 will be unaffordable to those households who have incomes substantially exceeding the
23 Fed.PL. The additional conclusion to be drawn is that there is a clear geographic scope

1 to inability-to-pay in the FPL service territory based on the widely varying cost-of-
2 living experienced by FPL customers.

3

Table 6. Income Deficit at 2024 Florida Self-Sufficiency Standard (SSS) by Selected Ranges of Fed.PL (2 adults / 2 children: preschool and school-age) Selected Counties in FPL Service Territory									
	SSS	2024 Federal Poverty Level (HH of 4)				Income Deficit			
		100%	200%	250%	300%	100%	200%	250%	300%
Bradford	\$67,329	\$32,150	\$64,300	\$80,375	\$96,450	(\$35,179)	(\$3,029)	\$13,046	\$29,121
Brevard	\$86,255	\$32,150	\$64,300	\$80,375	\$96,450	(\$54,105)	(\$21,955)	(\$5,880)	\$10,195
Broward	\$100,339	\$32,150	\$64,300	\$80,375	\$96,450	(\$68,189)	(\$36,039)	(\$19,964)	(\$3,889)
Charlotte	\$85,114	\$32,150	\$64,300	\$80,375	\$96,450	(\$52,964)	(\$20,814)	(\$4,739)	\$11,336
Columbia	\$70,784	\$32,150	\$64,300	\$80,375	\$96,450	(\$38,634)	(\$6,484)	\$9,591	\$25,666
Desoto	\$68,971	\$32,150	\$64,300	\$80,375	\$96,450	(\$36,821)	(\$4,671)	\$11,404	\$27,479
Flagler	\$86,701	\$32,150	\$64,300	\$80,375	\$96,450	(\$54,551)	(\$22,401)	(\$6,326)	\$9,749
Indian River	\$83,259	\$32,150	\$64,300	\$80,375	\$96,450	(\$51,109)	(\$18,959)	(\$2,884)	\$13,191
Lee	\$87,299	\$32,150	\$64,300	\$80,375	\$96,450	(\$55,149)	(\$22,999)	(\$6,924)	\$9,151
Martin	\$88,131	\$32,150	\$64,300	\$80,375	\$96,450	(\$55,981)	(\$23,831)	(\$7,756)	\$8,319
Miami-Dade	\$106,531	\$32,150	\$64,300	\$80,375	\$96,450	(\$74,381)	(\$42,231)	(\$26,156)	(\$10,081)
Okaloosa	\$85,164	\$32,150	\$64,300	\$80,375	\$96,450	(\$53,014)	(\$20,864)	(\$4,789)	\$11,286
Putnam	\$66,555	\$32,150	\$64,300	\$80,375	\$96,450	(\$34,405)	(\$2,255)	\$13,820	\$29,895
Sarasota	\$87,042	\$32,150	\$64,300	\$80,375	\$96,450	(\$54,892)	(\$22,742)	(\$6,667)	\$9,408
Seminole	\$94,729	\$32,150	\$64,300	\$80,375	\$96,450	(\$62,579)	(\$30,429)	(\$14,354)	\$1,721
St. Lucie	\$97,130	\$32,150	\$64,300	\$80,375	\$96,450	(\$64,980)	(\$32,830)	(\$16,755)	(\$680)
Walton	\$84,067	\$32,150	\$64,300	\$80,375	\$96,450	(\$51,917)	(\$19,767)	(\$3,692)	\$12,383

4 Table 7 begins with the same basic Self-Sufficiency Standard data by county. In Table
5 7, however, the Self-Sufficiency Standard is not compared to incomes at different

1 points of the Fed.P.L, but rather to the average (i.e., mean) income of each income
2 quintile reported for the county³³ for 2024.³⁴

3 For space purposes here, I present data for only the bottom three income
4 quintiles. The “bottom quintile” includes the 20% of households with the lowest
5 incomes by county. The third or “middle” quintile presents the middle 20% of
6 households (40% - 60%)³⁵ and brackets the median income (50%).³⁶ The actual
7 average income for each income quintile is subtracted from the Self-Sufficiency
8 Standard. As in the Fed.PL examination, a negative number indicates that the income
9 in that quintile would generate an Income Deficit, defined to be an income that is
10 insufficient to meet the Self-Sufficiency Standard. A positive number indicates that a
11 household with income at that quintile on average would be above the Self-Sufficiency
12 Standard.

13 The objective here is to illustrate how the different costs of living, as manifested
14 in the differing levels of the Self-Sufficiency Standard, not only may, but are likely to
15 affect the “affordability” of FPL bills. A county with substantial shortfalls, and
16 especially with shortfalls at all income levels, will have less affordable FPL bills due
17 to higher costs of other necessities.

18 The same results appertain when considering the average income for the bottom three
19 income quintiles in FPL counties. Income data by quintile is presented for the same

³³ Not all counties have income reported by quintiles.

³⁴ As with the Fed.PL, since the Self-Sufficiency Standard was last prepared in 2014, data from the 2014 American Community Survey is used for comparison purposes.

³⁵ The “third quintile” (40% - 60%) means that 40% of households have incomes less than the bottom of the quintile (i.e., 1% - 40%) and 40% of households have incomes greater than the top of the quintile (i.e., 61% - 100%).

³⁶ The “median income” (50%) is that point at which one-half of all households have lower incomes and one-half of all households have higher incomes.

1 selected FPL counties as have been discussed above. In all 17 counties, the average
2 income of the third income quintile (40% - 60%) results in an Income Deficit when
3 compared to the Self-Sufficiency Standard. In two of those counties, the deficit is more
4 than \$20,000 (Broward: \$25,652; Miami-Dade: \$37,602). The Income Deficits for the
5 Third Quintile ranged from a low of \$4,818 (Walton County) to a high of \$37,602
6 (Miami-Dade County).

7 I found similar results for counties at the second income quintile. In every
8 county, the average income for the second quintile (20% - 40%) was *inadequate* to
9 meet the Self-Sufficiency Standard. The Income Deficit for the second quintile of
10 income ranged from a low of \$33,096 (Okaloosa County) to a high of \$66,932 (Miami-
11 Dade County).

1

	2014 Self-Sufficiency Standard	Average Income by Quintile			Income Deficit		
		Q1 Income	Q2 Income	Q3 Income	Q1 Income	Q2 Income	Q3 Income
Bradford	\$67,329	\$9,985	\$32,113	\$58,153	(\$57,344)	(\$35,216)	(\$9,176)
Brevard	\$86,255	\$18,815	\$46,340	\$75,694	(\$67,440)	(\$39,915)	(\$10,561)
Broward	\$100,339	\$15,930	\$44,599	\$74,687	(\$84,409)	(\$55,740)	(\$25,652)
Charlotte	\$85,114	\$17,267	\$41,931	\$66,369	(\$67,847)	(\$43,183)	(\$18,745)
Columbia	\$70,784	\$13,001	\$33,089	\$55,022	(\$57,783)	(\$37,695)	(\$15,762)
Desoto	\$68,971	\$12,058	\$30,715	\$50,469	(\$56,913)	(\$38,256)	(\$18,502)
Flagler	\$86,701	\$19,530	\$45,803	\$73,296	(\$67,171)	(\$40,898)	(\$13,405)
Indian River	\$83,259	\$16,557	\$44,067	\$70,808	(\$66,702)	(\$39,192)	(\$12,451)
Lee	\$87,299	\$17,395	\$45,678	\$73,567	(\$69,904)	(\$41,621)	(\$13,732)
Martin	\$88,131	\$18,302	\$46,970	\$80,814	(\$69,829)	(\$41,161)	(\$7,317)
Miami-Dade	\$106,531	\$13,855	\$39,569	\$68,929	(\$92,676)	(\$66,962)	(\$37,602)
Okaloosa	\$85,164	\$22,444	\$52,068	\$80,027	(\$62,720)	(\$33,096)	(\$5,137)
Putnam	\$66,555	\$9,462	\$28,499	\$47,225	(\$57,093)	(\$38,056)	(\$19,330)
Sarasota	\$87,042	\$16,411	\$44,064	\$69,305	(\$70,631)	(\$42,978)	(\$17,737)
Seminole	\$94,729	\$20,558	\$50,449	\$80,756	(\$74,171)	(\$44,280)	(\$13,973)
St. Lucie	\$97,130	\$21,689	\$52,478	\$83,621	(\$75,441)	(\$44,652)	(\$13,509)
Walton	\$84,067	\$19,269	\$49,301	\$79,249	(\$64,798)	(\$34,766)	(\$4,818)

2 Four conclusions can be drawn from this data. First, the affordability of electricity in
3 the FPL service territory has a relative component to it. The range in income deficits
4 for households at 250% of Federal Poverty Level in the selected 17 FPL counties is
5 nearly \$40,000, with the largest deficit reaching (\$26,156) and the smallest surplus
6 reaching \$13,820. In the second quintile of income, the range of Income Deficits is
7 nearly \$34,000, with the largest Income Deficit reaching (\$66,962) and the smallest
8 Income Deficit reaching (\$33,096). In the third quintile of income, the range of Income

1 Deficits reached nearly \$33,000 (with the largest income deficit reaching [\$37,602] and
2 the smallest reaching [\$4,818]).

3 Second, there is often a tendency to assume that areas that have a higher cost-
4 of-living also have higher incomes to offset those costs, thus leaving households in
5 relatively similar situations. The data presented above, however, demonstrates that that
6 assumption is simply not true, at least for the FPL service territory. In reality, high cost-
7 of-living areas frequently, if not generally, are not matched with higher incomes. High
8 cost-of-living areas demonstrate identifiable affordability problems when considering
9 electricity bills.

10 Third, within these first two observations lies a third, and broader, conclusion.
11 In assessing affordability, cost-of-living should be taken into account. The income
12 deficits at a particular level of income vary greatly by county, and the capacity of a
13 household to absorb electric bills is much less if that household faces an Income Deficit
14 of \$25,000 or more relative to the area's Self-Sufficiency Standard, as opposed to a
15 household with no income deficit. An examination of affordability based on averages,
16 or an assertion that a certain level of bill is affordable without taking the cost-of-living
17 into account, entirely masks the economic realities in Florida.

18 Finally, the above discussion demonstrates why it is inappropriate to measure
19 affordability simply by comparing the level of FPL bills to the level of bills for other
20 selected utilities (be those utilities state, regional, or national). Including a
21 consideration of the cost of living in an affordability analysis of electric bills is a
22 necessary component to any consideration of the relative affordability of bills between
23 electric utilities. Given the high Income Deficits in many counties included in FPL's

1 service territory, the amount that electricity bills contribute to the deficit (i.e., the
2 proportion of the bill that is unaffordable) is correspondingly high as well.

3

4 **VI. Accounting for the Impacts of Inflation**

5 **Q. PLEASE EXPLAIN THE PURPOSE OF THIS SECTION OF YOUR**
6 **TESTIMONY.**

7 A. In this section of my testimony, I examine the disproportionate impacts which recent
8 levels of inflation have on those FPL customers who are least able to be able to afford
9 FPL rate increases. If nothing else, this analysis finds that now is not the time to allow
10 substantial FPL rate increases.

11

12 **Q. DOES INFLATION HAVE A PARTICULARLY ADVERSE IMPACT ON**
13 **LOWER INCOME HOUSEHOLDS?**

14 A. The impact of inflation is felt most severely by low-income households. Research by
15 the U.S. Department of Labor's Bureau of Labor Statistics, the agency that calculates
16 and reports the "rate of inflation" (i.e., the Consumer Price Index [CPI]) each month,
17 reports that "consumers with different incomes experience inflation quite differently."³⁷
18 According to this research, households earning the lower incomes spend a higher share
19 of their household budget on household necessities such as rent, food and medical care.

³⁷ Klick and Stockburger (December 2022). Spotlight on Statistics: Inflation Experiences for Lower and Higher Income Households, U.S. Department of Labor, Bureau of Labor Statistics, available at <https://www.bls.gov/spotlight/2022/inflation-experiences-for-lower-and-higher-income-households/home.htm>.

1

Table 8. Household budget shares of expenditure items for lowest and highest income quartiles, 2017–2018 ³⁸		
Expenditure	Lowest Income Quartile	Highest Income Quartile
Rent (including owner's equivalent rent)	34.93%	27.93%
Food at home	9.44%	6.58%
Medical care	8.36%	8.09%
Household utilities	4.36%	2.73%
Motor fuels	3.46%	3.42%
Motor vehicle operation	3.44%	3.40%
Telephone service	2.32%	2.00%

2 This difference in the consumption basket of lower and higher income households is
3 significant in that the prices of goods and services that had larger budget shares for
4 lower income households have risen faster than all other items. In particular, the BLS
5 researchers found that, “prices for motor fuel, medical care, fuel and utilities, and
6 shelter rose faster than the overall average. . .”³⁹ “Because the lowest income
7 households dedicate more of their spending on these categories,” the BLS researchers
8 found, “their overall inflation rates grew faster than highest income households.”

³⁸ Id.³⁹ Id.

1

Average price change by item, 2005–2020 (starred items defined by BLS to be household necessities)	
Item	2005–2020 average 12-month change
Tuition, other school fees, and childcare	4.03%
Motor Fuel*	3.45%
Medical Care*	3.28%
Rent*	3.06%
Food away from home	2.86%
Fuel and utilities*	2.71%
All items	2.00%
Food at home*	1.89%
Lodging away from home	1.16%
Recreation	0.74%
New and used motor vehicles	0.43%
Apparel	-0.10%
Telephone services*	-0.20%

2 Similar findings were reached by researchers at the Federal Reserve Bank of Dallas.⁴⁰

3 These researchers found that:

4 Families have grappled with surging prices over the past 18 months, as the
5 cost of meeting basic needs rose. Consumer prices were 7.1 percent higher
6 in November 2022 than year earlier.

7 Although inflation may have peaked, prices remain elevated, with food
8 costs up 10.6 percent, gasoline rising 10.1 percent, rent increasing 7.9
9 percent and medical care services up 4.4 percent.⁴¹

⁴⁰ Jayashankar and Murphy (January 2023). High inflation disproportionately hurts low-income households, Federal Reserve Bank of Dallas, available at <https://www.dallasfed.org/research/economics/2023/0110#:~:text=Low%2Dincome%20households%20most%20stressed,few%20ways%20to%20reduce%20spending%20>.

⁴¹ Id.

1 The Federal Reserve researchers explained:

2 Prior research suggests that inflation hits low-income households hardest
3 for several reasons. They spend more of their income on necessities such
4 as food, gas and rent—categories with greater-than-average inflation
5 rates—leaving few ways to reduce spending. When prices rise, middle-
6 income households may react by consuming cheaper goods and buying
7 more generic brands. Low-income households do not have the same
8 flexibility; in many cases, they are already consuming the cheapest
9 products.

10 Additionally, many low-income households lack the ability of higher-
11 income households to stock up when prices are discounted, buy in bulk and
12 save, delay purchases if there is an opportunity to save in the future or buy
13 more cheaply online. Low-income households are also likely to have
14 smaller cash buffers to tide them over a period of high inflation.

15 The recent Household Pulse Survey data confirm these tendencies.
16 Households with incomes ranging from \$25,000 to \$35,000 in 2021 were
17 about 19.3 percentage points more likely to be very stressed by inflation
18 than households with incomes in the \$75,000 to \$100,000 range.

19 The data is clear and it is consistent. Lower income families expend a greater share of
20 their income on necessities (which tend to have higher inflation rates); have smaller
21 financial cushions; and may have less of an ability to switch to lower-priced
22 alternatives. As Lael Brainard, a member of the Board of Governors of the Federal
23 Reserve System, concluded, “All Americans are confronting higher prices, but the
24 burden is particularly great for households with more limited resources.”⁴²

⁴² Brainard (April 2022). Variations in the inflation experiences of households, available at <https://www.federalreserve.gov/newsevents/speech/brainard20220405a.htm>.

1 **Q. WHAT DO YOU CONCLUDE?**

2 A. The testimony of FPL does not present a complete story about the stress which inflation
3 has placed on utility stakeholders. Just as inflation may have placed stress on the utility,
4 it has also placed stress on utility ratepayers. Indeed, the inflation experienced in recent
5 years has placed far more stress on lower income ratepayers than it has placed on others,
6 and FPL acknowledges that, “[t]he [CPI] is projected to increase 12 percent from 2024
7 through 2029 and 10 percent from 2025 through 2029.”⁴³ Increasing energy prices,
8 which would be exacerbated by the unreasonably higher return on equity sought by
9 FPL in this proceeding, is one of the major drivers of the inflation affecting lower-
10 income households. Given its obligation to balance the interests of investors and
11 ratepayers in setting a reasonable return on equity, the greater adverse impacts that
12 inflation has imposed on low-income ratepayers should be considered by the
13 Commission.

14

15 **VII. Unaffordable Electric Bills and Collections: Introductory Data**

16 **Q. PLEASE EXPLAIN THE PURPOSE OF THIS SECTION OF YOUR**
17 **TESTIMONY.**

18 A. In this section of my testimony, I begin to explain the impact of unaffordability and the
19 inability-to-pay on the collectability of FPL bills. When FPL renders bills that its
20 customers simply cannot afford to pay, that unaffordability not only has an impact on
21 the customers receiving the unaffordable bills, it also has an impact on all other
22 customers as well. As bills become less and less affordable, FPL faces the situation

⁴³ FPL Witness Tiffany Cohen Direct Testimony, p. 7.

1 where it is forced to devote an increasing amount of resources to the process of
2 collection, with a decreasing effectiveness arising from its efforts. Due to increasing
3 unaffordability, in other words, FPL spends more and receives less as a result.

4 The high burdens facing the low-income customers of FPL affect these
5 customers in at least two ways. First, high burdens impede the ability of low-income
6 customers to sustainably pay their bills. Second, high energy burdens adversely affect
7 the quality of life for low-income households. While there is not data specific to FPL,
8 these results nonetheless have been well-documented. The relationship that exists
9 between low-income status and this degradation in quality of life has been documented
10 by the EIA. The EIA convincingly established the relationship between income and
11 “energy insecurity” in nationwide data from its 2020 Residential Energy Consumption
12 Survey (RECS). The data is presented in Table 9 below.

1

2020 annual household income	Any household energy insecurity	Reducing or forgoing food or medicine to pay energy costs	Leaving home at unhealthy temperature	Receiving disconnect or delivery stop notice	Unable to use heating equipment
Less than \$20,000	58.0%	46.9%	24.8%	26.6%	11.2%
\$20,000 to \$39,999	56.1%	46.6%	21.2%	19.5%	9.5%
\$40,000 to \$59,999	46.8%	37.7%	20.7%	18.1%	8.0%
\$60,000 to \$79,999	39.7%	31.3%	15.0%	14.4%	6.3%
\$80,000 to \$99,999	29.3%	21.5%	8.9%	11.5%	4.2%
\$100,000 to \$119,999	20.1%	12.8%	5.7%	7.0%	2.0%
\$120,000 to \$139,999	11.1%	6.1%	4.1%	3.7%	1.2%
\$140,000 or more	7.2%	2.6%	3.1%	1.5%	0.8%

2 The data shows that as household income increases, home energy insecurity decreases.

3 The Figure below shows the relationship between household income and “any

4 household energy insecurity.” Nearly half of households with income less than \$20,000

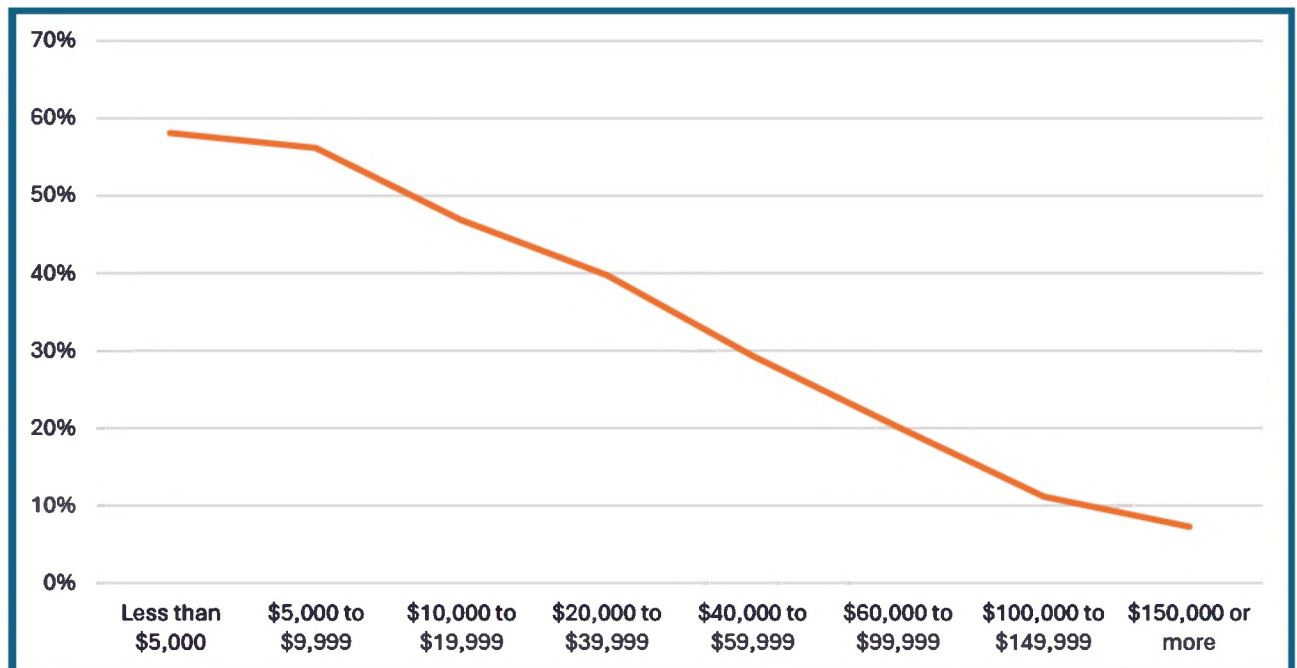
5 had experienced an energy insecurity, while that number falls to less than 20% for

6 households with income of \$80,000 or more. When income increases to more than

7 \$140,000, the percentage experiencing any type of energy insecurity falls below 10%.

⁴⁴ U.S. Energy Information Admin., Table HC 11.1 Household Energy Insecurity, 2020, available at [chrome-extension://efaidnbmnnnibpcajpcgclefindmkaj/https://www.eia.gov/consumption/residential/data/2020/hc/pdf/HC%2011.1.pdf](https://www.eia.gov/consumption/residential/data/2020/hc/pdf/HC%2011.1.pdf) (accessed April 27, 2023).

Figure 12. Energy Insecurity by Income (2020) (RECS)



The 2020 results were not unique, nor surprising given similar examinations of earlier RECS data. In 2005, the federal agency administering the Low-Income Home Energy Assistance Program (“LIHEAP”) funded a one-time special set of questions through the 2005 RECS. A resulting review of the 2005 data was undertaken for the federal LIHEAP office.⁴⁵ The LIHEAP study reported that households with income below the Fed.PL had higher rates of energy insecurity than other households (*e.g.*, households with income at 100% to 150% of the Fed.PL; households with income above 150% of the Fed. PL). The Federal Poverty Level, rather than income, is associated with all types of energy insecurity, the study found (concluding that it is important to consider

⁴⁵APPRISE, Inc. (Feb. 2010). LIHEAP Special Study of the 2005 Residential Energy Consumption Survey, Dimensions of Energy Insecurity for Low-Income Households, Final Report, prepared for U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services, Division of Energy Assistance, <http://www.appriseinc.org/resource-library/selected-reports/energy-survey-research-and-policy-analysis/> (accessed April 13, 2023).

1 household size).⁴⁶ The study found that higher residential energy burdens are
2 associated with all types of energy insecurity, including both service interruptions and
3 “financial energy insecurity.”⁴⁷

4

5 **Q. DO YOU HAVE REASON TO BELIEVE THAT THIS NATIONAL DATA IS**
6 **EQUALLY APPLICABLE IN FLORIDA?**

7 A. Yes. The U.S. Census Bureau continues to pursue what it refers to as its periodic
8 “Household Pulse Survey” (“HPS”). While the HPS does not provide data specific to
9 utility service territories, it does provide information specific to Florida. At the time I
10 write this Testimony, the most recent HPS data collection was for the period August 20,
11 2024 through September 16, 2024.

12 The most recent HPS results for Florida show that 8% or less of Florida
13 households with income exceeding \$100,000 had a “very difficult” time paying their
14 usual household expenses in the summer of 2024. In contrast, more than one-third
15 (34%+) of Florida households with income less than \$35,000 had a “very difficult”
16 time in paying their usual household expenses, while one-in-five households with
17 income between \$35,000 and \$50,000 had a very difficult time. In contrast, while 85%
18 of households with income of \$200,000 and above, and 87% of households with income
19 between \$150,000 and \$200,000 had no difficulty at all (or little difficulty) in paying
20 their usual household expenses, only 39% of households with income less than \$25,000

⁴⁶ The Federal Poverty Level is income considering household size. In 2022, for example, 100% of the Federal Poverty Level for a 1-person household is \$13,590, while 100% of the Federal Poverty Level for a 2-person household is \$18,310, and for a 3-person household is \$23,030. <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines> (accessed April 13, 2023).

⁴⁷ Dimensions of Energy Insecurity, *supra*, at 33, 34.

1 and only 36% of households with income between \$25,000 and \$49,999 had no
2 difficulty at all (or little difficulty) in paying their usual household expenses.

3

Table 10. Difficulty in Paying Usual Household Expenses in the Last Seven Days (August 20, 2024 – September 16, 2024) (Florida) ⁴⁸				
	Not at all difficult	A little difficult	Somewhat difficult	Very difficult
Less than \$25,000	11.7%	27.0%	27.3%	34.1%
\$25,000 - \$34,999	13.6%	22.6%	29.0%	34.8%
\$35,000 - \$49,999	33.6%	24.6%	20.9%	20.9%
\$50,000 - \$74,999	23.9%	38.8%	21.9%	15.4%
\$75,000 - \$99,999	25.2%	35.9%	26.0%	12.8%
\$100,000 - \$149,999	39.8%	34.5%	20.7%	5.0%
\$150,000 - \$199,999	50.3%	27.0%	14.5%	8.2%
\$200,000 and above	53.2%	31.5%	12.8%	2.5%

4 This HPS data helps to paint a clear picture of the context within which the affordability
5 of FPL rates should be viewed. The economic difficulties faced by low- and moderate-
6 income households have not ended as the economic crisis associated with the COVID-
7 19 health pandemic has wound down. The economic difficulties facing the customers
8 of FPL continue today. While the difficulties are clearly concentrated in the lowest
9 income ranges, they are not limited exclusively to those low-incomes.

10

11 **Q. DOES THE HPS PROVIDE ADDITIONAL INSIGHTS INTO THE IMPACT OF**
12 **HIGHER PRICES ON FPL CUSTOMERS?**

13 A. Yes. The same HPS measures the “stress” experienced by Florida households as a
14 result of increasing prices. The data set forth in the Table below shows that this stress

⁴⁸ <https://www.census.gov/data/tables/2024/demo/hhp/cycle09.html>.

1 is not exclusively a “low-income” phenomenon. On the one hand, the percentage of
2 Florida households finding price increases to be “very stressful” or “moderately
3 stressful” ranged between roughly 80% and 95% for households with income less than
4 \$75,000 in the fall of 2024. In contrast, the percentage of households reporting price
5 increases to be “very stressful” ranged up to 44% for households with income of
6 \$75,000 or more. In contrast, fewer than 3% of households with income less than
7 \$75,000 found price increases in the summer of 2024 to be “not at all stressful.”

8

Table 11. Stress Caused by Price Increases (August 20, 2024 – September 16, 2024) (Florida) ^{49, 50}				
	Very stressful	Moderately stressful	A little stressful	Not at all stressful
Less than \$25,000	57.4%	23.8%	17.9%	0.2%
\$25,000 - \$34,999	39.3%	37.5%	20.2%	3.0%
\$35,000 - \$49,999	51.6%	43.4%	5.0%	0.0%
\$50,000 - \$74,999	52.7%	25.1%	20.0%	2.2%
\$75,000 - \$99,999	38.3%	28.6%	19.8%	13.2%
\$100,000 - \$149,999	44.1%	30.7%	17.6%	7.7%
\$150,000 - \$199,999	7.8%	57.8%	33.2%	1.2%
\$200,000 and above	34.7%	35.3%	13.1%	16.9%

9 Clearly, the impacts of high prices on consumers should be a real concern to be
10 considered by the Commission.

11

12 **Q. HOW, IF AT ALL, DOES “STRESS” AND “BILL PAYMENT DIFFICULTIES”**
13 **RELATE TO UTILITY BILL PAYMENTS IN PARTICULAR?**

⁴⁹ <https://www.census.gov/data/tables/2024/demo/hhp/cycle09.html>.

⁵⁰ Totals may not sum to exactly 100% due to non-reporting by some households.

1 The HPS finally reports difficulties in paying home utility bills in particular in the last
2 twelve months for the State of Florida. The lessons for Florida are clearly the same as
3 found with respect to the household stress imposed by high prices and the difficulties
4 in paying “usual household expenses.” The percentage of households with annual
5 income of \$100,000 or more having “never” found it to be necessary to reduce spending
6 on other household necessities in the last twelve months in order to pay the home utility
7 bills ranged from roughly 80% to more than 90%, while fewer than half of households
8 with income less than \$35,000 reported “never” having to do so. While more than 40%
9 of households with income less than \$35,000 reported needing to reduce or forego
10 spending on other basic household necessities “almost every month” or “some
11 months,” in order to pay their utility bill, only 6% of households with income \$200,000
12 or more, and 10% to 15% of households with income between \$100,000 and \$200,000
13 needed to do so.

14 Similarly, while between 13% and nearly 25% of households with income less
15 than \$75,000 reported being “unable to pay the full bill amount” in “almost every
16 month” or in “some” months, only 1% to 4% of households with income of \$75,000 or
17 more reported such an inability to pay.

1

Table 12. Difficulties in Paying Home Energy Bills in the Last 12 Months (August 20, 2024 – September 16, 2024) (Florida) ^{51, 52}				
Household reduced or forwent expenses for basic household necessities, such as medicine or food, in order to pay an energy bill				
	Almost every month	Some months	1 or two months	Never
Less than \$25,000	25.2%	14.8%	12.0%	45.4%
\$25,000 - \$34,999	22.5%	21.0%	11.6%	44.9%
\$35,000 - \$49,999	7.2%	17.3%	14.1%	61.2%
\$50,000 - \$74,999	6.7%	21.3%	5.3%	66.8%
\$75,000 - \$99,999	8.2%	11.3%	14.6%	66.0%
\$100,000 - \$149,999	1.6%	11.0%	8.0%	79.3%
\$150,000 - \$199,999	2.4%	13.9%	5.8%	77.9%
\$200,000 and above	3.8%	2.6%	0.7%	92.9%
Household was unable to pay an energy bill or unable to pay the full bill amount				
	Almost every month	Some months	1 or two months	Never
Less than \$25,000	10.6%	8.0%	27.1%	54.0%
\$25,000 - \$34,999	8.8%	14.1%	8.9%	68.2%
\$35,000 - \$49,999	5.5%	10.9%	4.9%	78.7%
\$50,000 - \$74,999	6.0%	6.9%	6.8%	80.3%
\$75,000 - \$99,999	2.7%	3.5%	10.2%	83.7%
\$100,000 - \$149,999	0.0%	0.7%	6.0%	92.8%
\$150,000 - \$199,999	0.0%	3.6%	3.8%	92.6%
\$200,000 and above	0.2%	0.5%	0.7%	98.5%

2

3 **Q. WHAT DO YOU CONCLUDE?**

4 A. Many, if not most, of the decisions which the Commission faces in this proceeding
5 require a balancing of the interests of investors and ratepayers. In deciding upon issues

⁵¹ <https://www.census.gov/data/tables/2024/demo/hhp/cycle09.html>.

⁵² Totals may not sum to exactly 100% due to non-reporting by some households.

1 ranging from a reasonable return on equity, to appropriate cost allocations, to
2 appropriate capital expenditures, the Commission should understand, and account for,
3 the affordability impacts of FPL's request for higher rates including the adverse impacts
4 that inflation has imposed on ratepayers as I have identified above.

5
6 **VIII. Unaffordable FPL Bills and Collections in the FPL Service Territory**

7 **Q. PLEASE EXPLAIN THE PURPOSE OF THIS SECTION OF YOUR**
8 **TESTIMONY.**

9 A. The unaffordability of FPL rates adversely affects not only the customers receiving
10 unaffordable bills, but also all other customers as well. Not only does rendering
11 unaffordable bills result in less revenue collected by FPL, but it results in higher levels
12 of expenses as well. These higher expenses and lower revenues result in higher rates
13 to be paid by all other ratepayers.

14 The level of arrears is one example of how unaffordable bills contribute to
15 higher expenses to be charged to all other ratepayers. The working capital needed by
16 FPL is driven by two factors: (1) the level of arrears; and (2) the age of arrears. Higher
17 levels of arrears increases both of these factors. Moreover, since working capital is a
18 capital expenditure, it will have an equity return associated with it. Given that equity
19 return, there will also be a tax impact associated with it. The rate impact of increased
20 working capital, in other words, is greater than the dollar impact of the working capital
21 itself.

22 While many people associate only bad debt with increased unaffordability, in
23 fact, the level of bad debt is but a small element of the costs imposed by unaffordability.

1 Working capital is probably the most substantial element of unaffordability. Also
2 included are bad debt, credit and collection expenses, foregone revenue, and the
3 inefficiencies associated with credit and collection activities.
4

5 **Q. HAVE YOU HAD AN OPPORTUNITY TO EXAMINE THE RELATIONSHIP**
6 **BETWEEN AFFORDABILITY AND COSTS TO FPL?**

7 A. Yes. In my examination, I begin by identifying zip codes with higher than average
8 levels of households with annual income less than 150% of Federal Poverty Level.
9 Since FPL does not report data on a zip code basis, I aggregate the FPL zip codes into
10 the Districts reported by FPL. The company reports data on a District-basis. I identify
11 the Districts which have a higher than average penetration of low-income (i.e.,
12 households with income less than 150% of the Fed.PL) and compare a range of
13 collection metrics for those Districts with higher-than-average low-income customers
14 against all remaining Districts. Of FPL's 34 Districts, 15 have been identified as having
15 a higher than average penetration of low-income customers (I will refer to these
16 Districts as "High Poverty Level Districts"). Those 15 High Poverty Level Districts
17 have 24.5% of their households with income ~~greater than~~ ^{less than} 150% of the Fed. PL. The
18 remaining Districts have 16.1% of their households with income ~~above~~ ^{below} this level.⁵³

⁵³ The Census Bureau reports populations by age by different ranges of Federal Poverty Level. American Community Survey, Table B17024 (5-year data) (2023). I use the percentage of adults (age 18+) by these differing ranges of the Fed.PL in my analysis.

1 **Q. WHAT ARE YOUR FINDINGS?**

2 A. The High Poverty Level Districts experienced a disproportionate share of customers in
3 arrears in the twelve most recent months for which FPL has data.⁵⁴ I measure the
4 number of customers in arrears by whether or not customers were charged a late
5 payment charge by FPL. According to FPL's data, while 18.9% of customers in the
6 High Poverty Level Districts were charged a late payment charge during the most recent
7 12-month period, only 16.2% of customers in the remaining Districts had a late
8 payment charge imposed on their account due to delinquent bills.

9 Not only were there more customers in arrears in the High Poverty Level
10 Districts, but the arrears which they carried were older arrears as well. According to
11 FPL's data, the High Poverty Level Districts represent 37.5% of all FPL residential
12 customers. In contrast, the High Poverty Level Districts represented 39.2% of FPL's
13 accounts that were 60+ days in arrears, and 40.3% of FPL's dollars that were 60+ days
14 old. Not only were a disproportionate number of customers in High Poverty Level
15 Districts in arrears, but a disproportionate number carried older arrears as well.

16

17 **Q. HAS FPL EVER CONSIDERED OR EXAMINED HOW THE IMPACTS OF**
18 **BILL UNAFFORDABILITY CONTRIBUTE TO FUTURE COLLECTION**
19 **ACTIVITIES (AND THUS FUTURE COLLECTION COSTS) FACED BY THE**
20 **COMPANY?**

⁵⁴ The data used throughout this section of my testimony was provided by FPL in response to OPC's Seventh Set of Interrogatories, Nos. 161 and 162.

1 A. No. Consider how FPL's actions have a direct effect on the inability of low-income
2 customers to retain service when they cannot afford to pay their bills. FPL reports that
3 it uses an automated system to determine when and whether to schedule nonpayment
4 disconnections. According to the Company:

5 There is no written document that describes or discusses risk assessment
6 regarding scheduling a disconnection of service. FPL uses an automated
7 system prioritization that considers risk factors including but not limited to
8 age of arrears, length of time a customer has maintained an FPL account,
9 the number of times a customer has been late in a given period, and the
10 number of prior collection activities. Customers are then prioritized
11 systematically, and disconnections are scheduled.⁵⁵
12

13 The implications of that automated system on the impacts of unaffordability are
14 evident. As I have discussed throughout my testimony, lower income customers will
15 tend to have older (and larger) arrears. Lower income households also tend to be more
16 mobile than other households (and, accordingly, will have a shorter "length of time a
17 customer has maintained an FPL account"). Lower income customers will have been
18 late more frequently, and thus have been subject to more prior collection activities. FPL
19 practices, in other words, create a spiral downward. The more unaffordable the
20 Company's rates become, the more customers will be unable to pay the resulting bills.
21 In turn, the more unaffordable bills become, the more likely those customers will be
22 scheduled for additional collection activities. The more collection activities that are
23 directed toward these customers, the more likely that additional collection activities
24 will be directed against them in the future.⁵⁶

⁵⁵ FPL Response to OPC's Seventh Set of Interrogatories, No. 182.

⁵⁶ See also, FPL Response to OPC's Seventh Set of Interrogatories, Nos. 184(d), (e), (f), (j), (l), (m), and (n).

1 **Q. HAS FPL EVER CONSIDERED THE EFFECTIVENESS AND/OR**
2 **EFFICIENCY OF ITS COLLECTION ACTIVITIES IN REDUCING THE**
3 **COSTS OF NONPAYMENT?**

4 A. No. Without question, FPL tracks the aging of its accounts receivable along with its
5 Days Sales Outstanding and other collections metrics.⁵⁷ However, in that document,
6 FPL made no effort to: (1) characterize patterns of nonpayment; (2) identify the
7 characteristics of nonpayers; (3) identify predictors of nonpayment; (4) identify
8 strategies to reduce nonpayment; or (5) identify early indicators of nonpayment.⁵⁸

9 FPL was asked to provide any reports or analysis that assessed the extent to
10 which the following activities reduce residential bad debt: (1) cash security deposits;
11 (2) deferred payment agreements; (3) notices of nonpayment disconnection; (4)
12 nonpayment disconnections; (5) field collections; (6) call center collection calls; (7)
13 budget billing plans; or (8) late payment charges. Their data reporting included no such
14 analysis.⁵⁹ Similarly, FPL was asked to provide such an analysis of the extent to which
15 the same activities reduced residential arrears. But its data reporting included no such
16 analysis.⁶⁰ Nor did its data reporting include any analysis of the extent to which, if at
17 all, those activities resulted in accelerating residential payments.⁶¹

18 FPL was asked for any assessment it had made about why residential customers
19 do not complete deferred payment arrangements in order to prevent nonpayment
20 disconnections, but it had neither performed such an analysis nor obtained any such

⁵⁷ FPL Response to OPC's Seventh Request for Production of Documents, No. 74. NOTE: Document not included due to size.

⁵⁸ FPL Response to OPC's Seventh Set of Interrogatories, No. 204.

⁵⁹ FPL Response to OPC's Seventh Set of Interrogatories, No. 205.

⁶⁰ FPL Response to OPC's Seventh Set of Interrogatories, No. 206.

⁶¹ FPL Response to OPC's Seventh Set of Interrogatories, No. 207.

1 analysis performed for someone else.⁶² FPL has never assessed why customers do not
2 pay their bills; the order in which customers pay their bills (e.g., rent/mortgage first,
3 utility bills second, credit cards third, etc.); or to whom customers turn for information
4 and/or bill payment assistance.⁶³

5 FPL has never sought to assess or evaluate the source of either residential bad
6 debt,⁶⁴ or residential arrears⁶⁵ by socio-economic status.⁶⁶

7
8 **Q. WHY IS THIS LACK OF CONSIDERATION IMPORTANT TO TAKE INTO**
9 **ACCOUNT IN AN FPL RATE CASE?**

10 A. This lack of knowledge about the collection impacts of the unaffordability I have
11 documented throughout my testimony is important to a rate case because that
12 unaffordability, and the resulting payment difficulties, have a direct impact on
13 increasing costs that FPL then seeks to passthrough to all ratepayers. Consider, for
14 example, that FPL was asked whether it agreed or disagreed with each of the following
15 statements:

- 16 a. Reducing the dollar level of arrears to a customer will, all else equal, have the
17 effect of reducing the working capital needed by a utility;
- 18 b. Reducing the time (in days or months) that an arrearage remains outstanding
19 will, all else equal, have the effect of reducing the working capital needed by a
20 utility;
- 21 c. Working capital is a cost component that has an equity return associated with
22 it.

⁶² FPL Response to OPC's Seventh Set of Interrogatories, No. 208.

⁶³ FPL Response to OPC's Seventh Set of Interrogatories, No. 209.

⁶⁴ FPL Response to OPC's Seventh Set of Interrogatories, No. 210.

⁶⁵ FPL Response to OPC's Seventh Set of Interrogatories, No. 211.

⁶⁶ See also, FPL Response to OPC's Seventh Set of Interrogatories, No. 212 and FPL Response to OPC's Seventh Set of Interrogatories, No. 217.

d. To the extent that working capital has an equity return associated with it, it will have a tax component associated with it.

e. A higher dollar level of arrearages poses a greater risk of loss due to uncollectibles than a lower dollar level of arrearages.

f. Reducing the number of customers who are off-system due to a disconnection of service will, all else equal, reduce lost sales to a utility.

g. Reducing the number of customers receiving final bills with an unpaid balance will, all else equal, have the effect of reducing costs to a utility.

The Company agreed with each statement.⁶⁷

Q. WHAT DO YOU CONCLUDE?

A. Imposing expenses on ratepayers that exacerbate the unaffordability of FPL rates generates additional costs to ratepayers above and beyond the expenses being challenged. When bills become less and less affordable, FPL is placed in the situation of both carrying increased arrears (along with the associated costs of carrying those arrears) and engaging in additional credit and collection activities (along with both the higher levels of costs and the higher levels of foregone revenue). Reducing FPL's requested rate increase as recommended by OPC witnesses throughout this proceeding will have positive rate impacts for all FPL customers even beyond the specific adjustments being proposed by those witnesses.

Q. HAVE YOU REVIEWED THE ACTIVITIES WHICH FPL CITES AS BEING IN SUPPORT OF ITS LOW-INCOME CUSTOMERS?

⁶⁷ FPL Response to OPC's Seventh Set of Interrogatories, No. 213.

1 A. Yes. I have reviewed the testimony of FPL witness Dawn Nichols in this proceeding.
2 While some of the actions explained by Witness Nichols are commendable, they do not
3 substitute for setting affordable rates in the first instance. Consider, for example, that
4 Ms. Nichols testifies that FPL facilitates its customers receiving energy assistance,
5 “including LIHEAP.”⁶⁸ Company data, however, reports that 64,751 FPL customers
6 received LIHEAP in Calendar Year 2022.⁶⁹ Given that FPL reports serving 5,322,804
7 residential customers,⁷⁰ that means that only 1.2% ($64,571 / 5,322,804 = 0.0122$) of the
8 Company’s customers received energy assistance through LIHEAP. In contrast, in
9 2023, only 33,159 FPL customers received either LHEAP or EHEAP assistance,
10 representing fewer than 1% of the Company’s total residential customer base.⁷¹ In
11 2024, only 36,677 FPL customers received LIHEAP or EHEAP assistance.⁷²

12 In comparison, from March 2024 through February 2025, FPL performed
13 1,216,615 nonpayment disconnections. During that same time period, FPL had 669,421
14 customers who defaulted on their deferred payment arrangements. FPL imposed late
15 payment charges for delinquent accounts nearly 11.1 million times.⁷³ Moreover, in
16 comparison to the fewer than 1% of customers who received LIHEAP or EHEAP
17 assistance, nearly one-in-five households in the FPL service territory live with annual
18 income at or below 150% of the Fed.PL, the *minimum* income eligibility for LIHEAP.⁷⁴

⁶⁸ Direct Testimony of FPL Witness Dawn Nichols, p. 15.

⁶⁹ FPL Response to OPC’s Seventh Set of Interrogatories, No. 161.

⁷⁰ FPL Response to OPC’s Seventh Set of Interrogatories, No. 161.

⁷¹ FPL Response to OPC’s Seventh Set of Interrogatories, No. 161.

⁷² FPL Response to OPC’s Seventh Set of Interrogatories, No. 161.

⁷³ FPL Response to OPC’s Seventh Set of Interrogatories, No. 162.

⁷⁴ FPL reports that LIHEAP and EHEAP eligibility ranges from 150% of the Fed.PL to 60% of State Median Income, whichever is higher, as determined by the Assist agencies. FPL Response to OPC Interrogatory No. 161.

1 Ms. Nichols also testified that over the past ten years, FPL Care to Share has
2 provided an average of \$2.4 million annually “to help customers in need.”⁷⁵ To place
3 that figure in context, in the twelve months ending March 2025, the 1,216,615 accounts
4 that FPL disconnected for non-payment carried a total arrears of \$258,255,098 at the
5 time of disconnection.⁷⁶ That \$2.4 million, in other words, does not substitute for
6 ensuring that rates are affordable on the front-end.

7
8 **Q. CAN LIHEAP BE RELIED UPON TO PROVIDE THIS SAME LEVEL OF**
9 **ASSISTANCE IN THE FUTURE?**

10 A. No. Even though LIHEAP provides a minimal level of assistance to FPL customers as
11 documented above, even that level of assistance cannot be assumed to exist in the future
12 to offset unaffordable FPL bills. There are three current threats to LIHEAP. First, as
13 noted in Congressional testimony submitted on April 9, 2025, by Mark Wolfe,
14 executive director of the National Energy Assistance Directors Association
15 (“NEADA”), to the House Subcommittee on Labor, Health and Human Services and
16 Education and Related Agencies in support of FY 2026 LIHEAP funding:

17 Last week, the Trump Administration eliminated the Division of Energy
18 Assistance (DEA)—the office within the U.S. Department of Health and
19 Human Services (HHS) that oversees LIHEAP—and fired the entire
20 staff.⁷⁷

21
22 Second, as noted in a recent Washington Post article, an HHS budget draft, “offers the
23 first full look at the health and social service priorities of President Donald Trump’s

⁷⁵ Direct Testimony of FPL Witness Dawn Nichols, p. 15.

⁷⁶ This figure was calculated by multiplying the number of nonpayment disconnections times the average arrears at the time of disconnection. FPL Response to OPC’s Seventh Set of Interrogatories, No. 162.

⁷⁷ See <https://neada.org/wp-content/uploads/2025/04/LIHEAPHouseTestimonyFY26.pdf>.

1 Office of Management and Budget as it prepares to send his 2026 fiscal year budget
2 request to Congress.”⁷⁸ The budget draft proposes eliminating LIHEAP entirely.

3 Third, the President’s FY2026 budget also calls for the complete elimination of the
4 Community Services Block Grant (“CSBG”) program.⁷⁹ Local community action
5 agencies (“CAAs”) rely upon CSBG to fund the administration of energy assistance
6 through LIHEAP. Even if LIHEAP is funded, the elimination of CSBG would severely
7 limit, if not effectively eliminate, the ability of CAAs to deliver such assistance.⁸⁰ In
8 FY2025 and FY2026, for example, Florida’s CAAs were budgeted to receive more than
9 \$20 million in CSBG funding according to the Florida CSBG State Plan.⁸¹ The Florida
10 CSBG State Plan explicitly states:

11 CSBG, LIHEAP, and WAP are located within Florida Commerce’s
12 Division of Community Development. This enables efficient coordination
13 of services. The coordination requirement is passed to the eligible entities
14 via the grant award agreement. . . Of the 26 CSBG eligible entities, 21 also
15 provide LIHEAP services that facilitate the coordination of these programs
16 at the local level.⁸²

17 These are concerning developments I have never witnessed in my decades of work in
18 this field. In my many decades of working on these issues, I have never encountered

⁷⁸ See *Internal budget document reveals extent of Trump’s proposed health cuts*, Lena H. Sun, Carolyn Y. Johnson, Rachel Roubein, Joel Achenbach and Lauren Weber, April 16, 2025, available at:

<https://www.washingtonpost.com/health/2025/04/16/hhs-budget-cut-trump/>.

⁷⁹ National Council on Nonprofits (May 2, 2025). President Trump Proposes to Slash Funding for Domestic Programs in FY2026, available at <https://www.councilofnonprofits.org/articles/president-trump-proposes-slash-funding-domestic-programs-fy2026>.

⁸⁰ See, Libby Perl (January 23, 2018). Community Services Block Grants (CSBG): Background and Funding, Congressional Research Service, available at <https://www.warnock.senate.gov/wp-content/uploads/2021/05/08-Community-Services-Block-Grants-CSBG.pdf>.

⁸¹ State of Florida, Community Services Block Grant Model State Plan, October 1, 2024 – September 30, 2026, at page 24, available at https://floridajobs.org/docs/default-source/community-planning-development-and-services/community-services/block-grant/csbg_state-plan_ffy2025_2026.pdf?sfvrsn=158333b0_1.

⁸² CSBG Florida State Plan, *supra*, p. 38.

1 such a threat to the existence of LIHEAP. It would not be accurate to say with any kind
2 of certainty that LIHEAP will be ended, or even cut, and that is not what I am saying.
3 I am merely saying that given the great uncertainty in LIHEAP funding in each year,
4 let alone the coming year, the presumption that LIHEAP benefits will be available in
5 sufficient amounts to effectively support affordability for the Company's financially
6 struggling customers appears misplaced.

7

8 **IX. The Impact of Unaffordable FPL Rates on Non -Residential Customers**

9 **Q. PLEASE EXPLAIN THE PURPOSE OF THIS SECTION OF YOUR**
10 **TESTIMONY.**

11 A. In this section of my testimony, I explain why unaffordability of FPL rates adversely
12 affects not only the residential customers receiving the resulting unaffordable bills, but
13 adversely affects a wide range of non-residential customers who employ those
14 households. The unaffordability of bills imposes both direct and indirect costs on non-
15 residential customers. An examination of direct costs reveals that poor health among
16 workers facing financial stress at home makes them less reliable and raises the cost of
17 employing them. Indirect costs can be associated with declining productivity. Poverty
18 produces ill-prepared workers whose lives are easily disrupted by small catastrophes.
19 If the car breaks down, if a child gets sick, it suddenly becomes impossible to be a
20 reliable worker.

21

22 **Q. PLEASE DISCUSS THE HEALTH COSTS YOU IDENTIFY AS A “DIRECT**
23 **COST” OF ELECTRIC UNAFFORDABILITY TO EMPLOYERS.**

1 A. Increased financial stress associated with unaffordable bills results in increased health
2 care costs to employers. These costs to employers arising from the financial stress of
3 employees can be substantial. One white paper presented “an overview of the research
4 literature related to financial stress, how it can affect employee productivity, and real
5 world data regarding the estimated costs to businesses when financially stressed
6 employees are left to struggle on their own.”⁸³

7 An increase in health care costs is one of the most cited costs imposed on
8 employers due to financial stress. A report in Health Affairs analyzed the health risks
9 and medical expenses of more than 92,000 employees over a three-year period. Those
10 reporting high stress were \$413 more costly per year on average than workers who were
11 not at risk from stress. By comparison, smoking – a common health risk targeted by
12 corporate wellness programs – was found to raise health care costs by \$587 dollars on
13 average. Since financial problems are an important stress factor, it appears employers
14 may be paying a high cost for employee financial stress, but they do not recognize it
15 because a large portion of that expense shows up indirectly as a health care expense.⁸⁴

⁸³ Martha Brown Menard, Ph.D. (June 2017). Improving Employees’ Financial Wellness: Why it Matters and What Employers Can Do About It.” https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3011461.

⁸⁴ CFPB Financial Wellness at Work, supra, citing, Lucia F. Dunn & Ida A. Mirzaie, Working Paper, Determinants of Consumer Debt Stress: Differences by Debt Type and Gender (2012), <http://www.chrr.org/content/surveys/cfm/doc/DSI-Working-Paper-07-19-12.pdf>; Ron Z. Goetzel et al., Ten Modifiable Health Risk Factors Are Linked To More Than One-Fifth Of Employer-Employee Health Care Spending, 31 Health Affairs 2474 (2012).; Ron Z. Goetzel, et al., The relationship between modifiable health risks and health care expenditures, 40 J. Occup. Environ. Med. 843 (1998) (showing an analysis of the multi-employer HERO health risk and cost database). https://journals.lww.com/joem/Abstract/1998/10000/The_Relationship_Between_Modifiable_Health_Risks.3.aspx. <https://www.healthaffairs.org/doi/pdf/10.1377/hlthaff.2011.0819>; Health Poll, AP-AOL/ABT SRBI (2008), http://surveys.associatedpress.com/data/SRBI/AP-AOL%20Health%20Poll%20Topline%20040808_FINAL_debt%20stress.pdf.

1 **Q. WHAT DO YOU KNOW ABOUT THE INDIRECT COSTS TO EMPLOYERS**
2 **ASSOCIATED WITH THE FINANCIAL STRESS OF UNAFFORDABLE**
3 **HOUSEHOLD BILLS?**

4 A. The indirect costs of unaffordable bills can perhaps exceed even the direct costs.
5 Indirect costs are often associated with declines in employee productivity associated
6 with financial stress at home. A 2014 study by the Consumer Financial Protection
7 Bureau⁸⁵ reports that “even when the economy was booming, financial stress was
8 sapping the productivity and hurting the health of millions of American workers.”⁸⁶
9 According to the CFPB:

10 Multiple surveys offer ample evidence of the impact of financial stress at
11 work. For example, in 2012, roughly one in five employees admitted they
12 had skipped work in the past year to deal with a financial problem. Among
13 workers now in their 30’s and 40’s – a critical cohort of the American
14 workforce – stress levels are even higher. Many Generation X workers
15 (29%) say their personal finances distract them at work, and a majority
16 (53%) find it stressful to deal with their personal finances. This is a
17 particularly salient finding given that Gen Xers – those born between 1964
18 and 1980 – are beginning to enter their peak-earning years. If they are
19 financially stressed now, Gen Xers may have more difficulty than other
20 generations finding security in the future. Across workers of all
21 generations, 24% admit their personal finances have been a distraction at
22 work. And, of those workers who are concerned about their finances, 39%
23 spend at least three hours each week either thinking about or dealing with
24 financial problems at work.⁸⁷

⁸⁵ CFPB (August 2014). Financial wellness at work: A review of promising practices and policies.
<https://www.consumerfinance.gov/data-research/research-reports/financial-wellness-at-work/>.

⁸⁶ Financial wellness at work, at 6, citing E. Thomas Garman et al., Financial Stress Among American Workers: Final report: 30 Million Workers in America –One in Four—Are Seriously Financially Distressed and Dissatisfied Causing Negative Impacts on Individuals, Families, and Employers, 17 2005).

⁸⁷ Id., citing MetLife, Inc., 10th Annual Study of Employee Benefits Trends: Seeing Opportunity in Shifting Tides 51 (2012),
[http://www.winonaagency.com/img/~www.winonaagency.com/10th annual met life study of benefits trends.pdf](http://www.winonaagency.com/img/~www.winonaagency.com/10th%20annual%20met%20life%20study%20of%20benefits%20trends.pdf)
 (“22% of employees admit that they have taken unexpected time off in the past 12 months to deal with a financial
 issue and/or spent more time than they think they should at work on personal financial issues . . .”). 15% of Gen
 Y respondents, 10% of Gen X respondents, 5% of Younger Boomer respondents, and 1% of Older Boomer

1 The CFPB reported:

2 It's not just employees who want help managing financial stress at work.
3 Managers confront this stress every day. In a recent survey, 61% of human
4 resources professionals say financial stress is having some impact on
5 employee work performance. Twenty-two percent say worries over
6 personal finances have a "large impact" on employee engagement.⁸⁸
7

8 **Q. PLEASE EXPLAIN THE CONCEPT OF "PRESENTEEISM" AND ITS**
9 **IMPACT ON EMPLOYEE PRODUCTIVITY.**

10 A. Financial stress adversely affects employers both through absenteeism and
11 presenteeism.⁸⁹ According to Menard:

12 Academic researchers have studied the costs of absenteeism, presenteeism,
13 and employee turnover specifically associated with employee financial
14 stress, and have estimated these costs based on real world data.
15 Absenteeism from work resulting from worrying about personal finances
16 and employee turnover in particular represents a problem that has been well
17 documented in the literature, and higher levels of financial stress are
18 associated with higher levels of absenteeism, particularly among blue-
19 collar workers. A recent survey of over 5,000 US workers by the company
20 Willis Towers Watson found that employees who are worried about their
21 finances are absent on average for 3.5 days annually.⁹⁰
22

23 According to Menard, "financially troubled employees bring [their] concerns to work."

24 Dr. Menard reports:

respondents admitted to the same; PricewaterhouseCoopers, LLC, Employee Financial Wellness Survey 10,11 (2014), http://www.pwc.com/en_US/us/private-company-services/publications/assets/pwc-employee-financial-wellness-survey-2014-results.pdf.

⁸⁸ Id., citing Society for Human Resource Management, SHRM Research Spotlight: Financial Education Initiatives in the Workplace 2 (2012), https://www.shrm.org/hr-today/trends-and-forecasting/research-and-surveys/Documents/Financial_Education_Flier_FINAL.pdf.

⁸⁹ "Presenteeism" has long been recognized in both the industry and academic literature. See, e.g., Paul Hemp (October 2004). Presenteeism: At Work but Out of It, Harvard Business Review <https://hbr.org/2004/10/presenteeism-at-work-but-out-of-it>.

⁹⁰ Menard, *supra*, at 6 (internal notes omitted).

1 The previously mentioned Mercer survey found that 16% of employees
2 reported spending more than 20 working hours each month worrying about
3 money. The average across those surveyed was 13 hours per month. For an
4 individual employee, that is equal to 7.8% of their annual work time spent
5 being distracted as a result of their financial situation. Other estimates are
6 even higher. Garman and colleagues peg financial presenteeism and
7 absenteeism costs at 15-20% of total compensation paid to all employees
8 in the businesses studied. . .The Mercer survey also found that 22 percent
9 of employees report missing at least one day of work to handle financial
10 problems, and a full 20 percent have had to resign from jobs due to financial
11 stress.⁹¹

12 Menard's work was confirmed by research of the International Foundation of Employee

13 Benefit Plans. That research concluded:

14 Financially distressed workers are more likely to miss work—not
15 surprising given persons with financial stress tend to have more physical
16 and mental health problems than those who are financially healthy. In fact,
17 70% of all job absenteeism has been tied to stress-related illnesses.

18 Even when employees do show up for work, they are likely to demonstrate
19 some degree of presenteeism due to fatigue and/or an inability to
20 concentrate. Presenteeism occurs when employees come to work but are
21 not functioning up to their capabilities. It manifests itself in a host of ways
22 including more time spent on tasks, poor-quality work, impaired social
23 functioning, burnout, anger and low morale.

⁹¹ Id., at 7 (internal notes omitted).

1 One in five employees (20%) reports issues with personal finances have been a
2 distraction at work. More than one-third (37%) say they spend three hours or more
3 each week thinking about or dealing with issues related to personal finances.⁹²
4

5 **Q. DOES INDUSTRY RESEARCH SUPPORT YOUR CONCLUSIONS**
6 **REGARDING THE IMPACT OF FINANCIAL STRESS ON EMPLOYERS?**

7 A. Yes. The fact that employee financial problems affect the employer is recognized
8 widely within industry circles. For example, according to one report by the Society for
9 Human Resource Management (“SHRM”), “when employees are stressed financially,
10 their health and productivity can both suffer.”⁹³ According to SHRM, 48 percent of
11 human resource managers report workers are struggling and stressed over “covering
12 basic living expenses.” SHRM reports that 60% of employers indicate that personal
13 financial issues affect their “workers inability to focus at work” and 34% report such
14 issues result in “absenteeism and tardiness.”

15 A different survey, this one of employers rather than employees, asked
16 employers about their workers’ financial stress. “The survey found that financially
17 stressed employees are not able to check their worries at the door; they typically spend
18 over three hours per week dealing with personal finance at work and lose nearly one
19 month of productive work time (23-31 days per year) over financial concerns.” This

⁹² Patricia Bonner (Nov./Dec. 2016). The Impact of Financial Stress on Your Employees, Plans and Trusts, Vol. 34:6: 18-24. <https://www.ifebp.org/inforequest/ifebp/0200354.pdf>.

⁹³ Stephen Miller (April 2016). Employees’ Financial Issues Affect Their Job Performance.” <https://www.shrm.org/resourcesandtools/hr-topics/benefits/pages/employees-financial-issues-affect-their-job-performance.aspx>.

1 survey states that “there may be a strong correlation between poverty and financial
2 stress,” though it acknowledges that “low wages” are not “completely to blame.”⁹⁴

3

4 **Q. HOW DOES YOUR DISCUSSION ABOVE APPLY TO THE**
5 **UNAFFORDABILITY OF FPL BILLS?**

6 A. There is a direct relationship between the unaffordability of FPL bills, as I have
7 documented in detail above, and the resulting adverse impacts on local commercial and
8 industrial customers. For example:

- 9 • Turnover costs business money. We know that unaffordable home energy bills
10 lead to the frequent mobility of households.⁹⁵
- 11 • Time missed due to family care provision costs business money. We know that
12 unaffordable home energy leads to more frequent childhood illnesses.⁹⁶
- 13 • Time missed due to lack of employee productivity and employee illness costs
14 business money. We know that the inability to stay warm due to unaffordable
15 home energy bills leads to increased illnesses, including pneumonia, influenza,
16 and other infectious diseases.⁹⁷
- 17
- 18

⁹⁴ Dan Macklin (August 2019). Businesses Losing \$500 Billion Due to Employees Financial Distress, H.R. Technologist Weekly Newsletter.
<https://www.hrtechnologist.com/articles/compensation-benefits/businesses-losing-500-billion-due-to-employees-financial-stress-2/>.

⁹⁵ Roger Colton. “A Road Off Taken: Unaffordable Home Energy Bills, Forced Mobility, and Childhood Education in Missouri,” 2 Journal of Children and Poverty 23 (1996).
<https://www.tandfonline.com/doi/abs/10.1080/10796129608414757>.

⁹⁶ Jayanta Bhattacharya et al. (June 2002). Heat or Eat? Cold Weather Shocks and Nutrition in Poor American Families, National Bureau of Economic Research: Cambridge (MA).
<https://ajph.aphapublications.org/doi/10.2105/AJPH.93.7.1149>.

⁹⁷ Apprise, Inc. (December 2018). 2018 National Energy Assistance Survey: Final Report, NEADA: Washington D.C. <http://www.appriseinc.org/wp-content/uploads/2019/02/NEADA-2018-LIHEAP-Survey.pdf>.

1 **Q. WHAT DO YOU CONCLUDE?**

2 A. I conclude that with low-wage employees, in particular, unaffordable home energy
3 directly contributes to lowered productivity. Increased personal illness, increased
4 employee turnover, and increased family care responsibilities are but three of the
5 factors contributing to lower employee productivity. Imposing unaffordable bill
6 burdens on residential customers substantially contributes to each of these productivity
7 factors. Addressing the affordability issues presented by FPL's proposed rate hike, as
8 identified by the whole range of OPC witnesses, will benefit not merely residential
9 customers, but will benefit residential and non-residential customers alike.

10

11 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

12 A. Yes, it does.

1 BY MR. PONCE:

2 Q Mr. Colton, did your prefiled testimony in
3 this docket also contain five exhibits labeled RDC-1
4 through RDC-5?

5 A It does.

6 MR. PONCE: Just for the record, I believe
7 those exhibits are CEL Exhibits 144 through 148.

8 BY MR. PONCE:

9 Q Do you have any he corrections to your
10 exhibits?

11 A I do not.

12 Q Have you prepared a summary of your testimony?

13 A I have.

14 Q If you could please share it with us?

15 A Yes.

16 My direct testimony reviews the impact of
17 Florida Power & Light rates on the bill affordability to
18 low and moderate income households. More specifically,
19 amongst other things, my testimony, number one, examines
20 the history of FPL rate increases relative to changes in
21 incomes in the FPL service territory. Number two,
22 examines the affordability impacts of existing and
23 proposed FPL rates on low-income households. Number
24 three, examines the ability to pay of moderate income
25 customers in the FPL service territory. Number four,

1 examines the impacts that rate unaffordability has on
2 the ability of FPL to collect its bills. And number
3 five, reviews the actions that FPL reports taking to
4 address unaffordability relative to the needs in its
5 service territory.

6 My testimony first examines the movement in
7 FPL prices relative to the movement in incomes for FPL
8 customers. My testimony shows that of the 20 peninsular
9 FPL counties, in only five instances did the growth in
10 first quintile income exceed the growth in FPL rates,
11 with one other county showing a growth rate in first
12 quintile income nearly equal to the FPL price index.

13 What that means is that in 15 of FPL's 20
14 peninsular counties for which data is available, FPL
15 customers in the bottom quintile were worse off in 2023
16 than they were in 2016. The mismatch between the growth
17 in Q1 incomes, first quintile incomes, and the growth in
18 FPL prices means that FPL bills are taking up a higher
19 and higher proportion of total household income.

20 My testimony next finds that the
21 unaffordability of FPL bills is now beginning to reach
22 well into more moderate incomes. I examine the ability
23 to pay of more moderate income households using the
24 ALICE threshold -- ALICE is A-L-I-C-E. ALICE is the
25 acronym used to describe Asset Limited, Income

1 Constrained, Employed households with incomes above the
2 federal poverty level but below the cost of basics
3 included in the household survive the ALICE household
4 survival budget. The number of households at these
5 income levels is substantial. FPL's service territory
6 does not present the situation where households with
7 lower incomes have higher burdens, but few of those
8 households exist.

9 It is clear from the data I examine that while
10 low-income households would bear a particular harm from
11 high FPL burdens, the unaffordability of FPL burdens is
12 not the exclusive province of low-income households.

13 My testimony next explains the impact of
14 unaffordability and the inability to pay on the
15 collectability of FPL bills. When FPL renders bills
16 that its customers simply cannot afford to pay, that
17 unaffordability not only has an impact on the customers
18 receiving the unaffordable bills, it also has an impact
19 on all other customers as well.

20 As bills become less and less affordable, FPL
21 faces the situation where it is forced to devote an
22 increasing amount of resources to the process of
23 collection with a decreasing effectiveness arising from
24 those credit and collection efforts. Due to increasing
25 unaffordability, in other words, FPL spends more and

1 more and receives less as a result.

2 The unaffordability of FPL rates adversely
3 affects not only the customers receiving unaffordable
4 bills, but also other customers as well. Not only does
5 rendering unaffordable bills result in less revenue
6 collected by FPL, but it results in higher levels of
7 expenses as well. These higher expenses and lower
8 revenues result in higher rates to be paid by all other
9 customers, all other ratepayers. The level of arrears
10 is one example of how unaffordable bills contribute to
11 higher expenses to be charged to all other ratepayers.

12 The working capital needed by FPL is driven by
13 two factors. Number one, the level of arrears, and,
14 number two, the age of arrears. Higher levels of
15 arrears increases both of those factors. Moreover,
16 since working capital is a capital expenditure, it will
17 have an equity return associated with it. Given that
18 equity return, there will also be a tax impact
19 associated with it.

20 The rate of increased working capital, in
21 other words, is greater -- the rate impact of increased
22 working capital, in other words, is greater than the
23 dollar impact of the working capital itself.

24 While many people associate only bad debt and
25 collection expenses with increased unaffordability, in

1 fact, the level of those two expenses are but small
2 portions of the costs imposed by unaffordability.
3 Working capital is probably the most substantial element
4 of unaffordability.

5 FPL's lack of knowledge about the collection
6 impacts of the unaffordability, which I document
7 throughout my testimony, is important to a rate case,
8 because that unaffordability and the resulting payment
9 difficulties have a direct impact on increasing costs
10 that FPL then seeks to pass through to all ratepayers.

11 I reported in my testimony that FPL was asked
12 whether it agreed or disagreed with each of the
13 following statements:

14 Reducing the dollar level of arrears to a
15 customer will, all else equal, have the effect of
16 reducing the working capital needed by the utility.

17 Reducing the time in days or months that an
18 arrearage remains outstanding will, all else equal, have
19 the effect of reducing the working capital needed by a
20 utility.

21 C, working capital is a cost component that
22 has an equity return associated with it.

23 D, to the extent that working capital has an
24 equity return associated with it, it will also have a
25 tax component associated with it.

1 E, a higher dollar level of arrears poses a
2 greater risk of loss due to uncollectibles than a lower
3 dollar level of arrearages.

4 F, reducing the number of customers who are
5 off system due to disconnection of service will, all
6 else equal, reduce loss sales to a utility.

7 CHAIRMAN LA ROSA: Mr. Colton, I don't mean to
8 interrupt your opening statement, but are we
9 getting close to an end? We are a little bit over
10 time. The red light that's blinking in front of
11 you.

12 THE WITNESS: I am almost complete, is that
13 what you -- I am sorry?

14 CHAIRMAN LA ROSA: If we can bring it in for a
15 landing.

16 THE WITNESS: Okay. The company agreed with
17 each of those statements.

18 Ultimately, my testimony concludes that
19 imposing expenses on ratepayers that exacerbate the
20 unaffordability of FPL rates generates additional
21 cost to ratepayers above and beyond expenses being
22 challenged. Reducing FPL's requested rate increase
23 as recommended by OPC witnesses throughout this
24 proceeding will have positive rate impacts for all
25 FPL customers, even beyond the specific adjustments

1 being proposed by those witnesses.

2 I am finished.

3 CHAIRMAN LA ROSA: Great. Thank you.

4 THE WITNESS: Thank you.

5 MR. PONCE: Thank you. At this time, OPC
6 tenders Mr. Colton for cross-examination.

7 CHAIRMAN LA ROSA: Okay. FEL?

8 MR. MARSHALL: No cross-examination for this
9 witness, Mr. Chairman.

10 CHAIRMAN LA ROSA: FAIR?

11 MR. SCHEF WRIGHT: No questions.

12 CHAIRMAN LA ROSA: FEIA?

13 MR. KEVIN COX: No cross.

14 CHAIRMAN LA ROSA: Walmart?

15 MS. EATON: No cross.

16 CHAIRMAN LA ROSA: FRF?

17 MR. BREW: No questions.

18 CHAIRMAN LA ROSA: FIPUG?

19 MR. MOYLE: No questions.

20 CHAIRMAN LA ROSA: FPL?

21 MR. BURNETT: No questions.

22 CHAIRMAN LA ROSA: Staff?

23 MR. STILLER: No questions.

24 CHAIRMAN LA ROSA: Commissioners, do we have
25 any questions of Mr. Colton?

1 All right. Seeing none, back to you, OPC.

2 MR. PONCE: In that case, OPC asks that Mr.
3 Colton's previously identified exhibits, Nos. 144
4 through 148, please be entered into the record.

5 CHAIRMAN LA ROSA: Okay. Seeing no
6 objections, so moved.

7 (Whereupon, Exhibit 144-248 were received into
8 evidence.)

9 CHAIRMAN LA ROSA: Anything else that needs to
10 be moved into the record? It doesn't sound like
11 it. Okay. Excellent.

12 Mr. Colton, thank you very much for your
13 testimony.

14 THE WITNESS: Thank you, Your Honor.

15 (Witness excused.)

16 CHAIRMAN LA ROSA: OPC, you may call your next
17 witness.

18 MR. PONCE: OPC will call Timothy Devlin.

19 CHAIRMAN LA ROSA: Mr. Devlin, do you mind
20 coming to the microphone over here to the right
21 that's situated?

22 MS. CHRISTENSEN: No.

23 THE WITNESS: Oh, I am sorry.

24 CHAIRMAN LA ROSA: One more seat. Sorry about
25 that.

1 Do you mind raising your right hand when you
2 are ready?

3 Whereupon,

4 TIMOTHY J. DEVLIN

5 was called as a witness, having been first duly sworn to
6 speak the truth, the whole truth, and nothing but the
7 truth, was examined and testified as follows:

8 THE WITNESS: I do.

9 CHAIRMAN LA ROSA: Excellent. Great. Thank
10 you. Don't forget to turn your microphone on.

11 When you guys are ready, OPC, I will turn it
12 over to you.

13 EXAMINATION

14 BY MS. CHRISTENSEN:

15 **Q Good afternoon, Mr. Devlin. Can you please**
16 **state your name and business address for the record?**

17 A My name is Timothy J. Devlin, D-E-V, as in
18 victor, L-I-N. My address is 21 Equine Drive,
19 Crawfordville, Florida.

20 **Q And did you cause to be prefiled direct**
21 **testimony in this docket on June 9th, 2025?**

22 A Yes, I did.

23 **Q Do you have any corrections to that testimony**
24 **as we sit here?**

25 A No, I do not.

1 Q Okay. And did you -- and if I were to ask you
2 the same questions contained in your prefiled
3 testimonies, would your answers be the same today?

4 A Yes, they would.

5 MS. CHRISTENSEN: Mr. Chair, I would ask that
6 Mr. Devlin's testimony be entered into the record
7 as though read.

8 CHAIRMAN LA ROSA: So moved.

9 (Whereupon, prefiled direct testimony of
10 Timothy J. Devlin was inserted.)

11

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO.: 20250011-EI

FILED: June 9, 2025

DIRECT TESTIMONY

OF

TIMOTHY J. DEVLIN

ON BEHALF

OF

THE CITIZENS OF THE STATE OF FLORIDA

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DIRECT TESTIMONY

OF

TIMOTHY J. DEVLIN

On Behalf of the Office of Public Counsel

Before the

Florida Public Service Commission

DOCKET NO. 20250011-EI

I. INTRODUCTION

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Timothy J. Devlin. My business address is 21 Equine Dr., Crawfordville, FL 32327.

Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS PROCEEDING?

A. I am testifying on behalf of the Office of Public Counsel. Its business address is 111 West Madison St., Room 812, Tallahassee, Florida 32399-1300.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND PROFESSIONAL EXPERIENCE.

A. I have a Bachelor of Business Administration degree from the University of South Florida, 1974, with a major in Finance. I was a Certified Public Accountant (“CPA”) licensed in the State of Florida from 1977 to 2021. I was employed by the Florida Public Service Commission (“Commission”) from 1976 to 2011. I held various positions with the Commission including Director of the Auditing & Finance Division, Director of the Economic Regulation Division, and Executive Director. I also served, under contract, with

1 the Florida Department of Agriculture and Consumer Services' Office of Energy policy
2 from 2011 to 2012.

3

4 **Q. HAVE YOU TESTIFIED BEFORE THE FLORIDA PUBLIC SERVICE**
5 **COMMISSION ("COMMISSION") BEFORE?**

6 A. Yes, I have testified in rate cases as well as rulemaking proceedings before the
7 Commission. I testified in FPL's most recent rate case, Docket No. 20210015-EI on behalf
8 of Floridians Against Increased Rates, Inc. I have also authored and co-authored many
9 recommendations to the Commissioners on accounting, financial, and ratemaking issues,
10 and I participated in making verbal presentations of many of those recommendations to the
11 Commissioners. I have also made several presentations to various Florida legislative
12 committees upon request. These presentations included topics such as the Commission's
13 budget and overviews of Commission proceedings as well as various technical
14 presentations. I was involved in the Commission's training program for its staff. I made
15 several presentations regarding the determination of revenue requirements in rate
16 proceedings.

17

18 **Q. ARE YOU SPONSORING ANY EXHIBITS IN THIS CASE?**

19 A. Yes, I am sponsoring the following exhibits:

- 20 • TJD-1 Resume of Timothy J. Devlin
- 21 • TJD-2 Comparison of Authorized Midpoint Return on Equity (ROE) to the
- 22 Achieved ROE
- 23 • TJD-3 Dividends and Retained Earnings
- 24 • TJD-4 Customer Impact of Earning above Midpoint

- TJD-5 Approximate Effect of the Amortization of \$200 million of Unprotected Deferred Tax Liability (DTL) on Customer Rates for 2026 and 2027.

II. DISCUSSION

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to address FPL's proposed Tax Adjustment Mechanism ("TAM"). I believe that the TAM would not be consistent with sound regulatory practice nor is it in the public interest; therefore, it should be rejected in its entirety.

Q. WHAT WOULD BE THE BASIS OF THE TAM?

A. The TAM would be based on the DTL that utilities book for income taxes on a stand-alone basis. The DTL is derived principally from certain tax preferences granted by Congress and administered by the Internal Revenue Service ("IRS"). DTLs are subject to a timing difference in amortization between book and tax expenses. For instance, the IRS allows accelerated depreciation rates for taxes, but the booked depreciation is based on Commission depreciation (straight remaining life) rates. The (higher) income taxes related to the (lower) book depreciation are collected from customers in rates. However, the acceleration of depreciation rates for tax purposes allows the company to decrease its current tax expense in the early years while collecting the taxes related to the book depreciation in rates. This difference creates the DTL. The book taxes are higher in early years of asset lives but lower in later years. This in turn creates deferred tax liabilities in early years of asset lives which "turnaround" in later years as the taxes are actually paid and should result in a zero balance for each asset at the end of the asset's life.

In 1969, Congress adopted what are known as "normalization" rules which require that the tax benefits from progressive tax policies such as accelerated depreciation be

1 amortized (normalized) over the life of the related depreciable asset rather than pass
2 directly (flow through) to ratepayers. As noted above, this difference results in the DTL
3 which, in Florida, is recognized for ratemaking as a source of cost-free capital instead of a
4 reduction of rate base as is done in most other states. Both methods yield essentially the
5 same revenue requirement impact. Some describe it as a cost-free loan from the federal
6 government.

7 Current tax law establishes two kinds of DTLs: protected and unprotected. The
8 protected amounts, which are plant-related,¹ must be amortized (normalized) over the life
9 of the related asset. The unprotected amounts, which are not considered plant-related, do
10 not have this restriction and would be the basis for FPL's TAM.

11
12 **Q. PLEASE EXPLAIN WHY YOU BELIEVE THAT THE TAM WOULD BE**
13 **NEITHER CONSISTENT WITH SOUND REGULATORY PRACTICE NOR IN**
14 **THE PUBLIC INTEREST?**

15 A. The regulatory framework under which utilities and the Commission operate is the long-
16 established practice commonly referred to as the Regulatory Compact. Under this practice,
17 a regulated utility is granted the exclusive right to serve a designated territory and enjoy a
18 monopoly status. In exchange for monopoly status, the utility agrees to provide utility
19 service to all customers in its service area at fair and reasonable rates. Fair and reasonable
20 rates are predicated on the reasonable and prudent costs of the utility including a fair rate
21 of return on equity ("ROE"). In Florida, the midpoint ROE is used in determining fair and
22 reasonable rates. The Commission typically approves a 100-basis point range on both sides
23 of the midpoint ROE and within which the utility has the opportunity to earn its return on

¹ Plant-related assets include long term assets (asset lives greater than one year) and involve generation, transmission and distribution facilities.

equity. For example, FPL's current midpoint ROE is 10.8%, and FPL is authorized to earn up to 11.8% ROE without any regulatory interference. As proposed, the TAM would provide FPL with significant control over its earnings levels for the next four years. Rather than allowing FPL the opportunity to earn within a reasonable return on equity range, the TAM would provide FPL a method of, based on history, virtually ensuring that FPL can earn an ROE at the top of its authorized range for the next four years thereby rendering meaningless the midpoint ROE as a basis for establishing fair, just, and reasonable rates.

Q. HOW WOULD THE TAM BE SIMILAR TO THE RESERVE SURPLUS ADJUSTMENT MECHANISM ("RSAM") USED BY FPL IN PREVIOUS YEARS?

A. FPL admits that the TAM and the RSAM are similar in nature, and that the TAM will serve the same purpose as the RSAM.² With the RSAM, a portion of the depreciation reserve surplus (created from excess depreciation expense), referred to as the Reserve Amount, is accrued at the expense of ratepayers. Likewise, TAM involves identification of a subset of the collection from ratepayers for FPL's standalone tax expense before those taxes become due to the IRS and which are recorded as a DTL. FPL has selected two categories of unprotected DTLs: tax repairs and mixed service costs. The total balance for these two DTL categories is projected to be \$2.041 billion in 2026, of which FPL has identified \$1.717 billion to include in the proposed "TAM Amount" and use for its proposed TAM.³ The total balance of unprotected DTLs is approximately \$2.6 billion.

Q. ARE THERE ANY DIFFERENCES BETWEEN THE TAM AND THE PREVIOUS RSAM?

² Direct Testimony of FPL Witness Scott Bores, p.55, lines 21-22.

³ Direct Testimony of FPL Witness Ina Laney, Exhibit IL-12 p. 1 of 1 - ERRATA.

1 A. Yes, there are three differences between the RSAM and the TAM. First, the RSAM Reserve
2 Amount was based on a calculated depreciation reserve surplus and represented
3 overpayment or excess depreciation charges based on a current depreciation study or
4 stipulated parameters approved by the Commission. It is important to rectify overpayment
5 or excess expense as soon as possible to better match the contributor of the expense and
6 the recipient of subsequent credits. This is known as intergenerational equity. The
7 functional equivalent, known as the TAM Amount, would not represent an overpayment
8 or excess income taxes pay by ratepayers because the Excess Deferred Taxes from the 2017
9 federal income tax reduction will be fully amortized in 2025 as a result of the settlement in
10 FPL's 2021 rate case. In contrast, the TAM would be unprecedented as it would represent
11 accelerated amortization of otherwise normal DTLs for the sole purpose of increasing
12 earnings. Second, unlike the depreciation reserve used with the RSAM, the DTLs in the
13 TAM Amount that would be used for the TAM would be grossed up for income taxes in
14 accordance with FPSC Rule 25-14.013, Florida Administrative Code. Third, unlike the
15 RSAM, FPL proposes to use Regulatory Asset and Liability accounts in the application of
16 the TAM.

17
18 **Q. WHAT WOULD BE THE EXPECTED RATEPAYER IMPACT IF THE TAM IS**
19 **APPROVED AS PROPOSED BY FPL?**

20 A. Based on the past decisions by FPL with respect to the RSAM over the last four years, I
21 expect that FPL will use the TAM, if approved, to achieve earnings over \$1.7 billion dollars
22 in excess of the midpoint ROEs. (See Exhibit TJD-2). This amount would flow to FPL's
23 shareholders and would not be necessary for FPL to achieve a reasonable ROE. The
24 ratepayers, who contributed to the DTLs will incur future rates significantly greater than
25 they otherwise would be absent the TAM.

1 **Q. HOW DID THE RSAM AFFECT SHAREHOLDERS?**

2 A. Since the introduction of the current version of the RSAM in 2013, income transferred
3 from FPL to its parent company, NextEra Energy (NEE), increased annually from
4 approximately \$1.5 billion in 2014 to \$4.4 billion in 2024. This resulted in extraordinary
5 increases in both dividend payments and retained earnings. (See Exhibit TJD-3). A
6 significant portion of these increases is attributable to the unnecessary use of the RSAM.

7
8 **Q. DO YOU BELIEVE THAT THE TAM PROPOSED IN THIS PETITION WOULD**
9 **UNDERMINE THE STATUTORY OBLIGATION UNDER SECTION 366.05,**
10 **FLORIDA STATUTES, FOR THE COMMISSION TO SET FAIR AND**
11 **REASONABLE RATES?46**

12 A. Yes, I believe the proposed TAM would undermine the statute as I understand it based on
13 my decades of experience. Section 366.05, Florida Statutes, states that “the Commission
14 shall have the power to prescribe fair and reasonable rates and charges.” I believe that fair
15 and reasonable rates are predicated on rates being set at the midpoint ROE. The TAM could
16 be used to erode this expectation by the fact that rates may be set at a midpoint ROE, but
17 with the TAM, the utility could virtually ensure earnings at the top of the range for an
18 increase in earnings of as much as 100 basis points (\$500 million is the value of 100 basis
19 points on equity at FPL’s requested ROE) by simply dipping into the designated
20 unprotected DTL balance. I believe that the earned ROE is considered fair if it falls within
21 the authorized range of plus or minus 100 basis points from the midpoint ROE or whatever
22 range the Commission deems appropriate. As long as FPLs earnings fall within this range,
23 its financial position will remain strong. It would be unfair to use the ratepayer provided
24 DTL to needlessly allow FPL to practically ensure earnings at the top of the ROE range.

1 **Q. DOES SECTION 366.071, FLORIDA STATUTES, ALREADY PROVIDE**
2 **EARNINGS PROTECTION FOR UTILITIES?**

3 A. Yes. Based on my decades of experience working with implementing this law, I am aware
4 that Section 366.071, Florida Statutes, known as the interim statute, provides an expedited
5 process wherein utilities with deficient earnings may seek to increase rates within 60 days
6 on an interim basis, subject to refund, to a reasonable level known as the required rate of
7 return. While the interim statute does not prescribe a particular range, a 100-basis point
8 spread above and below the midpoint ROE is common practice. This statute lessens the
9 need for a TAM as it provides a safeguard against deficient earnings. This statute was
10 enacted in the late 1970's. Before then, utilities would usually have to undergo a full rate
11 case proceeding before any rate relief for inadequate earnings.

12

13 **Q WHAT OTHER FACTORS REDUCE RISK FOR FPL AND AFFORD EARNINGS**
14 **PROTECTION?**

15 A. A significant portion of FPL's operations are subject to various cost recovery clauses or
16 similar mechanisms. These include the following: fuel costs, conservation costs, capacity
17 costs, environmental costs, storm protection plan costs, and the storm damage recovery
18 mechanism. These cost recovery clauses and mechanisms represent approximately 39% of
19 FPL's total revenue base and significantly reduce earnings risk exposure.

20

21 **Q. HOW MUCH CONTROL WOULD FPL HAVE OVER ITS ROE USING THE**
22 **TAM?**

23 A. Under FPL's proposal, it would have significant control of its reported, achieved ROE.
24 FPL has requested to be able to use the TAM and unprotected DTLs of \$1.717 billion in
25 the TAM Amount over the four-year period to increase, at its sole discretion, its ROE even

1 if it is earning above its midpoint ROE. It is the midpoint ROE that is used to establish and
2 then measure fair and reasonable rates and afford FPL the opportunity to earn a reasonable
3 ROE. This regulatory framework facilitates FPL's strong financial standing. FPL does not
4 need to earn more than its authorized ROE to remain financially viable. The difference in
5 revenue requirements between the midpoint ROE and top of the range ROE was about
6 \$1.54 billion over the past four years and will be in excess of \$2 billion during the
7 upcoming four-year period, 2026 through 2029.
8

9 **Q. HAS FPL DESIGNED THE PROPOSED TAM TO BE USED TO ACHIEVE A**
10 **MIDPOINT ROE?**

11 A. Supposedly, FPL claims to have designed the TAM to achieve a mid-point ROE, but in
12 practice, a similar mechanism (RSAM) has been used to achieve ROEs at the high end of
13 its authorized range. It is my understanding that the TAM Amount of \$1.717 billion would
14 be based on FPL's requested midpoint ROE of 11.9%. It is my further understanding that
15 based on its past practice, FPL wants the ability to use the TAM to achieve an ROE above
16 the midpoint up to the top of the range ROE.⁴ Presumably, FPL wants the ability to claim
17 any cost efficiencies for the benefit of shareholders by reporting achieved ROEs at or near
18 the top of the ROE range. History demonstrates that FPL would use the TAM as it did the
19 RSAM to achieve top-of-the-range ROEs because of its loyalty to its parent company and
20 shareholders, and FPL would merely use cost efficiency as its excuse to use the TAM to
21 reach the top of the range.

⁴ See 2021 deposition of FPL Witness Ferguson, who is responsible for the Earnings Surveillance Report preparation, at page 109 where he testified that the use of the RSAM was the last step in finalizing the reported, achieved ROE. This demonstrates that to the extent that the RSAM is used to achieve the target ROE, it is not being used to achieve the mid-point ROE.

1 **Q. DO YOU SEE ANY FLAWS WITH FPL’S CLAIM THAT IT IS TARGETING A**
2 **MID-POINT ROE?**

3 A. Yes. FPL’s Witness Laney’s Exhibit IL-13 purportedly shows that the TAM targets a mid-
4 point ROE. However, in that exhibit, FPL uses a proposed ROE of 11.9%. Based on my
5 experience, it seems inconceivable that the ultimate authorized ROE will not be
6 substantially less given past Commission decisions. Unlike rate case-based forecasts, the
7 forecast for 2028 and 2029 used to justify a TAM amount of \$1.717 billion is based on
8 abbreviated data and assumptions and could be prone to bias and inaccuracy.

9
10 **Q. HOW DO YOU KNOW THAT FPL WOULD USE THE TAM TO INCREASE ROE**
11 **TO THE TOP OF THE ROE RANGE?**

12 A. History indicates that FPL intends to use the TAM in the same manner as the RSAM. This
13 means FPL will use the TAM to increase earnings to the top or near the top of its authorized
14 ROE range. As shown on Exhibit TJD-2, FPL used the RSAM to achieve an ROE at the
15 top of the authorized range five of the eight years in FPL’s past two rate cases and well
16 above the midpoint ROE in all of these years. FPL Controller Keith Ferguson and FPL
17 Witness Laney have testified that the RSAM was used to hit FPL’s target ROE (which was
18 usually the top of the range). For 2026 and 2027, it is estimated that the difference between
19 the mid-point ROE and top of the range ROE is \$503 million and \$541 million,
20 respectively. If we extrapolated these numbers to the four period 2026 through 2029, it is
21 very possible that FPL will use all of its TAM Amount to achieve ROEs above the midpoint
22 in all four years.

23
24 **Q. HOW WOULD FPL’S CONTROL OVER THE PROPOSED TAM AMOUNT**
25 **AFFECT RATEPAYERS?**

1 A. To the extent FPL uses any part of the TAM Amount to increase earnings above what is
2 necessary to maintain a strong financial position, it would be needlessly enriching
3 shareowners to the detriment of ratepayers. Rates for ratepayers will be higher than
4 otherwise in the future if FPL has complete control over the TAM Amount. As shown on
5 Exhibit TJD-2, FPL used the RSAM with both deductions and increases in depreciation
6 expense that led to at or near the top of its ROE range. Again, I would expect a similar
7 pattern with the TAM, if approved.
8

9 **Q. HOW DID FPL’S USE OF THE RSAM AFFECT RATEPAYERS IN THIS CASE?**

10 A. FPLs depletion of the Reserve Amount to increase shareholder earnings has had the effect
11 of increasing rate base and corresponding revenue requirements in this case. As shown on
12 Exhibit TJD-4, FPL has increased its revenue requirements due to past RSAM usage by
13 approximately \$1.45 billion above its midpoint ROE over a four-year period based on the
14 final order in its last rate case. This cost each ratepayer approximately \$46 a year more than
15 if FPL would have achieved the ‘reasonable’ mid-point ROE during this timeframe. The
16 use of RSAM enabled FPL to charge each ratepayer about \$46 a year more than needed to
17 maintain a viable financial condition. Again, I expect similar outcomes with the TAM, if
18 approved.
19

20 **Q. ARE THERE BENEFITS ASSOCIATED WITH FPL’S PROPOSAL TO “STAY**
21 **OUT” OF A RATE CASE FOR FOUR YEARS?**

22 A. Any potential benefits would exist only if it could be demonstrated that without the use of
23 the RSAM or proposed TAM, FPL would have been at significant risk of earning below
24 the bottom of the authorized range. No compelling showing has been made by the
25 Company that it is at significant risk of earning below its authorized range. From 2022

1 through 2025, ratepayers were deprived of \$1.45 billion due to FPL's use of the RSAM.
2 (See Exhibit TJD-4). Ratepayers will probably lose another \$1.717 billion in revenue
3 requirement benefits under the TAM. This will have dramatic effects on future rates just
4 like the rates proposed by FPL in this case may be significantly higher because of the
5 impact of the historical use of the RSAM. Those likely TAM impacts would be way too
6 high a price for ratepayers in the future. Ratepayers would be better off with another rate
7 case in two years than they would be if the Commission approves the proposed TAM.
8

9 **Q. ARE THERE ANY OTHER REASONS YOU ARE OPPOSED TO THE TAM?**

10 A. Yes. The proposed TAM is unnecessary given information provided by FPL. It makes no
11 sense for it to apply to 2026 and 2027 because base rates will be fully vetted through full
12 Minimum Filing Requirements and expert testimony in a comprehensive evidentiary
13 proceeding so that base rates will provide the opportunity to earn at the authorized
14 midpoint. Also, one of the primary benefits of the TAM touted by FPL is avoidance of a
15 rate case filing but that does not apply to 2026 and 2027 since rate case filings have already
16 been made. Regarding 2028 and 2029, the revenue requirements for those years are likely
17 overstated by virtue of the use of FPL's proposed ROE of 11.90% because the ultimate
18 authorized ROE will undoubtedly be substantially lower. Thus, it would be unnecessary to
19 use the \$1.717 billion TAM Amount to achieve a proposed 11.90% ROE. Again, FPL's
20 history shows that it would use the discretion of the TAM as it did with RSAM to achieve
21 ROEs at or near the top of the range.
22

23 **Q. SINCE THE TAM WOULD NOT DIRECTLY AFFECT RATES IN THIS CASE**
24 **AND SINCE ANY RELATED TAM ACCOUNTING ENTRIES WILL BE MADE**

1 **AFTER RATES ARE SET, WHY IS THE AFTER-TAM ADJUSTED ROE**
2 **IMPORTANT TO RATEPAYERS?**

3 A. Any reduction in DTL for the exclusive benefit of FPL's shareholders deprives ratepayers
4 of the future benefits provided by those DTLs through lower than otherwise customer rates.

5
6 **Q. HOW DOES YOUR EXHIBIT TJD-4 RELATE TO WHAT YOU TESTIFIED TO**
7 **IN DOCKET NO. 20210015-EI?**

8 A. In that docket, I presented Exhibit TJD-5, that stated that the Revenue Requirement
9 difference between Achieved ROE and Midpoint ROE was estimated to be \$1.518 billion
10 for the period 2022 through 2025. Four years later, it appears FPL did use the RSAM to
11 report achieved ROEs at or near the top of the range and the effect is about \$1.46 billion in
12 increased revenue requirements. Coincidentally, FPL was authorized to use a \$1.45 billion
13 Reserve Amount for use of its RSAM for years 2022 through 2025. FPL did not need the
14 RSAM to earn a reasonable ROE. I recommended in my testimony in FPL's 2021 rate case
15 that the Commission reject the RSAM, and I recommend rejection of the TAM for the same
16 reasons plus additional reasons.

17
18 **Q. DO YOU HAVE ANY CONCERNS WITH FPL'S PROPOSED ACCOUNTING**
19 **FOR THE TAM?**

20 A. Yes, FPL proposes the use of a Regulatory Asset and Regulatory Liability for its TAM.
21 Regulatory Assets and Liabilities need to be based on an order or rule by the regulator, the
22 Florida PSC or FERC. FPL has not indicated what order or rule it is relying on for this
23 accounting treatment. The proposed Regulatory Asset has a 30-year effect of \$115 million
24 a year. That comes out to be \$3.45 billion, double the TAM amount. FPL has not explained
25 why use of a Regulatory Asset or Regulatory Liability is necessary or why it doubled its

1 proposed Regulatory Asset amortization from the total TAM Amount. The use of a
2 Regulatory Asset needlessly increases revenue requirements in the future because of the
3 associated annual amortization of \$115 million over 30 years. Also, it is unclear whether
4 FPL intends to include the Regulatory Asset in rate base which would entail additional
5 costs to ratepayers.

6 The proposed Regulatory Liability is based on the unprotected DTLs for the Tax
7 Repairs and Mixed Services Costs accounts but does not directly affect DTLs or Account
8 282-Accumulated Deferred Income Taxes. In FPL's proposal, the Regulatory Liability is
9 the vehicle used to amortize tax credits primarily for the benefit of shareholders. This
10 accounting method preserves DTLs at current balances and therefore, provides FPL the
11 opportunity to request a TAM in the future by simply creating new Regulatory Asset and
12 Liability accounts without concern over the depletion of DTLs. According to Witness
13 Laney on page 48 of her testimony, the TAM Regulatory Asset and Liability has not been
14 established yet and nor approved by the Commission. If the Commission approves the
15 accounting for a Regulatory Asset and Liability for the TAM, it will probably result in a
16 substantial increase in rate base amortized over 30 years as well as charges, not credits, to
17 tax expense. The RSAM used in past cases did not involve Regulatory Assets or Liabilities.
18 I do not believe that this accounting step is necessary with the TAM and is potentially very
19 harmful to ratepayers. Unless FPL can prove that use of a Regulatory Asset and Liability
20 is in the ratepayers' best interest, I propose that if a TAM is to be used, that it only involve
21 the primary accounts for deferred taxes: Account 282-Accumulated Deferred Income
22 Taxes and Account 411.1-Provision for Deferred Income Taxes-Credits, Utility Operating
23 Income.

1 **Q. DO YOU SEE ANY OTHER PROBLEMS WITH FPL USING THE TAM TO**
2 **ACHIEVE EARNINGS ABOVE THE MIDPOINT ROE?**

3 A. Yes, it appears that FPL's method assumes any efficiency measure should be reflected after
4 the TAM brings the achieve ROE to the midpoint authorized ROE. However, this involves
5 "color coding" dollars with the application of the TAM amortization first and then
6 recognizing any alleged positive cost effects related to efficiency measures to enhance
7 earnings. FPL would accomplish this by crediting income with additional TAM Amount
8 amortization. Another problem with this approach is that there is no verification process
9 proffered that the Commission could use to validate any cost savings that underlie the
10 additional TAM amortization. What's more, at least for 2026 and 2027, FPL should have
11 already "baked in" or reflected all efficiencies in the MFRs and not holding back on them
12 to create shareholder windfalls.

13

14 **Q. DO YOU BELIEVE THAT TAM SHOULD BE APPROVED?**

15 A. No. Given the past use of RSAM which is analogous to TAM, I believe the consequences
16 of the TAM far outweigh the purported benefits such as avoidance of a rate case for two
17 years and alleged rate stability. Under the RSAM, FPL was able to earn ROEs far above
18 what is necessary to achieve a reasonable ROE, and the cost to ratepayers was significant.
19 (See Exhibit TJD-2). The difference between the mid-point ROE and top of the range ROE
20 was about \$484 million in 2025, and it is expected to grow in 2026 and 2027 to \$503
21 million and \$541 million. That staggering effect would exist even if somewhat lowered
22 due to a reasonable ROE and would continue to grow in 2028 and 2029. Such returns only
23 benefit shareholders, are not necessary to keep any company from filing a rate case, are not
24 necessary for FPL to be financially viable, nor are they required to attract needed capital
25 (debt & equity). In addition, unlike the RSAM, the TAM would not deal with excess

1 expense which would lends itself to a short amortization period to address intergenerational
2 equity concerns. Instead, the TAM would rely on regular “unprotected” DTLs, which have
3 never been subject to accelerated amortization before. I believe any new accounting
4 treatment for DTLs should be handled on a generic basis in a proceeding with all utilities
5 and other interested parties involved.
6

7 **Q. IF THE TAM IS APPROVED OVER OPC’S OBJECTIONS, SHOULD THE COST**
8 **OF EQUITY BE ADJUSTED TO REFLECT THE LOWER RISK TO FPL?**

9 A. Yes, the recommended ROE by OPC Witness Lawton should be further reduced by at least
10 50 basis points to reflect the lower risk provided to FPL by the TAM. The use of the TAM
11 will afford FPL the ability to virtually guarantee that it will achieve a reasonable rate of
12 return. The cost of capital models used by FPL and other parties include proxy companies
13 that do not have that unique risk-reducing advantage of the TAM. The cost of capital impact
14 of the analogous RSAM (of an FPL affiliate) was addressed by the Commission in Docket
15 No. 20220069-GU, *Petition for rate increase by Florida City Gas*.⁵ A 50 basis point
16 reduction reflecting the risk-reduction benefits to the utility was recognized. Although that
17 case is pending appeal, the risk-reduction ROE adjustment due to the RSAM is not a
18 contested aspect of the appeal.
19

20 **Q. IF THE TAM IS APPROVED OVER OPC’S OBJECTIONS, DO YOU BELIEVE**
21 **THAT THE TAM SHOULD BE AVAILABLE TO BE USED FOR ALL FOUR**
22 **YEARS (2026 THROUGH 2029)?**

⁵ See Commission agenda conference transcript dated March 28, 2023. Document No. 02621-2003, PSC Docket No. 20220069-GU, p. 39 – 46, *In re: Petition for rate increase by Florida City Gas*.

1 A. No. If the Commission approved the TAM over OPC's objection, there is no reason for
2 FPL to need the TAM in 2026 and 2027. Revenue requirements and base rates will be set
3 in each of those years at a mid-point ROE using the most recent comprehensive financial
4 forecast data. Additionally, if the primary benefit of the TAM is supposedly to avoid future
5 rate cases, it should not apply to 2026 and 2027 because this rate case already involves
6 those two years. Moreover, if FPL wants to earn a higher than mid-point ROE due to
7 efficiency measures, than it needs to prove it in the main rate case as opposed to claiming
8 such benefits at a later date when there is no opportunity for challenge by any party
9 including the Commission. Also, FPL Witness Laney's own Exhibit IL-13 shows that the
10 use of the TAM is only for years 2028 and 2029.

11
12 **Q. WOULD YOU RECOMMEND THAT THE COMMISSION CONSIDER AN**
13 **ACCELERATED AMORTIZATION OF ADDITIONAL UNPROTECTED DTLs?**

14 A. No, not in this case. In the past, accelerated amortization of DTLs has been limited to
15 Excess DTLs such as the 10-year amortization ordered by the Commission when the
16 federal corporate tax rate was reduced from 35 percent to 21 percent in 2017. Other than
17 cases of excess DTLs, accelerated amortization of DTL has not been approved by the
18 Commission. I believe that if the Commission is considering accelerating amortization of
19 unprotected DTLs then it should consider opening a generic docket that would explore the
20 advantages and disadvantages of accelerated unprotected DTL with regards to all utilities.
21 This is yet another reason to reject FPL's proposal in its entirety and further investigate
22 whether acceleration of the amortization of DTLs is based on sound legal and accounting
23 principles.

1 **Q. IF THE TAM IS APPROVED OVER OPC'S OBJECTIONS, WHAT OTHER**
2 **MODIFICATIONS TO THE TAM WOULD BE REQUIRED TO PROTECT**
3 **RATEPAYERS?**

4 A. I believe if a TAM is to be authorized over these objections, then ratepayers who paid the
5 income taxes should be the primary beneficiaries. I would propose a two-step process to
6 first use the proposed TAM Amount of \$1.717 billion to offset revenue requirements over
7 a four-year period commencing January 1, 2026. (See Exhibit TJD-5). Second, to enable
8 genuine "stay out" flexibility, authorize FPL to use any part of the remaining balance of
9 unprotected DTL to achieve an ROE no greater than the point halfway between the bottom
10 of the ROE range and the midpoint ROE that is reflective of the lower risk to FPL by use
11 of the TAM in years 2028 and 2029. This would leave approximately \$917 million for FPL
12 to use to ensure it stays within the reasonable ROE earnings range in years 2028 and 2029
13 while also providing some benefit to ratepayers. We must keep in mind that ratepayers paid
14 the deferred taxes in the first place. Also, FPL should not be permitted to credit back to the
15 DTL balance. FPL should only be permitted to debit entries, with corresponding credits to
16 income tax expense.

17
18 **III. CONCLUSION**

19 **Q. PLEASE SUMMARIZE YOUR DIRECT TESTIMONY?**

20 A. I believe that FPL's proposed TAM is seriously flawed from the ratepayer's perspective.
21 It is not needed for FPL to earn a reasonable mid-point ROE or to stay out from filing a
22 rate case for the upcoming four-year period. My reason for this assertion is primarily based
23 on the results from the previous, very analogous, RSAM where FPL needlessly achieved
24 earnings above what is necessary to maintain financial viability to significant detriment of
25 the ratepayers. This has resulted in customers paying about \$46 a year or \$184 over the

1 previous four years more because of the RSAM. FPL did not need any part of the RSAM
2 to achieve a reasonable rate of return for years 2022 through 2025 or to stay out of filing a
3 rate case. (See Exhibit TJD-4). The Commission should not approve FPL's proposed TAM.
4 If the Commission does approve the proposed TAM over OPC's objections, then I am
5 suggesting certain modifications that should be made to ameliorate the negative impacts of
6 the TAM and protect ratepayers.

7

8 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

9 A. Yes.

1 BY MS. CHRISTENSEN:

2 Q Mr. Devlin, did you cause to be prefiled
3 exhibits to your testimony?

4 A Yes, I did.

5 Q And those exhibits numbers are DJL-1 through
6 DJL --

7 A DJD I think.

8 Q Oh, I'm sorry, DJD-5?

9 A Yes.

10 Q Do you have any corrections to any of your
11 exhibits?

12 A Yes, I do. I need to make some changes to
13 Exhibit No. 4.

14 Q And can you please state what those
15 corrections are?

16 A Yes. Looking at Exhibit No. 4 -- and I have
17 new copies here for the court reporter if the Chair
18 wishes. But the corrections to Exhibit 4, the top box,
19 I make corrections to the years 2022, I have changed the
20 number from 381 million to 337 million. And then over
21 on the effective rates, it goes from 4.3 percent to 3.6
22 percent.

23 In 2024, the number changed from 273 million
24 to 265 million. And then the rate -- the effect on
25 rates is 2.6 percent as opposed to 2.7.

1 And in 2025, the number changed from 484
2 million to 418 million, and the effect on rates is 4.3
3 percent. The total revenue requirement above the
4 midpoint is now 1.42 billion, versus what I had in the
5 exhibit originally at 1.54 billion, and the effect on
6 rates is 3.7 percent.

7 CHAIRMAN LA ROSA: Thank you, and we have got
8 the changes.

9 THE WITNESS: Okay.

10 CHAIRMAN LA ROSA: Thank you.

11 BY MS. CHRISTENSEN:

12 **Q Does that conclude all of the corrections that**
13 **you had to your exhibits today?**

14 A Yes.

15 **Q Mr. Devlin, did you prepare a summary of your**
16 **testimony?**

17 A Yes, I did.

18 **Q I would ask that you give your summary?**

19 A Okay. Good afternoon, Commissioners. Thank
20 you for the opportunity to testify in this very
21 important case. I am testifying on behalf of the Office
22 of Public Counsel. My testimony involves the evaluation
23 of FPL's proposed tax adjustment mechanism, better known
24 as TAM. I believe that TAM would not be consistent with
25 sound regulatory practice, nor is it in the public

1 interest, therefore, it should be rejected in its
2 entirety. I base my testimony on two points.

3 First, to the extent that TAM is analogous to
4 the previously used reserve surplus adjustment
5 mechanism, or RSAM, it is not needed for FPL to earn a
6 reasonable ROE and, therefore, not needed to avoid a
7 rate case in two years. FPL earned revenue in excess of
8 \$1.4 billion over its midpoint during the past four
9 years in which RSAM was employed. FPL used, at this
10 point, about \$1.1 billion of RSAM. Therefore, FPL would
11 have exceeded its midpoint without using any amounts
12 from RSAM, it would not need another rate case in two
13 years. FPL's choice to use RSAM needlessly costs
14 ratepayers over \$1.1 billion, which is reflected in
15 proposed rates in this case and will be reflected in
16 rates in the future.

17 My second point -- reason for, I believe, TAM
18 should be rejected is FPL's proposal to accelerate the
19 amortization of normal deferred taxes is contrary to
20 both past Commission practice and the matching principle
21 of matching tax expense credits to the life of the
22 related assets. I suggest a generic docket be used to
23 study the pros and cons of such an accounting treatment
24 before making any exceptions.

25 Lastly, in the event the Commission approves a

1 TAM over OPC's objections, I recommend certain
2 modifications to ameliorate the negative effects to the
3 ratepayers.

4 First, I recommend that the TAM not be used
5 for 2026 and 2027, since the primary purported benefit
6 of the TAM, as touted by FPL, is avoidance of a rate
7 case, yet we already have rate cases for those two
8 years.

9 And, second, the TAM amortization should be
10 limited to a reasonable midpoint ROE in 2028 and 2029,
11 and be reflective of the reduced risk associated with
12 the TAM.

13 Thank you.

14 MS. CHRISTENSEN: I tender Mr. Devlin for
15 cross-examination.

16 CHAIRMAN LA ROSA: Thank you.

17 FEL?

18 MR. MARSHALL: No questions, Mr. Chairman.

19 CHAIRMAN LA ROSA: FAIR.

20 MR. SCHEF WRIGHT: No questions, thank you.

21 CHAIRMAN LA ROSA: FEIA?

22 MR. KEVIN COX: No questions.

23 CHAIRMAN LA ROSA: Walmart?

24 MS. EATON: No questions.

25 CHAIRMAN LA ROSA: FRF?

1 MR. BREW: No questions.

2 CHAIRMAN LA ROSA: FIPUG?

3 MR. MOYLE: No questions.

4 CHAIRMAN LA ROSA: FPL?

5 MR. BURNETT: No questions.

6 CHAIRMAN LA ROSA: Staff?

7 MR. STILLER: No questions.

8 CHAIRMAN LA ROSA: Commissioners, are there
9 any questions?

10 Seeing none, back to you, OPC.

11 MS. CHRISTENSEN: Yes, I would ask that Mr.
12 Devlin's previously identified Exhibits 149 through
13 153 be entered into the record.

14 CHAIRMAN LA ROSA: Seeing no options, seeing
15 none, so moved.

16 (Whereupon, Exhibit Nos. 149-153 were received
17 into evidence.)

18 CHAIRMAN LA ROSA: Any other items that need
19 to be moved in? Okay. Seeing none.

20 The witness may be excused. Thank you.

21 MS. CHRISTENSEN: We ask to be excused.

22 THE WITNESS: Thank you.

23 (Witness excused.)

24 CHAIRMAN LA ROSA: While we get resettled,
25 let's -- just being conscious of time, let's take a

1 quick -- it is 2:30, yeah, let's take a quick break
2 for our court reporter and then we will jump right
3 back into witness testimony.

4 Thank you. Let's say 10 minutes from now, so
5 10 minutes til 3:00. Thanks.

6 (Brief recess.)

7 (Transcript continues in sequence in Volume
8 14.)

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1 CERTIFICATE OF REPORTER

2 STATE OF FLORIDA)
3 COUNTY OF LEON)
4

5 I, DEBRA KRICK, Court Reporter, do hereby
6 certify that the foregoing proceeding was heard at the
7 time and place herein stated.

8 IT IS FURTHER CERTIFIED that I
9 stenographically reported the said proceedings; that the
10 same has been transcribed under my direct supervision;
11 and that this transcript constitutes a true
12 transcription of my notes of said proceedings.

13 I FURTHER CERTIFY that I am not a relative,
14 employee, attorney or counsel of any of the parties, nor
15 am I a relative or employee of any of the parties'
16 attorney or counsel connected with the action, nor am I
17 financially interested in the action.

18 DATED this 28th day of October, 2025.
19
20

21 
22 DEBRA R. KRICK
23 NOTARY PUBLIC
24 COMMISSION #HH575054
25 EXPIRES AUGUST 13, 2028