

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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

VOLUME 15
PAGES 3201 - 3457

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

PREMIER REPORTING
TALLAHASSEE, FLORIDA
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1 P R O C E E D I N G S

2 (Transcript follows in sequence from Volume
3 14.)

4 CHAIRMAN LA ROSA: If I am not mistaken, OPC,
5 I think you have your final witness today.

6 MS. WESSLING: Thank you, Mr. Chairman. At
7 this time, OPC would call witness Bill Schultz.

8 CHAIRMAN LA ROSA: Mr. Schultz, when you are
9 settled, raise your right hand to be sworn in?
10 Whereupon,

11 HELMUTH W. SCHULTZ
12 was called as a witness, having been first duly sworn to
13 speak the truth, the whole truth, and nothing but the
14 truth, was examined and testified as follows:

15 THE WITNESS: I do.

16 CHAIRMAN LA ROSA: Excellent. Thank you.

17 EXAMINATION

18 BY MS. WESSLING:

19 Q All right. Good afternoon, Mr. Schultz.

20 A Good afternoon.

21 Q Would you please state your full name, and
22 spell your last name for the record?

23 A I am Helmuth W. Schultz, III, S-C-H-U-L-T-Z.

24 Q Thank you.

25 And did you cause to be filed prefiled direct

1 **expert testimony in this docket on June 9th, 2025?**

2 A I did.

3 **Q Do you have any corrections to your prefiled**
4 **testimony?**

5 A I have three pages where a correction needs to
6 be made.

7 **Q All right. Please list those corrections.**

8 A Yes. On page 31, lines six and seven, the
9 dollar values that are there actually match the dollar
10 values in my exhibits, the difference is the exhibits
11 are in thousands of dollars and these don't reflect the
12 last three zeros, so each of the numbers need to have
13 three zeros added to them.

14 **Q Are there any other corrections?**

15 A Yes. On page 36, on line 18, the dollar value
16 of 139,000,497 is missing a zero.

17 **Q All right. I believe you mentioned there was**
18 **one more.**

19 A Yes. On page 38, line seven, it's the same
20 scenario as the first one. The numbers on line seven
21 each need the three zeros put behind them.

22 **Q All right. So notwithstanding those**
23 **corrections to your testimony, are those numbers**
24 **correctly reflected within your exhibits?**

25 A Yes, they are.

1 **Q And if I were to ask you the same questions**
2 **today, would your answers be the same?**

3 **A Yes, this they would.**

4 MS. WESSLING: Mr. Chair, I would ask that Mr.
5 Schultz's testimony be entered into the record as
6 though read.

7 CHAIRMAN LA ROSA: So moved.

8 MS. WESSLING: Thank you.

9 (Whereupon, prefiled direct testimony of
10 Helmuth W. Schultz was inserted.)

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 20250011-EI
FILED: June 9, 2025

~~PORTIONS CONFIDENTIAL PER DESIGNATION OF THE COMPANY~~

**DIRECT TESTIMONY
OF
HELMUTH W. SCHULTZ, III.
ON BEHALF
OF
THE CITIZENS OF THE STATE OF FLORIDA**

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DIRECT TESTIMONY
OF
Helmuth W. Schultz, III

On Behalf of the Office of Public Counsel
Before the
Florida Public Service Commission
Docket No. 20250011-EI

1 **I. STATEMENT OF QUALIFICATIONS**

2 **Q. PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS ADDRESS.**

3 A. My name is Helmuth W. Schultz, III. I am a Certified Public Accountant licensed in
4 the State of Michigan and a senior regulatory consultant at the firm Larkin &
5 Associates, PLLC, (“Larkin”) Certified Public Accountants, with offices at 15728
6 Farmington Road, Livonia, Michigan, 48154.

7

8 **Q. PLEASE DESCRIBE THE FIRM LARKIN & ASSOCIATES, P.L.L.C.**

9 A. Larkin performs independent regulatory consulting primarily for public service/utility
10 commission staffs and consumer interest groups (public counsels, public advocates,
11 consumer counsels, attorneys general, etc.). Larkin has extensive experience in the
12 utility regulatory field as expert witnesses in over 600 regulatory proceedings,
13 including water and sewer, gas, electric, and telephone utilities.

14

15 **Q. HAVE YOU PREPARED AN EXHIBIT WHICH DESCRIBES YOUR**
16 **EDUCATIONAL BACKGROUND AND PROFESSIONAL EXPERIENCE?**

17 A. Yes. I have attached Exhibit HWS-1, which is a summary of my background,
18 experience and qualifications.

1 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE FLORIDA PUBLIC**
2 **SERVICE COMMISSION AS AN EXPERT WITNESS?**

3 A. Yes. I have provided testimony before the Florida Public Service Commission
4 (“Commission” or “FPSC”) as an expert witness in the area of regulatory accounting
5 and storm recovery costs in numerous cases as listed in Exhibit HWS-1.

6

7 **Q. BY WHOM WERE YOU RETAINED, AND WHAT IS THE PURPOSE OF**
8 **YOUR TESTIMONY?**

9 A. Larkin was retained by the Florida Office of Public Counsel (“OPC”) to review the
10 request for Florida Power & Light Company (“Company” or “FPL”) for what the
11 Company calls a four-year rate plan consisting of two base rate revenue increases in
12 2026 and 2027 followed by Solar and Battery Base Rate Adjustments (“SoBRAs”) in
13 2028 and 2029 totaling 4,470 MW of solar and battery storage. The initial total base
14 rate revenue increase requested is \$1.545 billion based on a projected 2026 test year
15 and a base rate revenue increase of \$927 million based on a projected 2027 test year.
16 The filing also includes FPL’s request to be allowed to establish a Tax Adjustment
17 Mechanism (“TAM”) as a replacement for the Reserve Surplus Amortization
18 Mechanism (“RSAM”), the request to be allowed Storm Protection Plan (“SPP”) costs
19 that are currently collected through base rates to now be shifted out of base rates to be
20 collected through the Storm Protection Plan Cost Recovery Clause (“SPPCRC”), and
21 the request to increase the storm reserve from \$220 million to \$300 million. My
22 testimony addresses certain aspects of the filing as set out more fully below.

1 **Q. ARE YOU INCORPORATING ANY RECOMMENDATIONS OF OTHER OPC**
2 **WITNESSES?**

3 A. Yes. William Dunkel makes recommendations regarding requested depreciation and
4 dismantlement studies and the resulting projected expenses, Daniel Lawton makes
5 recommendations regarding the projected capital structure and return on equity
6 (“ROE”), Jacob Thomas addresses revenue and load forecasting, James Dauphinais
7 addresses the economics of certain proposed resource additions and regulatory
8 considerations related to the reserve margin, and Timothy Devlin addresses the
9 requested TAM and why the Commission should not approve it. I am incorporating
10 their recommendations into my testimony as they affect revenue requirements.
11 Additionally, Roger Colton is presenting testimony regarding affordability concerns,
12 which the adjustments recommended by all of OPC’s witness, including myself, would
13 help to ameliorate.

14

15 **II. BACKGROUND**

16 **Q. PLEASE SUMMARIZE YOUR UNDERSTANDING OF THE COMPANY’S**
17 **REQUEST.**

18 A. The petition in Docket No. 20250011-EI is described by FPL as a proposal for setting
19 rates based on two projected test years that would run from 2026 through at least the
20 last billing cycle of December 2027, and consisting of, in part: (a) an increase in base
21 rates and charges sufficient to generate a total base rate revenue increase of \$1.545
22 billion beginning on January 1, 2026, and an additional increase of \$927.354 million
23 beginning on January 1, 2027; (b) an 11.9% mid-point ROE and an equity ratio of
24 50.07% (59.6 % of all investor sources) for 2026 and 50.12% (59.6 % of all investor

1 sources) for 2027, respectively, on a regulatory-based capitalization; and (c) the
2 continuation of the Storm Damage Reserve provision and a request to increase the
3 reserve.

4

5 **Q. IS THE OPC SUBMITTING SCHEDULES WITH RECOMMENDATIONS**
6 **BASED ON THE TWO YEARS REQUESTED?**

7 A. Yes. Attached as Exhibit HWS-2 are the recommendations based on an analysis of the
8 two years requested.

9

10 **Q. PLEASE SUMMARIZE WHAT REVENUE INCREASE THE COMPANY**
11 **SEEKS IN ITS REQUEST TO THE FLORIDA PUBLIC SERVICE**
12 **COMMISSION?**

13 A. The February 28, 2025, petition filed by FPL seeks an estimated base rate adjustments
14 of approximately \$1.55 billion for 2026 and \$930 million for 2027. The proposal also
15 seeks to include SoBRA mechanisms in 2028 and 2029 to allow FPL to recover the
16 costs of building and operating additional solar and battery projects.

17

18 **Q. HAS THE COMPANY IDENTIFIED CORRECTIONS TO THEIR FILING?**

19 A. Yes and no. The Company filed a “Notice of Identified Adjustments” on May 23, 2025,
20 but at a point in time after I had to cut off analysis of further new information, begin
21 incorporating the input of six other experts, and finalize my own analyses,
22 recommendations, and testimony. Furthermore, the Company stated, “FPL is not
23 proposing to adjust its requested revenue requirements for the 2026 Projected Test Year

1 or the 2027 Projected Test Year at this time.”¹ So, while corrections were identified,
2 it is not yet certain how FPL intends for the parties and Commission to treat them.
3 Therefore, my recommendations are based on FPL’s initial filing. Given the late arrival
4 of the corrections, it may be necessary for me to supplement or revise my testimony.
5

6 **III. ORGANIZATION OF TESTIMONY**

7 **Q. HOW WILL YOUR TESTIMONY BE ORGANIZED?**

8 A. In Section IV, I present the overall financial summary for the base rate change, showing
9 the revenue requirement increase (decrease) for the test years ending December 31,
10 2026, and December 31, 2027, on behalf of OPC and the customers of FPL without
11 conceding whether it is appropriate for continuation of rates into 2028 and 2029 under
12 the proposed SoBRAs. In Section V, I will discuss Citizens’ proposed adjustments to
13 rate base. In Section VI, I will discuss Citizens’ proposed adjustments to operating
14 income. In Section VII, I will address the capital structure. In Section VIII, I address
15 various other issues. Exhibit HWS-2 presents the schedules and calculations in support
16 of the revenue requirements for the respective test years ending on December 31.
17 Exhibits HWS-3 through Exhibit HWS-5 are analyses of Plant Held for Future Use
18 (“PHFU”), Exhibit HWS-6 is an analysis of Construction Work In Progress (“CWIP”),
19 and Exhibit HWS-7 is a compilation of discovery responses referenced in my
20 testimony.

¹ Document 03885-2025, p. 2, Docket No. 20250011-El, *In re: Petition for rate increase by Florida Power & Light Company*.

1 **IV. OVERALL FINANCIAL SUMMARY**

2 **Q. WHAT ARE THE DECEMBER 31, 2026, AND DECEMBER 31, 2027, BASE**
3 **RATE REVENUE REQUIREMENTS FOR FPL?**

4 A. As shown on Exhibit HWS-2, Schedule A, Page 1 of 3, based on the information
5 provided by FPL as of the date of finalization² of my testimony, OPC's appropriate
6 adjustments in this case result in a revenue sufficiency of at least \$620,492,000 for FPL
7 for the December 31, 2026, projected test year. This revenue sufficiency eliminates the
8 proposed base rate revenue increase of \$1.545 billion requested by FPL in its filing to
9 begin on January 1, 2026. Exhibit HWS-2, Schedule A, Page 2 of 3, reflects the OPC's
10 appropriate adjustments in this case resulting in a revenue deficiency of \$35,196,000
11 in 2027, which is \$892,158,000 less than the \$927,354,000 incremental increase
12 requested by FPL.

13

14 **Q. ARE YOU RECOMMENDING ADJUSTMENTS TO THE 2026 AND 2027**
15 **PROJECTED TESTS YEARS THAT COULD YIELD A POSITIVE REVENUE**
16 **REQUIREMENT ABOVE CURRENT REVENUES?**

17 A. Yes.

18

19 **Q. DOES THAT MEAN THAT YOU ARE ACKNOWLEDGING THAT FPL HAS**
20 **LAID THE PROPER FOUNDATION TO DEMONSTRATE ENTITLEMENT**
21 **TO RATE RELIEF IN THE FORM OF REVENUE INCREASES FOR BOTH**
22 **YEARS?**

² As noted above, this is the point in time before FPL filed its Notice of Identified Adjustments, on May 23, 2025.

1 A. No. To the contrary, my adjustments are to the numbers the Company filed. The
2 purpose of my testimony is not to provide evidence regarding the overall
3 reasonableness of the projected test years 2026 and 2027 but to address concerns as to
4 whether some of the requested costs are reasonable to include in customer rates. In my
5 40-plus years of testifying as an expert before regulators around the country, my
6 experience has been that utilities have a tendency to over-project costs and under-
7 project revenues and savings. The revenue adjustment, based on the recommendation
8 of OPC Witness Jacob Thomas, is evidence that identifies some under-forecasting of
9 revenues for the next two years. Additionally, OPC Witness James Dauphinais
10 indicates that FPL has accelerated generation assets into the two projected test year
11 periods despite having a fully adequate reserve margin. While I am not offering an
12 opinion on the integrated resource planning aspects of this case, my experience tells
13 me that this is consistent with evidence of overstated revenue requirements in this case.

14
15 **Q. IN YOUR OPINION, ARE CUSTOMERS PROTECTED THROUGH THE USE**
16 **OF AN EARNINGS SURVEILLANCE PROGRAM OR THE PROPOSED**
17 **TAM?**

18 A. No. As more fully demonstrated in the testimony of Mr. Devlin, the use of a
19 mechanism like the proposed TAM essentially comes at a cost to ratepayers and
20 provides the Company an opportunity to report a nearly guaranteed level of profit. This
21 has occurred despite the fact that investor-owned utility rates should be set under the
22 concept of fair, just, and reasonable rates, along with the right to an opportunity to earn
23 a reasonable return on investment. This concept was established to allow regulated

1 utilities a reasonable opportunity to recover their prudently incurred costs.³
2 Additionally, regulated utilities are entitled to an opportunity to earn a fair and
3 reasonable rate of return on their capital investments.⁴ The decisions recognizing these
4 principles allow for an opportunity, not a guarantee. Consequently, I do not believe that
5 Commission has the ability to fully protect customers if it sets rates that allow the
6 Company to adjust reported, achieved earnings to a level the Company chooses.

7
8 **Q. SO, WHAT ARE YOU SAYING ABOUT THE REQUESTED BASE RATE**
9 **INCREASES IN 2026 and 2027?**

10 A. I am saying that the accuracy of the cost estimates in the prior year (2025) and projected
11 test years, especially the second year, are just that - estimates. When the Commission
12 sets rates for 2026 and 2027, they will be based on those estimates under the premise
13 that they allow FPL an opportunity, not a guarantee, to earn what is deemed a
14 reasonable return on equity. If the Company does not achieve the desired return, it has
15 the option to file a rate case. My recommended adjustments, and those of other OPC
16 witnesses, are based on a review of areas of costs and other factors but not at the same
17 level the Company was able to develop for its request. Accordingly, it should not be
18 construed that my adjustments that may ultimately yield a positive revenue requirement
19 for 2026 or 2027 mean that the Company has sufficiently demonstrated the need for
20 any rate relief in that year.⁵

³ This principle was established in the U.S. Supreme Court case, *Federal Power Commission et al v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944).

⁴ This principle was established in the U.S. Supreme Court case, *Bluefield Water Works and Improvement Co. v. Public Service Commission of West Virginia*, 262 U.S. 679 (1923).

⁵ I am not testifying that FPL's rates should be reduced. I am only identifying the revenue requirement in light of the filing and the facts that I was able to analyze. The decision whether to seek any reduction in current rates is with the OPC and other intervenors and perhaps the Commission.

1 **Q. IF THE COMMISSION APPROVES FPL’S “FOUR-YEAR PLAN,” WITH OR**
2 **WITHOUT THE PROPOSED TAM, DOES THAT ACTUALLY PROVIDE**
3 **CUSTOMERS RATE STABILITY?**

4 **A.** No. The Commission has previously ruled that “stay out” assurances made as part of a
5 utility’s proposed multi-year rate plan are unenforceable absent a settlement agreement.
6 In 2023, the Commission considered a “stay out” commitment made by (FPL’s then
7 affiliate) Florida City Gas (“FCG”) in a fully litigated proceeding, and the Commission
8 held:

9 [w]hile we have resolved base rate cases in previous
10 years that include multi-year increases to rates, and in
11 settlement agreements we have approved “stay-out”
12 provisions, we continue to recognize our obligation to
13 monitor utility earnings and, if circumstances warrant,
14 require additional proceedings. For these reasons, we
15 acknowledge FCG’s commitment while also noting that
16 approval of FCG’s plan, either in part or its entirety,
17 would not prohibit future proceedings on these matters
18 over the next four years.⁶

19
20 Although FPL Witness Scott Bores characterizes the TAM as one of the “essential” and
21 “core” elements that will allow the Company to commit to a four-year plan and not
22 request any additional general base rate increases effective prior to January 1, 2030,
23 any such “commitment” would paradoxically be unknowable in its nature until after
24 the Commission votes and even then if the Company could nevertheless live with the
25 case outcome, it would still be unenforceable.⁷ Even if the Commission approves the

⁶ PSC Order No. PSC-2023-0177-FOF-GU, Docket No. 20220069-GU, p. 6, *In re: Petition for rate increase by Florida City Gas*. NOTE: This order is pending appeal at the Florida Supreme Court.

⁷ FPL Witness Scott Bores Direct Testimony, p. 54; FPL Witness Scott Bores Deposition, May 9, 2025, p. 206-207.

1 TAM, despite OPC's objections noted in OPC Witness Tim Devlin's testimony, the
2 Company would still have the statutory right request a rate increase effective prior to
3 January 1, 2030, if it satisfies the requirements of section 366.06(2), Florida Statutes.
4 Simply put, approving the Company's proposed "four-year plan," with or without the
5 TAM, does not ensure any rate stability for customers over the next four years,
6 especially at a time of great uncertainty about what the next four years will hold due to
7 issues like tariffs, inflation, and the future of investment tax credits, just to name a few.
8 Furthermore, the concept that a so-called "four-year plan" will provide rate stability to
9 customers could be misleading to some customers. This would happen when they do
10 not realize that even if base rates stay the same, which is not guaranteed, recurring and
11 periodic rate hikes from fuel price spikes, other clause filings, and storm recovery cost
12 surcharges could still cause overall customer bills to fluctuate over the next four years,
13 even if the Commission approves FPL's proposed "four-year plan" over OPC's
14 objection.

15
16 **Q. PLEASE DISCUSS THE EXHIBIT YOU PREPARED IN SUPPORT OF YOUR**
17 **TESTIMONY AS IT PERTAINS TO THE PRIOR YEAR DECEMBER 31, 2025,**
18 **AND THE DECEMBER 31ST TEST YEARS FOR 2026 AND 2027.**

19 A. Exhibit HWS-2, consists of Schedules A, A-1, B, B-1 through B-6, C, C-1 through C-
20 19, D, and D-1.

21
22 **Q. WHAT IS SHOWN ON SCHEDULE A?**

23 A. Schedule A presents the revenue (sufficiency) deficiency for the respective years
24 ending December 31, 2026, and December 31, 2027, giving effect to all of the

1 adjustments being recommended by Citizens' witnesses. Schedule A-1 reflects the
2 calculated revenue multiplier.

3 **Q. WHAT IS SHOWN ON SCHEDULE B?**

4 A. Schedule B presents OPC's adjusted rate base for the projected test years and identifies
5 the adjustments, including those of various OPC witnesses, impacting rate base that are
6 being recommended in this case. Schedules B-1 through B-6 provide supporting
7 calculations for these adjustments.

8

9 **Q. WHAT IS SHOWN ON SCHEDULE C?**

10 A. OPC's adjusted net operating income the projected test years is shown on Schedule C.
11 The adjustments to net operating income, including those of various OPC witnesses,
12 are listed on Schedule C-1. Schedules C-2 through C-19 provide supporting
13 calculations for these adjustments.

14

15 **Q. WHAT IS SHOWN ON SCHEDULE D?**

16 A. Schedule D presents the OPC's recommended capital structure and overall rate of
17 return as recommended by OPC witness Daniel Lawton.

18

19 **Q. WOULD YOU PLEASE DISCUSS EACH OF YOUR SPONSORED**
20 **ADJUSTMENTS TO FPL'S FILING?**

21 A. Yes, I will address each adjustment I am sponsoring below.

1 **V. RATE BASE**2 **PLANT HELD FOR FUTURE USE**

3 **Q. WHAT HAVE YOU IDENTIFIED AS AN ISSUE WITH PLANT HELD FOR**
4 **FUTURE USE?**

5 A. The Company is requesting that rate base include an excessive amount of land in Plant
6 Held for Future Use (“PHFU”). Specifically, the Company is requesting
7 \$1,475,168,000 in 2026 and \$1,533,409,000 in 2027 as part of rate base in total and on
8 a jurisdictional basis of the request. The average balance per book in 2024 was
9 \$1,122,882,000. The Company estimates an escalating increase to \$1,270,738,000 in
10 2025, \$1,541,832,000 in 2026, and \$1,602,140,000 in 2027. The 2026 and 2027
11 increases of 37% and 43% over the actual 2024 balance are significant. I have identified
12 a significant overriding theme of improper property stockpiling that has gradually
13 added rate base until the impact on customers has become material while land sits
14 vacant with no apparent known and measurable future use identified.

15

16 **Q. WHAT IS THE PURPOSE OF INCLUDING PLANT HELD FOR FUTURE USE**
17 **IN RATE BASE?**

18 A. Plant Held for Future Use is included in rate base when it is probable that the land will
19 be used for regulated purposes in the near future. The key is when the property will
20 knowingly be used for regulated purposes. A reasonable time frame is 10 years. This
21 account is not a place to stockpile land for merely speculative or possible but
22 unidentified projects. Another factor to consider is whether the property to be included
23 is either already actually owned or ideally is a reasonably certain, known and
24 measurable future acquisition. When evaluating the level of PHFU, the cost to

1 customers is something that needs to be factored in because the recovery sought is
2 supposed to be based on a valid assumption this property will be in service in the near
3 term. Assuming the request in 2026 is for \$1,541,832,000 and that FPL is requesting a
4 return of 7.63%, the cost to customers would be \$117,641,782.⁸ Additionally,
5 customers are having to pay the property taxes on these properties. PHFU costs are
6 significant, especially when weighing customer affordability concerns.

7
8 **Q. ARE THERE PROPERTIES IN FPL'S REQUEST THAT YOU BELIEVE**
9 **SHOULD BE EXCLUDED FROM RATE BASE?**

10 A. Yes. There are costs where the in-service date is listed as To Be Determined ("TBD"),
11 costs where the in-service date is listed as "Various," costs that have been held in excess
12 of 10 years and are now listed as going into service within ten years from now, and
13 costs that are proposed to be acquired after December 31, 2024. Additionally, there are
14 properties for which I could not locate any plan in the 2025 Ten-Year Site Plan.

15
16 **Q. WHY WOULD YOU BASE YOUR ASSESSMENT ON TEN YEARS?**

17 A. The Company is required to file a Ten-Year Site Plan ("TYSP). Typically, a plan like
18 this is considered a long-range plan because it extends far into the future, well beyond
19 normal budgeting and forecasting periods. The plan changes over time based on various
20 factors whether it be the economy, growth, regulations, federal tax policy, and more.

⁸ Using the Company's requested NOI Multiplier, the revenue requirement impact of this return is approximately \$157.8 million.

1 **Q. ARE YOU AWARE OF HOW A LONG-RANGE PLAN CAN CHANGE?**

2 A. Yes. An example that is specific to PHFU is that FPL's 2024 TYSP identified in its
3 planning the installation of 21,009 MW of what it describes as cost-effective, solar
4 capacity.⁹ The FPL 2025 TYSP Table 3 identified 30 solar facilities to be added in
5 2024 at a 74.5 nameplate MW, which would approximate to 2,235 MW cumulatively.¹⁰
6 Assuming that moving out one year did not have any added solar projects, one would
7 expect the 2025 TYSP to identify planning installation to be 18,774 MW (21,009 -
8 2,235). Instead, the 2025 TYSP has identified planning installation of 17,433 MW. In
9 one year, the previously planned number of solar facilities was reduced by 1,341 MW,
10 or 18 - 74.5 MW solar units (1,341/74.5MW). Ironically, the planned battery storage
11 increased from 4,022 MW to 7,603 MW. The swing in forecasting in one year shows
12 that expectations for even ten years may be excessive and uncertain.

13 There is also the growing possibility that, given the negative outlook embedded
14 in the current administration's executive order(s) regarding the investment tax credits
15 for renewables, the investment tax credits being utilized by FPL to justify the requested
16 resource additions may not be available in the future. While congressional approval
17 would be required, such approval may be forthcoming. I am aware of legislation
18 currently moving in Congress that could severely curtail these renewable related tax
19 credits.¹¹ The planning for requested solar and battery additions and the purchasing of
20 PHFU assumes the continuation of credits beyond 2028, and the absence of the credits
21 was not considered.¹² There is a growing risk that another change in long range

⁹ FPL's Ten-Year Power Plant Site Plan 2024-2033, p. 5.

¹⁰ FPL's Ten-Year Power Plant Site Plan 2025-2034, p. 136-137.

¹¹ *A Clean Energy Boom Was Just Starting. Now, a Republican Bill Aims to End It*, New York Times, May 13, 2025 (updated May 21, 2025).

¹² Deposition of FPL Expert Witness Andrew Whitley, May 7, 2025, p. 25, 70-71, and 213.

1 planning could occur. It would be inappropriate to ignore such a significant risk like
2 this, especially when the cost could significantly impact customers who are already
3 facing growing affordability concerns.
4

5 **Q. WOULD YOU IDENTIFY THE “TBD” PROJECTS THAT ARE LISTED IN**
6 **THE COMPANY’S REQUEST?**

7 A. Yes. On HWS-3, there are ten TBD parcels listed. Nine of the ten are purported to be
8 acquired after December 2024. The parcels listed as being acquired after December
9 2024 are considered questionable, and it is thus questionable as to how an in-service
10 date can be considered known and measurable until the parcel is actually owned by
11 FPL and the cost is actually known.

12 The tenth parcel is described as “Future Solar Land,” unlike other properties
13 with specific project names. This property was listed as purchased in December 2024
14 and is similarly questionable for cost-recovery.
15

16 **Q. HAS THE COMPANY PROVIDED ANY ADDITIONAL INFORMATION**
17 **DEMONSTRATING THAT THE PROPERTIES HAVE BEEN**
18 **SUBSEQUENTLY ACQUIRED?**

19 A. Not really. Staff’s Fifth Set of Interrogatories, No. 112 requested information on
20 purchase options for properties on FPL Witness Tim Oliver’s Exhibit TO-6. FPL’s
21 response identified thirteen parcels where four are labeled as “Closed” and nine are
22 labeled as “Under Contract.” I was not able to find two of the parcels listed in the
23 Company’s PHFU listing, two of the TBD parcels on HWS-3 are listed as Closed, and

1 seven are listed as Under Contract, five of which are supposedly to be closed on in
2 2026 and 2027.

3

4 **Q. DOES THE INTERROGATORY NO. 112 RESPONSE REDUCE YOUR**
5 **CONCERNS AS TO WHETHER THE PROPERTIES WILL BE ACQUIRED**
6 **AND PLACED INTO SERVICE IN THE NEAR FUTURE?**

7 A. No. OPC's Eighth Request for Production, No. 99 asked FPL to identify any properties
8 over \$25 million where due diligence was performed. The response identified seven
9 properties and not one of those properties was listed in the response to Staff's Fifth Set
10 of Interrogatories, No. 112 that listed properties acquired or under contract. That raises
11 a concern as to how the properties listed as closed or under contract in the response to
12 the Staff were subjected to the necessary due diligence review. Additionally, OPC's
13 Eighth Set of Interrogatories, No. 229 asked FPL to provide an estimated in-service
14 date for properties listed with a "Target COD" identified as TBD on Witness Oliver's
15 Exhibit TO-6. The response did not provide an in-service date for any of the TBD
16 properties shown on my Exhibit HWS-3. This is apparently because these properties
17 were not listed on Exhibit TO-6 even though they are included in the Company's
18 requested PHFU dollars.¹³ This is important because Company witness Oliver stated
19 in testimony that "Exhibit TO-6 provides details on each site held for future use." If
20 an in-service date is unknown, justification does not exist for allowing the property in
21 PHFU.

¹³ MFR Schedule B-15.

1 **Q. IS THERE ANY PROPERTY FOR WHICH THERE ARE CONCERNS**
2 **BEYOND THE FACT THAT THE PURCHASE HAS NOT BEEN**
3 **COMPLETED AND NO IN-SERVICE DATE HAS BEEN IDENTIFIED?**

4 A. Yes. The A. Duda & Sons, Inc Property (“Duda”) is listed at \$258,644,276. That is a
5 significant cost for a piece of property that the Witness Oliver said is a good piece of
6 property in a great location consisting of 25,000 to 30,000 acres suitable for a lot of
7 solar projects. The witness suggested that part of this Duda site property is where thirty
8 projects are planned to be built.¹⁴ The question is when and whether it will be used,
9 especially when one considers that the Company’s request includes over 100 other
10 properties for similar purposes. Another problem with Witness Oliver’s explanation is
11 that five of the properties he said are planned to be part of the Duda purchase are
12 separately listed elsewhere in the PHFU property listing.¹⁵

13 Additionally, the properties that the Company has indicated are under contract
14 may not be acquired. In real estate transactions, things like federal tax policy, for
15 example, can change and as discussed earlier, the Company did not identify the
16 properties as being subjected to a due diligence review.

17

18 **Q. ARE YOU RECOMMENDING AN ADJUSTMENT FOR THE TBD**
19 **PROPERTIES?**

20 A. Yes. As shown on Exhibit HWS-2, Schedule B-5, Page 2, I am recommending the nine
21 properties not acquired as of December 31, 2024, be excluded because it is not known
22 and measurable as to when they will be in-service in the near future or within the next

¹⁴ Deposition of FPL Expert Witness Tim Oliver May 2, 2025, p. 150-151. (Pending errata).

¹⁵ FPL Response to OPC’s Eighth Set of Interrogatories, No. 230, Attachment 1; Deposition of FPL Expert Witness Tim Oliver May 2, 2025 at pages 150-151. (Pending errata).

1 ten years, and because some have yet to be acquired. Also, I am recommending the
2 “Future Solar Land” acquired by December 2024 be excluded because no in-service
3 date is available and there is no assurance it will be in-service within the next ten years
4 - if ever.

5
6 **Q. WHAT ARE YOUR CONCERNS WITH PROPERTIES WITH “VARIOUS”**
7 **DATES LISTED?**

8 A. The concern is that with a date designation of “various” for the acquisition and/or the
9 in-service date, it is not possible to identify how long the property has been held or will
10 be held. Having the date identified as “various” for the in-service date, makes it
11 impossible to identify whether this property will be put in service within 10 years. On
12 its face, this fails the burden of proof that the Company has when it seeks to include
13 these costs in rates. On Exhibit HWS-3, I have identified seventeen properties with the
14 “various” labeling date. There are six for which the time held cannot be determined.
15 Three of those are purportedly going into service in five years, and the other three in-
16 service dates are totally unknown since the acquisition and in-service date is “various.”
17 The remaining eleven properties have an acquisition date but are purportedly going into
18 service within varying and unknown time frames, one of which could extend until 2038.
19 The primary concern with “various” in-service dates is that the Company has labeled
20 them that way because it is not certain if and when the property will go into service.

1 **Q. ARE THERE SPECIFIC PROPERTIES FOR WHICH YOUR CONCERNS**
2 **EXTEND BEYOND THE FACT THAT THEY ARE LABELED “VARIOUS”?**

3 A. Yes. There are two transmission properties where not only the purchase date and in-
4 service date are not specified, but which also have been given a generic description as
5 “Future Solar ROWs” and “New Transmission ROW.” Requesting recovery of
6 property for which the Company cannot even identify the purpose suggests the property
7 was purchased with nothing more than an anticipation that maybe someday it could be
8 used. This generic information does not meet the Company’s burden of proof. I am
9 recommending their removal on Exhibit HWS-2, Schedule B-5, Page 2.

10 Similarly, there is one distribution property where not only the purchase date
11 and in-service date are not specified, but it also has been given a generic description of
12 “New Substations.” I am recommending its removal on Exhibit HWS-2, Schedule B-
13 5, Page 2.

14

15 **Q. PLEASE EXPLAIN YOUR CONCERNS WITH THE PHFU LAND PARCELS**
16 **SUPPOSEDLY RELATED TO RENEWABLE GENERATION THAT HAVE**
17 **BEEN IDENTIFIED WITH VARIOUS IN-SERVICE DATES?**

18 There are 11 properties where the Company has unknown in-service dates, of which 10
19 are supposed to be in-service prior to 2033. The other property, El Maximo Ranch
20 Holdings Property, has dates ranging from 2033 to 2038. What is of concern is that
21 none of the properties are identified in the Company’s TYSP as a Preferred Site or a
22 Potential Site. In fact, there are 31 renewable properties that are not identified as a
23 Preferred Site or a Potential Site.

1 **Q. ARE THERE ANY OTHER CONCERNS THAT YOU HAVE WITH ANY OF**
2 **THE ELEVEN PROPERTIES?**

3 A. Yes. The El Maximo Ranch Holdings Property was acquired because “[i]t was a large
4 property that looked like it could be used for multiple solar facilities, and it came on
5 the market, was available, and we put it through our screening process and determined
6 that we could economically build multiple sites on that property to benefit our
7 customers.”¹⁶ The FPL witness Oliver then indicated that there was no expectation for
8 this property to go into service from 2026-2029.¹⁷ It appears that the Company is in an
9 acquisition mode in anticipation of what might be. Just because a property looks like it
10 could be used doesn’t justify its acquisition, especially with all the properties already
11 on hand.

12
13 **Q. WHAT ARE YOU RECOMMENDING FOR THE STEAM PRODUCTION**
14 **PROPERTIES LABELED AS VARIOUS?**

15 A. I am not making any recommendation regarding these properties. Unlike the other
16 various properties, they have in-service dates.

17
18 **Q. WHAT ADJUSTMENT ARE YOU RECOMMENDING FOR THE PHFU LAND**
19 **SUPPOSEDLY RELATED TO RENEWABLE GENERATION?**

20 A. As shown on Exhibit HWS-2, Schedule B-5, Page 2, I am recommending the exclusion
21 of all 11 supposed renewable generation-related properties. The in-service date is
22 unknown and speculative.

¹⁶ Deposition of FPL Expert Witness Tim Oliver May 2, 2025, p. 150. (Pending errata).

¹⁷ Deposition of FPL Expert Witness Tim Oliver May 2, 2025, p. 150. (Pending errata).

1 **Q. WHAT PROPERTIES HAVE BEEN HELD MORE THAN TEN YEARS THAT**
2 **ARE NOW SCHEDULED TO BE IN SERVICE IN THE NEAR FUTURE?**

3 A. Exhibit HWS–4 lists 40 properties that have been held for more than 10 years as of
4 December 31, 2024. The average number of years held is 21.85 with acquisition dates
5 ranging from July 1977 to December 2012. The property acquired in July 1977 has
6 been held over 47 years and has a projected in-service date of June 2032. This means
7 customers have been paying a return on properties that exceed a reasonable time frame.
8 This extended length of time the Company has held these properties highlights why
9 “TBD” in-service dates and various acquisition and in-service dates are a concern.
10 Adding to the concern is that the Commission cannot know with any reasonable
11 certainty what will happen in the near future, let alone five or more years out. Future
12 regulation and the economy could change even the Company’s best expectations.

13

14 **Q. CAN YOU ESTIMATE WHAT THE COST TO CUSTOMERS WOULD BE**
15 **FOR HOLDING THESE 40 PROPERTIES FOR SO LONG?**

16 A. Yes. While a precise, specific cost would be quite lengthy and cumbersome to
17 calculate, an annual cost could be estimated. As shown on Exhibit HWS–4, the 2026
18 average PHFU balance on these long-held properties is \$92,300,167. Applying the
19 Company’s requested rate of return of 7.63% to that average, the annual cost to
20 customers yields an estimated revenue requirement of \$7,042,503. When the
21 Commission evaluates the cost and affordability of this for customers, the Commission
22 should evaluate whether it is fair, just, and reasonable to charge customers \$7,042,503
23 each year for stockpiled property that the Company has held for so long.

1 **Q. WITH WHAT OTHER PROPERTIES DO YOU HAVE SPECIFIC**
2 **CONCERNS?**

3 A. Another concern I have is whether the properties will in fact be in-service within the
4 next 10 years. Accepting the Company's highly optimistic assumption that three
5 transmission, two distribution, and the Hendry Solar Energy Center will be in-service
6 by 2027,¹⁸ I am conservatively not taking exception to them. Overall, the fact that 40
7 properties, or almost a quarter of the PHFU have been held for an average of 22 years
8 is very troubling and very costly to customers since that property has apparently never
9 been used and useful. This concern is elevated by the fact that 21 of these properties
10 are not forecasted to be in-service in the next five years (2026-2030) even after being
11 held for so long. Finally, in reviewing the 2025 TYSP, I was unable to identify any of
12 these properties as preferred or potential sites going into service in the period 2025-
13 2034.

14
15 **Q. IF THE COMPANY HAS HELD THESE PROPERTIES FOR SUCH A LONG**
16 **PERIOD, IS THERE A CONCERN THAT MANY OF THEM HAVE BEEN**
17 **PREVIOUSLY APPROVED FOR RECOVERY BY THE COMMISSION?**

18 A. No, this should not be a concern. Previous approvals would have been based on the
19 facts and circumstances that existed at the time, which would imply that the properties
20 would be used and useful in the near future. No prior Commission gave unlimited,
21 boundless approval to the indefinite and unending stockpiling of property. Therefore,
22 any exclusion at this juncture would be based on the current facts and circumstances.

¹⁸ I note that OPC Witness James Dauphinais is providing testimony that the Company has not sufficiently justified the need for the requested 2026 and 2027 solar additions, which includes the Hendry Solar Energy Center.

1 That said, I do not believe, based on my 40-plus years of ratemaking experience, an
2 adjustment under these circumstances would be considered retroactive ratemaking.
3 More importantly, any adjustment would prevent any continuation of the
4 intergenerational inequity that customers have experienced.

5
6 **Q. WHAT ADJUSTMENT ARE YOU RECOMMENDING?**

7 A. Arguably, the remaining 34 properties could be recommended for exclusion because as
8 of December 31, 2024, and into the forecast years 2026 and 2027, they will have been
9 held 15 years or more. Giving the Company the benefit of doubt, I am recommending
10 that only stockpiled properties held for more than 25 years as of December 2024 be
11 excluded. This consists of the following eight transmission and distribution properties:

- 12 ▪ Arch Creek – 31 Years
- 13 ▪ Conservation-Levee 500KV Line – 29 Years
- 14 ▪ Levee-South Dade - 47 Years
- 15 ▪ Rima Sub & Rima Volusia - 36 Years
- 16 ▪ Desoto-Orange River – 46 Years
- 17 ▪ Challenger – 30 Years
- 18 ▪ Terminal - 30 Years
- 19 ▪ Satori - 30 Years

20 These eight properties are included on Exhibit HWS-2, Schedule B-5, Page 2 along
21 with two renewable properties - the Martin Solar Energy Center and Hendry Clean
22 Energy Center.

1 **Q. ARE YOU RECOMMENDING AN ADJUSTMENT TO THE PHFU LAND**
2 **PARCELS SUPPOSEDLY RELATED TO RENEWABLE GENERATION**
3 **WHEN THEY HAVE NOT BEEN HELD FOR 25 YEARS OR MORE?**

4 A. Yes, partially. The TYSP has a significant amount of discussion on the additions for
5 solar and battery storage. The acquisition of properties for solar and battery storage
6 plant is a more current phenomenon, and, as I discussed earlier, the property in PHFU
7 should be property that will be in-service in ten years or less. The past failure to reign
8 in improper property stockpiling and limit what properties should be included should
9 cease with this new focus on property acquisitions. The two properties at issue could
10 not be found in the 2025 TYSP as either preferred or potential property sites. Thus, the
11 Martin Solar Energy Center and Hendry Clean Energy Center are recommended for
12 disallowance in PHFU.

13

14 **Q. WHY IS THERE A CONCERN WITH PROJECTED ACQUISITIONS OF**
15 **PROPERTY?**

16 A. On Exhibit HWS-5, I have listed 46 properties the Company has indicated it will
17 acquire between 2025 and 2027. The 2026 and 2027 projected test years include in
18 excess of \$600 million of forecasted additions. The problem is the acquisition of most
19 of the properties is not known and measurable. As indicated earlier, the Company has
20 identified four properties as having been closed on and another seven properties that
21 are under contract. However, those properties were not listed as having the required
22 due diligence performed. As shown on my exhibit, 30 of the 40 properties have an
23 acquisition date where the year is listed without any month being identified. Numerous
24 properties' acquisition costs appear to be guesstimates because the date is in some

1 future year without a month and the dollar value is a round amount. It is notable that
2 four properties have the same exact purchase price, and ten of the properties have an
3 in-service date of “various” or “TBD” indicated. Finally, none of the properties could
4 be located in the Company’s 2025 TYSP. Absent justification for inclusion in PHFU,
5 all the forecasted acquisitions should arguably be excluded from the Company’s
6 request. Conservatively, at this time, I have not recommended to exclude a number of
7 properties.

8

9 **Q. WHAT PROPERTIES ARE NOT BEING RECOMMENDED FOR**
10 **ADJUSTMENT?**

11 A. An adjustment is not being recommended for the three transmission properties and five
12 distribution properties that the Company has forecasted will be closed to plant in either
13 2026 or 2027. While FPL has not presented convincing evidence that the properties
14 will be acquired and/or put into service, at this time, it would not be unreasonable to
15 give the Company the benefit of doubt on these properties. The three transmission
16 properties represent \$2,465,000 over the three years 2025-2027 for an average annual
17 acquisition cost of \$821,667 compared to \$4,492,161¹⁹ of transmission properties
18 acquired in 2024, suggesting that the forecast is reasonable. Similarly, the five
19 distribution properties total \$18,822,000 over the three years 2025-2027 for an average
20 annual acquisition cost of \$6,274,000 as compared to the 2024 acquisition of
21 \$7,737,602.²⁰

¹⁹ FPL response to OPC’s First Set of Interrogatories, No. 49.

²⁰ Id.

1 Next, while I am not convinced that additional properties will be acquired, let alone put
2 into service within the next 10 years, I am not recommending an adjustment for the
3 following three transmission properties:

- 4 ▪ Duda N&S ROW
- 5 ▪ Edentown-Williams ROW
- 6 ▪ Knott-Carriage ROW

7 These three properties have a total acquisition cost of \$10,793,000 over a three-year
8 period, yielding an annual acquisition cost of \$3,597,667. Combining this \$3,597,667
9 to the \$821,667 average annual acquisition cost for the three properties purported to be
10 going into service during 2026 and 2027 equals \$4,419,334, which, as discussed above,
11 is comparable to the actual acquisition cost in 2024 of \$4,492,161. I believe the reliance
12 on historical actuals for transmission and distribution properties is a reasonable
13 benchmark.

14 Finally, there are ten PHFU land parcels supposedly related to renewable
15 generation for which I have already recommended disallowance on Exhibit HWS-2,
16 Page 3, because there is not support for their in-service date in the 2025 TYSP. The
17 properties were also on Exhibit HWS-3 or Exhibit HWS-4 where I discussed the
18 uncertainty of their proposed use. The fact that there is uncertainty surrounding whether
19 the post 2024 acquisition or proposed acquisition of the properties is necessary
20 reinforces the initial justification for disallowance.

1 **Q. ARE THE REMAINING PROPERTIES BEING RECOMMENDED FOR**
2 **DISALLOWANCE FROM PHFU?**

3 A. Yes. There are 9 transmission and 10 distribution properties that should be excluded
4 from PHFU because FPL has failed to provide evidence to demonstrate whether the
5 properties will be purchased. Also, there is no mention in the 2025 TYSP of the need
6 for these properties. The use of guesstimated costs for the properties does not provide
7 reasonable support for their inclusion.

8 Additionally, there are six renewables land parcels that should be excluded.
9 The properties listed on lines 31-35 and line 37 of Exhibit HWS-5 were not discussed
10 in the 2025 TYSP. Four of the properties have the same curiously exact acquisition
11 price of \$8,621,476. The purchases appear speculative in nature and there is no
12 evidence provided to give assurance they will be put into service.

13

14 **Q. WHAT IS THE TOTAL ADJUSTMENT TO THE PLANT HELD FOR FUTURE**
15 **USE ARE YOU RECOMMENDING?**

16 A. Yes. On Exhibit HWS-2, Schedule B-5, I am recommending a reduction of
17 \$973,972,000 (\$931,860,000 jurisdictional) in 2026 and \$1,205,189,000
18 (\$1,153,488,000 jurisdictional) in 2027.

19

20 **Q. PLEASE EXPLAIN HOW YOUR RECOMMENDED ADJUSTMENT IS SO**
21 **SIGNIFICANT WHEN COMPARED TO FPL'S REQUESTED PLANT HELD**
22 **FOR FUTURE USE?**

23 A. As shown on Exhibit HWS-5, over \$600 million of requested dollars are for proposed
24 acquisitions after 2024, and, as shown on Exhibit HWS-3, over \$1 billion was for

1 properties where no definite date was identified for placement into service or where the
2 parcels were even identified in FPL's TYSP. The latter properties included one
3 property for \$212 million where the Company stated that it looked like it *could be* used
4 for multiple solar facilities, suggesting properties are bought on an assumption rather
5 than a definite need.²¹ These facts underscore the imprudent stockpiling nature of
6 FPL's imprudent land acquisition and land holding practices which can only be reined
7 in by disallowing unsupported investments in PHFU.

8

9 **DISMANTLEMENT STUDY**

10 **Q. WHAT CONCERNS HAVE YOU IDENTIFIED WITH FPL'S REQUEST FOR**
11 **DISMANTLEMENT COSTS BEING PART OF RATE BASE?**

12 A. I have identified several concerns. To start with, rate base is impacted when
13 dismantlement costs are amortized to expense. The Company has requested an increase
14 in the amortization of dismantlement costs as discussed by Company witness Allis.
15 Exhibit NWA-2 in Section 2 identifies the current amortization as \$47,680,539. This
16 same amount is reflected in MFR Schedule B-9 for each of the years 2026 and 2027.
17 Exhibit NWA-2 indicates an annual amortization of \$106,426,281 for a requested
18 amortization increase of \$58,745,742. On MFR Schedule C-2, the Company is
19 reflecting a jurisdictional adjustment in 2026 and 2027 of \$57,102,000 and
20 \$57,118,000, respectively. As the amortization is recorded, it increases accumulated
21 depreciation. The Company's requested increase to the reserve for 2026 and 2027
22 reflected on MFR Schedule B-2 are \$18,258,000 (\$17,040,000 jurisdictional) and

²¹ Deposition of FPL Expert Witness Tim Oliver May 2, 2025, p. 150. (Pending errata).

1 \$76,854,000 (\$73,194,000 jurisdictional), respectively. As will be discussed later, OPC
2 Witness William Dunkel is recommending an adjustment to the amortization requested
3 by FPL. The adjustment will reduce the amount expensed and the amount credited to
4 accumulated depreciation.

5
6 **Q. ARE CUSTOMERS PERMANENTLY PENALIZED IF COSTS ARE IMPOSED**
7 **FOR PREMATURE RECOVERY OF DISMANTLEMENT COSTS BEFORE**
8 **THE COSTS ARE ACTUALLY INCURRED?**

9 A. Yes. There is a tax penalty in the form of an accumulated deferred income tax (“ADIT”)
10 asset, which reduces the cost-free liability ADIT reflected in the cost of capital. This
11 treatment will in turn increase the base revenue requirement. The impact is
12 compounded by increasing the capital structure ratio for other revenue requirements
13 that include a return on rate base. This unnecessary tax penalty can be minimized by
14 removing or otherwise reducing speculative, uncertain, unknown, and unmeasurable
15 dismantlement costs from the revenue requirement. If, at some later date, these costs
16 become known and measurable, then they can be recovered at that time.

17

18 **Q. WHAT ARE YOU RECOMMENDING TO THE COMMISSION?**

19 A. As shown on Exhibit HWS-2, Schedule C-15, accumulated depreciation should be
20 reduced on a jurisdictional basis \$26,481,000 in 2026, and \$79,448,000 in 2027.

1 **CAPITAL ADDITIONS**

2 **Q. WHAT DID YOU DETERMINE FROM THE REVIEW OF THE COMPANY'S**
3 **REQUEST FOR CAPITAL ADDITIONS?**

4 A. The review of the Company's forecast was twofold. My review consisted of comparing
5 historical trends and OPC witness Dauphinais analyzed specific forecasted plant
6 additions. We both independently concluded the forecasted additions were excessive
7 and/or not required. Based on our separate analysis, the OPC is making a primary
8 recommendation and a secondary recommendation. The findings, I believe, support
9 either conclusion. The primary recommendation is being reflected in my schedules and
10 is supported by OPC witness Dauphinais.

11

12 **Q. PLEASE EXPLAIN HOW YOU FACTORED IN THE TESTIMONY OF OPC**
13 **EXPERT JAMES DAUPHINAIS.**

14 A. OPC witness Dauphinais discusses specific requested plant additions and makes
15 specific recommendations. My recommendation is based on FPL's excessive forecasts
16 that based on historical additions to plant are overly optimistic. In my schedules I am
17 reflecting the adjustment based on the *specific* plant adjustments approach. An
18 acceptable alternative would be to make this adjustment based on the historical capital
19 additions approach. While each represents a theoretically correct method to remove un-
20 needed plant and/or overly optimistic construction of plant, I am only making one of
21 the two possible adjustments with the caveat that OPC witness Dauphinais' adjustment
22 calculation may need to be refined based on better information. The relatively late (in
23 the process) production of discovery in the resource additions arena has made it
24 necessary to make assumptions.

1 **Q. WHAT DID YOU DETERMINE FROM YOUR REVIEW OF THE**
2 **COMPANY’S REQUEST FOR CAPITAL ADDITIONS?**

3 **A.** The Company has included in their request an overly optimistic amount of plant
4 additions during the projected prior year, 2025, and in each of the forecasted test years
5 included in the request. As shown on Exhibit HWS-2, Schedule B-2, Page 2 of 3, actual
6 total plant additions ranged from a low of \$5,016,820,000 in 2020 to a high of
7 \$9,276,658,000 in 2024 over the five years 2020 to 2024. The five-year average for
8 plant additions is \$7,211,220,000. The three-year average for plant additions from
9 2022 to 2024 is \$8,183,950,000. The increase in the average is due to an anomaly with
10 solar plant increasing to \$3,124,064 from the previous year's \$1,312,648 and compared
11 to the 2025 to 2027 forecasted annual costs ranging from \$1,193,093 to \$1,568,941.
12 The total projected capital additions are \$8,462,945,000 for 2025; \$8,929,479,000 for
13 2026; and \$9,165,958,000 for 2027. The increase over the three-year average from year
14 to year is primarily attributable to the projections for battery/energy storage. Another
15 factor that contributes to the concern with the Company’s optimism is that Construction
16 Work In Progress (“CWIP”) is not reflecting the same level of growth.

17

18 **Q. WHAT DO YOU MEAN THAT CONSTRUCTION WORK IN PROGRESS IS**
19 **NOT REFLECTING THE SAME LEVEL OF GROWTH?**

20 **A.** Plant additions represent the additions to the plant account once construction is
21 completed and the plant begins serving customers. Construction costs begin with
22 capital expenditures going into CWIP where, upon completion, the cost is transferred
23 to plant. It would be expected that the CWIP balance would track with plant additions
24 and capital expenditures that are forecasted at a higher level in 2026 and 2027. The

1 capital expenditures are shown on Exhibit HWS-2, Schedule B-3. As shown on Exhibit
2 HWS-6, the CWIP is increasing each year from 2021 to 2024 but suddenly in 2026 and
3 2027 there is a significant decline to CWIP in excess of \$1 billion. The inconsistency
4 with capital expenditures increasing, CWIP decreasing and plant additions increasing
5 seems to suggest the budgeting and planning for the related activities are handled
6 separately or are poorly coordinated.

7
8 **Q. ARE THERE OTHER CONCERNS WITH THE COMPANY'S PROJECTED**
9 **CAPITAL ADDITIONS?**

10 A. Yes. As alluded to earlier, the 2022-2024 three-year actual average is impacted by the
11 anomaly of the significant solar additions in 2024. When comparing the forecasted
12 additions, that anomaly is exacerbated by the significant increase in forecasted
13 additions to battery/storage plant.

14 A second concern is with the actual development of projected costs. The
15 Company was requested in OPC's Sixth Set of Interrogatories, No.140 to "[p]rovide
16 for each of the bulleted projects a summary showing start date, end date, projected
17 costs, cost completed to-date, and the respective amount reflected in rate base in each
18 of the years to-date and projected for each year of 2025-2027." The Company's
19 response did not provide the amount included in rate base for the years 2025-2027.
20 What was notable and adding to the concern was that the response stated, "[t]he listed
21 projects are budgeted through the overall Growth and System Expansion program and
22 not forecasted at the individual project level." This response appears to be inconsistent
23 with the response by FPL Witness Dan DeBoer when he stated that the capital budget

1 is “based on accumulation of a multitude of projects to ensure the reliability of the
2 unit.”²²

3 Another significant concern is that the Company was requested, in regard to
4 O&M and capital forecasts, to provide a complete itemization of the O&M and Capital
5 forecast for each business unit, including, but not limited to, all assumptions utilized,
6 historical trends utilized, calculations with formulas intact, the assignment of all
7 business unit costs by FERC account, and inflation or other escalation factor utilized.²³

8 The response was voluminous but not organized in a manner that the information could
9 be utilized to verify cost development in the MFRs. In fact, during various depositions
10 of witnesses with related subject matter responsibilities it appeared the witnesses could
11 not even explain most of the detail provided in the response and in some cases the
12 witness would defer an answer on various cost topics.

13

14 **Q. WHAT DID YOU DETERMINE FROM YOUR REVIEW OF THE**
15 **INFORMATION SUPPLIED IN THE COMPANY’S RESPONSE TO OPC’S**
16 **FIFTH SET OF INTERROGATORIES, NO. 118?**

17 A. The Company’s costs appear to be inflated in both the O&M and capital forecasts. The
18 response for the Engineering & Construction (“E&C”) business unit was provided on
19 Attachment 3.40, Tab 1. The cost estimates for each of the years 2025-2027 included
20 two contingencies. The two contingencies in 2025 totaled \$8,998,614 and were 17% of
21 the total budget. The 2026 and 2027 contingencies were \$13,531,102 and \$13,729,755,
22 respectively, and represented 23.5% of the respective year’s budget. It is troubling that

²² Deposition of FPL Expert Witness Dan DeBoer, May 2, 2025, p. 89. (Pending errata).

²³ OPC’s Fifth Set of Interrogatories, No.118.

1 one of the contingencies was exactly the same for 2026 and 2027 and the second
2 contingency in 2027 was 2% higher than the same line contingency in 2026.

3 Attachment 4.7 was for business unit CBRE. The O&M budget for 2025 was
4 \$26.2 million. The line items for the 2026 and 2027 budgets were increased supposedly
5 by various escalations for wages, the CPI, and a 10% maintenance contingency. The
6 difference between the 2025 budget and the 2026 and 2027 budgets is that the Company
7 added an identical two lines in each year. The first line is an extra \$1,250,000 for
8 “O&M Projects” and the second line is an extra \$2,000,000 for “One Time Catch Up –
9 Deferred Maint,” without further detail or explanation.

10 Another business unit’s O&M and capital forecast information was included in
11 Attachment 4.8. On Tab 1, the O&M budgets for 2026 and 2027 included \$2,587,030
12 and \$2,941,054, respectively, on a line labeled “Construction Emergent” a line not
13 included in the 2025 budget. It was also noted that the 2026 and 2027 budget is exactly
14 the same and just happens to be higher than 2025 by the Construction Emergent. Tab
15 2 consists of two capital budgets. The first capital budget is \$18.977 million in 2025
16 and increases to \$99.487 million and \$77.980 million in 2026 and 2027, respectively.
17 The 2027 budget includes a line for Construction Emergent of \$24,929,825. The
18 second capital budget is \$264,465,600 in 2025 and increases to \$673,124,014 and
19 \$353,915,765 in 2026 and 2027, respectively. Once again, the 2027 budget includes
20 the same \$24,929,825 Construction Emergent line. There seems to be a trend where the
21 2026 and 2027 budgets are increasing significantly and include contingencies, without
22 detail or explanation.

1 **Q. ARE THERE MORE BUSINESS UNIT ISSUES THAT YOU WERE ABLE TO**
2 **IDENTIFY?**

3 A. Yes. Another example is Confidential Attachment No. 6.1. This business unit contains
4 nuclear costs. Without mentioning any confidential detail, I would note that Tab 3 listed
5 a number of costs where there was a line listed as Overall Result but the total on that
6 line is only approximately one third of the column total if one were to sum all the listed
7 costs. The line Overall Result is hardcoded so it is not possible to even try and figure
8 out why the significant difference exists. Another peculiarity is the 2025 and 2026
9 budget are exactly the same and most of the line amounts are the same for all three
10 years 2025-2027.

11

12 **Q. WHAT IS YOUR ALTERNATIVE APPROACH RECOMMENDATION WITH**
13 **RESPECT TO THE PROJECTED PLANT REQUESTS FOR THE YEARS 2025,**
14 **2026, AND 2027?**

15 A. I would recommend that each year be reduced by the excess plant projected in 2025
16 and by the subsequent flow-through of excesses from the respective base rate years.
17 As shown on Exhibit HWS-2, Schedule B-2, Page 2 of 3, I would recommend that total
18 plant be reduced by ~~\$139,497,000~~ **\$139,497,000** in 2025, \$651,759,000 in 2026, and \$1,515,528,000
19 in 2027. The recommendation is prior to adjusting for any clause allocations. To be
20 clear, it is my testimony that given the historical trends discussed above regarding
21 FPL's projected and actual capital expenditures, the likelihood that all of the projected
22 capital additions will be in-service by the end of either 2026 and/or 2027 is highly
23 doubtful, regardless of whether there is a resource adequacy need or how prudent and
24 cost-effective the projects may or may not be.

1 **Q. WOULD YOU EXPLAIN HOW YOU DETERMINED THE ADJUSTMENT**
2 **BASED ON A HISTORICAL ADDITIONS APPROACH?**

3 A. Yes. The historical trend for plant additions as shown on Exhibit HWS-2, Schedule B-
4 2, Page 2 of 3 fluctuated from year-to-year; both increasing and decreasing. There is
5 no trend of continual increases. My analysis factors in the historical trend and the
6 Company's proposal for additions. I elected to focus on the use of a three-year actual
7 average rather than a five year because the years 2021 and 2022 would reflect the
8 transition of the acquisition of Gulf Power. This three-year average of actual additions
9 is used as a comparative for the additions. This is significant since the average plant
10 additions for 2022-2024 of \$8,183,950,000 exceeds the historical 2020-2024 five-year
11 average of \$7,211,220,000 primarily because of the solar property anomaly in 2024.

12 The adjustment begins with a 2025 reduction of \$278,995,000 where the
13 forecasted plant additions of \$8,462,945,000 exceeded the actual 2022-2024 three-year
14 average of \$8,183,950,000. This reduction flows through to 2026 and 2027. The 2026
15 forecasted plant additions of \$8,929,479,000 exceed the actual 2022-2024 three-year
16 average by \$745,529,000. Since plant is added throughout the year, the adjustment to
17 2026 is the 2025 adjustment of \$278,995,000 plus \$372,764,000, or 50% of the 2026
18 total plant adjustment, resulting in my recommended adjustment of \$651,759,000, as
19 shown on line 32, Column D of Exhibit HWS-2, Schedule B-2, Page 2 of 3.

20 The 2027 adjustment of \$1,515,528,000, as shown on line 32, Column E of
21 Exhibit HWS-2, Schedule B-2, Page 2 of 3, is based on the full years cost for 2025, the
22 full year cost adjustment for 2026, and 50% of the difference between the 2027 plant
23 additions of \$982,008,000 and the actual 2022-2024 three-year average additions of
24 \$8,183,950,000.

1 **Q. WHAT DID YOU MEAN WHEN YOU SAID THE ADJUSTMENT WAS PRIOR**
2 **TO ADJUSTING FOR CLAUSES?**

3 A. The Company adjusted plant for the various existing clauses. On Exhibit HWS-2,
4 Schedule B-2, Page 3 of 3, I calculated an estimated adjustment to my recommendation
5 based on the Company's clause adjustments on Schedules B-1 and B-2. After
6 excluding clause related plant, my recommended adjustment to plant in service would
7 be ~~\$596,838~~ **\$596,838,000** in 2026 and ~~\$1,381,150~~ **\$1,381,150,000** in 2027.

8

9 **Q. WHAT DO YOU RECOMMEND IF THE COMMISSION CHOOSES TO**
10 **IGNORE OPC WITNESS DAUPHINAIS' RECOMMENDATION?**

11 A. If the Commission were to reject an adjustment to specific plant based on an in-depth
12 analysis of generation requirements, I would then recommend the Commission accept
13 my recommended adjustment based on historical trends. If the Commission were to
14 also reject my recommendation, then ignoring history will, in my opinion, burden
15 customers with a cost increase that is not justified and resulting rates that are not fair,
16 just, or reasonable.

17

18 **ACCUMULATED DEPRECIATION**

19 **Q. IS THERE AN IMPACT ON ACCUMULATED DEPRECIATION**
20 **ASSOCIATED WITH THE REDUCTION TO PLANT ASSOCIATED WITH**
21 **OPC WITNESS DAUPHINAIS' RECOMMENDATION?**

22 A. Yes. As shown on Exhibit HWS-2, Schedule B-2, page 1 of 3. the mathematical
23 calculation of projected accumulated depreciation is performed to reduce it
24 \$17,421,000 in 2026 and \$69,102,000 in 2027.

1 **WORKING CAPITAL ALLOWANCE**

2 **Q. WHAT DID YOU DETERMINE FROM YOUR REVIEW OF THE**
3 **COMPANY’S REQUEST FOR WORKING CAPITAL ALLOWANCE?**

4 A. The Company’s test year request includes the deferred rate case expense, and, as will
5 be discussed later, I am recommending excluding rate case expense under the unique
6 circumstances of this case. As shown on Exhibit HWS–2, Schedule C-7, my
7 recommendation results in a reduction of \$4,400,000 in 2026 and \$3,143,000 in 2027
8 to working capital allowance.²⁴

9
10 **Q. ARE YOU RECOMMENDING ANY OTHER ADJUSTMENTS TO WORKING**
11 **CAPITAL ALLOWANCE?**

12 A. Yes. On April 21, 2025, the Commission issued a Proposed Agency Action (PAA) order
13 approving FPL’s request to establish a regulatory asset for the transfer of FPL’s 50
14 percent share of Plant Daniel Units 1 & 2 to Mississippi Power Company. This PAA
15 Order was protested by the Florida Office of Public Counsel on May 12, 2025. On
16 May 13, 2025, FPL and OPC filed a joint motion for approval of stipulation and
17 settlement agreement. The settlement provided for a base rate regulatory asset of
18 \$31,040,000 and an Environmental Cost Recovery Clause (“ECRC”) regulatory asset
19 of \$4,980,000. At the June 3, 2025, Hearing,²⁵ the Commission made a bench decision
20 to approve the joint motion for approval of stipulation and settlement agreement. I
21 noted that in a limited review of FPL’s May 23, 2025, Notice of Identified Adjustments,

²⁴ These reductions are consistent with the Commission’s recent decision to remove \$1,331,206 for deferred rate case expense from Florida Public Utilities Company’s working capital allowance as discussed on page 26 of Order No. PSC-2025-0114-PAA-EI. I would note that this PAA order was protested, and the case was later settled.

²⁵ Document No. 03746-2025, PSC Docket No. 20240155-EI.

1 the Company failed to reflect the necessary adjustments to rate base with the approval
2 of the regulatory asset for Plant Daniel and the associated amortization expense and
3 cost reductions.

4

5 **Q. WHAT ADJUSTMENT IS REQUIRED TO COMPLY WITH THE**
6 **COMMISSION'S DECISION?**

7 A. As shown on Exhibit HWS-2, Schedule B-6, Page 3, the thirteen-month average for
8 Other Regulatory Assets in working capital allowance should be increased \$29,488,000
9 (\$28,629,000 on jurisdictional basis) in 2026 and \$26,384,000 (\$25,628,000 on
10 jurisdictional basis) in 2027. The thirteen-month average is based on the approved
11 \$31,040,000 being amortized over ten years.

12

13 **VI. NET OPERATING INCOME**

14 **REVENUE**

15 **Q. IS OPC RECOMMENDING AN ADJUSTMENT TO REVENUE?**

16 A. Yes. On Exhibit HWS-2, Schedule C-2, reflects adjustments to revenue as
17 recommended by OPC Witness Jacob Thomas, based on his review of FPL's revenue
18 forecast. The total adjustment recommended by OPC Witness Thomas is \$133,032,000
19 in 2026, and \$150,475,000 in 2027.

1 **OTHER REVENUE**

2 **Q. IS THERE A CONCERN WITH THE OTHER REVENUE AS REFLECTED BY**
3 **THE COMPANY IN ITS REQUEST?**

4 A. Yes. The Company has included lease revenue on PHFU properties. As shown on
5 Exhibit HWS-2, Schedule C-3 the lease revenue increased significantly in 2023 and
6 continued to increase in 2024. An increase is presumed to be commensurate with an
7 increase in PHFU. The concern is that even though FPL is forecasting significant
8 increases in PHFU the associated leasing revenue forecasted is decreasing.²⁶ This
9 assumption is not appropriate.

10

11 **Q. PLEASE EXPLAIN WHY THE ASSUMPTION IS NOT APPROPRIATE.**

12 A. The estimated *annual* carrying cost to customers for the 2026 PHFU based on rate base
13 request of \$1,541,832,000 and a requested rate of return of 7.63%, alone, is
14 \$117,641,782. This cost does not include property taxes and any other costs associated
15 with the properties. To simply assume that lease revenue will decline right at the time
16 when rates are being set and when the requested cost to customers is increasing is
17 egregious and contrary to the position identified by FPL witnesses that the forecast took
18 historical trends into consideration.

19

20 **Q. IF THE COMPANY HAS NOT NEGOTIATED NEW LEASES, HOW CAN AN**
21 **ADJUSTMENT BE MADE TO INCREASE THE REVENUE?**

²⁶ FPL's Response to Staff's Fifth Set of Interrogatories, No. 114. Attachment 1.

1 A. That is definitely an issue. Following a known and measurable standard, an adjustment,
2 if any, would be limited. However, the existence of that standard did not stop the
3 Company from adding over \$600 million of properties to PHFU for proposed
4 acquisitions after December 31, 2024. In my review of FPL's responses to Staff's Fifth
5 Set of Interrogatories, No. 144, Attachment 1, and to OPC's Fifteenth Set of
6 Interrogatories No. 345, I was unable to identify any added lease revenue associated
7 with the proposed 2025-2027 additions requested. If the properties that have not yet
8 been acquired are allowed to be reflected in PHFU, some consideration for imputing
9 added lease revenue would be justified.

10

11 **Q. ARE YOU RECOMMENDING AN ADJUSTMENT TO LEASE REVENUE?**

12 A. Yes. As shown on Exhibit HWS-2, Schedule C-3, I am recommending limiting the
13 reduction in lease revenue to a level of \$1,684,000 in both 2026 and 2027.

14

15 **Q. WHY ARE YOU RECOMMENDING A REDUCTION TO LEASE REVENUE**
16 **WHEN YOU IDENTIFIED THE COMPANY'S FAILURE TO INCREASE**
17 **LEASE REVENUE?**

18 A. Unlike FPL, I am taking into consideration the impact associated with my
19 recommendation to exclude certain properties from PHFU. As discussed earlier, I have
20 recommended a reduction to rate base for various PHFU properties for various reasons.
21 Based on a review of FPL's response to Staff's Fifth Set of Interrogatories, No. 144, I
22 identified nine properties that are or may be reflected in my PHFU adjustment.
23 Therefore, it is only appropriate to make a commensurate adjustment.

1 **Q. WHAT SHOULD HAPPEN IF THE COMMISSION REJECTS YOUR**
2 **RECOMMENED ADJUSTMENT TO PHFU?**

3 A. If my recommendation is rejected by the Commission, the Commission should increase
4 the imputation of lease revenue in a manner commensurate with the properties FPL has
5 requested to be included in rate base. For example, as shown on Exhibit HWS-2,
6 Schedule C-3 instead of reducing lease revenue beginning in 2025, the revenue should
7 be increased by a comparable increase of PHFU of 13.17% in 2025, 21.33% in 2026,
8 and another 3.91% in 2027. I emphasize that this would be a very poor substitute for
9 the correct adjustment and would not even come close to aligning lease revenues with
10 the cost customers bear through the return they are paying on the PHFU, as well as the
11 associated property taxes.

12

13 **PAYROLL**

14 **Q. WHAT HAVE YOU DETERMINED FROM YOUR REVIEW OF THE**
15 **PAYROLL COSTS INCLUDED IN THE COMPANY'S BASE RATE**
16 **REQUEST?**

17 A. The Company's request includes \$749,836,000 in 2026, and \$775,925,000 in 2027
18 projected to be charged to O&M expense. For capital projects, the Company is
19 requesting approval of \$355,980,000 in 2026, and \$353,554,000 of capitalized payroll
20 in 2027. The FPL revenue request, according to Schedule C-35, assumes an average
21 employee complement of 9,382 in 2026 and 9,427 in 2027. The history of payroll
22 expensed and capitalized excluding other payroll and recovery clause payroll, along
23 with the changes in the employee complement is detailed on Exhibit HWS-2, Schedule
24 C-3.

1 **Q. WHAT CONCERNS HAVE YOU IDENTIFIED WITH FPL'S PAYROLL**
2 **REQUEST?**

3 A. I have identified two primary concerns with the payroll request. The first concern is
4 that despite a significant forecasted increase in capital project spending, the Company
5 is reflecting a significant reduction to the percentage of payroll being capitalized. As
6 summarized on Exhibit HWS-2, Schedule C-3, from 2021 to 2024, the percentage of
7 payroll capitalized increased and the 2025 year to date capitalization percentage
8 reflected an increase over the 2024 capitalization percentage. The forecasts for 2025
9 through 2027 reflected a significant decrease in capitalization, despite the forecasted
10 increase in capital work when compared to the historical amount of capital work. Even
11 if the capital work forecasted for 2025 through 2027 remained at historical levels, the
12 percentage of payroll capitalized should remain the same. The decrease in
13 capitalization and increase in the percentage in payroll charged to O&M is not
14 appropriate. The Commission should be concerned that revenue requirements are not
15 overstated by test year O&M being overstated and then between cases reduced by
16 discretionary decrease in payroll O&M and commensurate build-up of rate base
17 through commensurate increase in capitalized labor. This practice is contrary to proper
18 rate regulation and can lead to double recovery of the same costs as discussed in further
19 detail below.

20 Adding to the concern with the FPL's forecasted increase to O&M payroll in
21 2025-2027, is the fact that the Company assumed a reduction in the percentage of
22 payroll charged to clause-recoverable work. This is a further concern because by
23 reducing the clause-recoverable work capitalization percentage, it shifts the dollars to

1 base rate payroll. The reduction with clause payroll and capitalized payroll is not
2 justified and inappropriately increases the O&M payroll costs to customers.

3 The second identified concern is with the Company's employee complement
4 request. The request, according to Schedule C-35, assumes an employee complement
5 of 9,277 in 2025, 9,382 in 2026, and 9,427 in 2027. The requested complements were
6 confirmed in response to OPC's Sixth Set of Interrogatories, No. 124. That response
7 also showed that in each of the most recent four-year periods of 2021-2024, the actual
8 number of employees was significantly below the number of planned employees. This
9 comparison of planned to actual is reflected on Exhibit HWS-2, Schedule C-3, Page 2,
10 lines 15 and 16. This consistent historical trend strongly suggests that despite what the
11 Company may have presented as planned, the actuals are and will be significantly
12 lower.

13 These historical trends and averages are reflected on Exhibit HWS-2, Schedule
14 C-3, Page 2 of 2. Historically, the employee complement has fluctuated. For example,
15 after the 2021 rate settlement, the average employee complement was reduced by 424
16 positions. The average increased in 2023 by 188 positions followed by a reduction of
17 42 positions in 2024. Despite the unexplained plan to increase the employee
18 complement to 9,277 in 2025, there was a further reduction of 42 positions as of March
19 2025. The forecasted increases for each of the years 2025-2027 are unsupported by
20 historical actual-to-planned complements and by the Company's own filing.

1 **Q. WHY DID YOU STATE THAT THE COMPANY HAS NOT SUPPORTED THE**
2 **INCREASES IN ITS FILING?**

3 A. The purpose of FPL Witness Jessica Buttress is ostensibly to present an overview of
4 the gross payroll and benefit expenses and to demonstrate the reasonableness of FPL's
5 forecasted payroll and benefit expenses. On page 8, she asserts that the Company
6 reduced headcount since 2021 and was able to still provide safe and reliable service.
7 On page 9, Witness Buttress states that the forecasted increase in 2026 and 2027 is
8 approximately 150 employees over the 2025 headcount. What was not discussed was
9 the fact that the average 2025 forecast is an increase of 165 over the actual 2024 average
10 headcount and more importantly her testimony is devoid of an explanation why the
11 increase of 315 employees was forecasted.

12
13 **Q. DID WITNESS BUTTRESS CLEARLY EXPLAIN WHY THE EMPLOYEE**
14 **COMPLEMENT INCREASES IN 2026 AND 2027 WERE REQUIRED?**

15 A. No. The testimony obliquely implied that the increases were due primarily to the
16 significant population growth and customer growth in Florida and the need for support
17 as explained by FPL Witnesses Bores and Cohen. It was also claimed that the
18 forecasted increase in headcount is largely driven by the need to invest in generation
19 assets to be added between 2026 and 2029 to support purported new load growth as
20 proposed by FPL Witness Whitley. The problem with this contention is that there is
21 no discussion by any of the witnesses referenced addressing a claimed increase in
22 employees for this period. I would add that I am further unaware of where the
23 Company's witnesses have even addressed a specific need for an increase in headcount.
24 The only reference to headcount is Witness Laney's Exhibit IL-2 at page 3, where it

1 notes that the budget process should evaluate current headcount, additions, reductions,
2 and attrition. There is no evidence offered to demonstrate that this step occurred.
3 However, as part of discovery, the Company was asked whether the efficiencies
4 discussed in testimony that were attributed to employee reductions have since required
5 any additions to the employee complement. The response to OPC's Sixth Set of
6 Interrogatories, No. 155 stated that the solar plant and battery plant additions would
7 require an addition of 24 positions in 2026 and again in 2027. There was no mention
8 of whether positions could or would be addressed with contract labor.
9

10 **Q. ISN'T IT POSSIBLE THAT THE COMBINATION OF CUSTOMER GROWTH**
11 **AND CAPITAL INVESTMENT IN PLANT WOULD REQUIRE ADDITIONAL**
12 **PERSONNEL?**

13 A. It is possible, but based on FPL's demonstrated efficiency in operating, that number
14 could be minimal, especially when one considers that the Company has reduced the
15 employee complement even though growth and expanded investment has occurred in
16 recent years. In fact, in deposition, FPL Witness DeBoer stated that in planning the
17 nuclear cost, they will be maintaining the overall headcount and agreed the current
18 headcount would remain flat.²⁷
19

20 **Q. WHAT HAVE YOU CONCLUDED WITH REGARD TO THE REQUESTED**
21 **INCREASE IN EMPLOYEES REFLECTED IN THE FILING?**

²⁷ Deposition of FPL Expert Witness Dan DeBoer on May 2, 2025, p. 99. (Pending errata).

1 A. Basically, the only specific justification for an increase in the employee complement is
2 the result of my inquiry. Based on my decades of experience as a non-lawyer expert in
3 Florida and other jurisdictions, the Company's filing in this regard fails to meet what I
4 have observed as a minimal level of the burden proof Commissions impose to support
5 an increase of 165 positions in 2025, an added increase of 105 positions in 2026, and
6 another increase of 45 positions in 2027, which had it been justified would represent
7 an overall increase of 315 positions above the 2024 average of 9,112. The required
8 justification was absent. As of March 2025, the actual three-month average is 9,066,
9 which is a reduction of 46 positions from the 2024 average. Factoring in the average
10 actual reduction in 2025 of 46 positions from the 2024 average of 9,112, the Company's
11 filing fails to support payroll for 361 positions as of March 2025.

12
13 **Q. HAVE YOU IDENTIFIED A CONCERN WITH THE BUDGETING PROCESS**
14 **IN RELATION TO YOUR CONCERN WITH THE COMPANY'S REQUEST**
15 **TO ADD POSITIONS?**

16 A. Yes. The Company's testimony fails to provide any specifics as to what new positions
17 are required and why they are required. The filing requested a significant increase in
18 compensation charged to O&M. In an attempt to evaluate the compensation and other
19 costs in the filing, the Company was requested in OPC's Fifth Set of Interrogatories,
20 No. 118 to provide a complete itemization of the O&M and Capital forecast for each
21 business unit including assumptions utilized, historical trends utilized, calculations
22 with formulas intact, the assignment of all business unit costs by FERC account, and
23 inflation or other escalation factor utilized. The response provided was voluminous, but
24 there was no information evident to determine who was responsible for the 10

1 attachments and multiple sub-attachments. Accordingly, the information was
2 indeterminate and the manner in which it was provided made it difficult to assess the
3 documents. In the case of compensation and benefits, FPL Witness Buttress did
4 confirm that she was responsible for Attachment 4. In an attempt to gain an
5 understanding, this witness was asked in deposition about the various sub-parts to
6 attachment 4. The witness' responses provided under oath were frequently, "I don't
7 know." The responses also included oblique and unhelpful references to the team
8 creating the detail. The information provided does not tie into the MFRs.
9

10 **Q. WHY IS PAYROLL CAPITALIZATION AN ISSUE?**

11 A. Historically, the capitalization percentage for payroll has increased from 31.03% in
12 2021 to 40.5% in 2024 and year-to-date 2025 being 40.93%. This is a significant
13 concern when rates are being set because the other factor to consider is the revenue
14 requirement associated with the amount of payroll being expensed. The percentage of
15 payroll expensed in 2021 was 67.33%, declining to 56.57% in 2024. The increase in
16 capitalized payroll is consistent with the fluctuating but increasing capital expenditures
17 and the amount of plant going into service over the same time frame. The concern for
18 the forecasted periods 2025-2027 is that even with a significant increase in plant
19 forecasted to go into service and the increase in forecasted capital expenditures
20 (notwithstanding OPC's plant adjustment recommendations), the Company has
21 reduced the percentage of payroll being capitalized and has in turn increased the
22 percentage of payroll being expensed. This assumption by the Company is not
23 consistent with the historical trend or with what would be a commonsense expectation
24 when plant additions are increasing. There is no justification for a reduction to the

1 percentage of payroll being capitalized or assumed to be fixed at the same level for
2 rates set going forward.

3

4 **Q. WHAT WOULD BE THE CONSEQUENCES OF ACCEPTING THE**
5 **COMPANY'S REQUEST RELATED TO PAYROLL CAPITALIZATON AS**
6 **FILED?**

7 A. Customers could pay twice for payroll dollars incurred by ignoring the historical results
8 that as capital project costs increase, the percentage of payroll being capitalized has
9 correspondingly increased. If rates are set using the Company requested amounts,
10 customers would pay future (test year) rates based on the relatively higher revenue
11 requirement associated with the O&M portion unless an adjustment to properly
12 capitalize payroll dollars is made in the test year. When actual payroll is incurred during
13 the period rates are in effect and if the capital portion is properly recorded, the higher
14 actual cost would be capitalized, and when rates are subsequently reset, those same
15 dollar amounts associated with the difference between test year capitalization and
16 actual capitalization will be included in the plant costs a second time as part of the
17 Company's subsequent request. If rates are set based on an unreasonably low amount
18 of capitalized payroll in the test year and then between rate cases, actual results reflect
19 increased capitalization of the same payroll dollars, shareholders receive a
20 commensurate windfall, and customers overpay in rates when they pay a return on

1 those now capitalized amounts.²⁸

2

3 **Q. WHAT DO YOU RECOMMEND FOR PAYROLL EXPENSE IN THE**
4 **RESPECTIVE TEST YEARS 2026 AND 2027?**

5 A. Based on the 2024 O&M percentage of total payroll, the 2026 payroll expense request
6 of \$749.836 million should be reduced by \$108.173 million. My adjustment is reflected
7 on Exhibit HWS-2, Schedule C-3. The adjustment simply multiplies the requested total
8 payroll times 56.57%, the 2024 actual percentage of O&M payroll expense, excluding
9 incentive compensation. Applying the same 56.57% factor to the total requested payroll
10 for 2026 and 2027 reduces the company's projection of payroll expense by \$108.173
11 million and \$120.387 million, respectively.

12

13 **Q. WOULD YOUR RECOMMENDED REDUCTION TO PLANT BE**
14 **INCONSISTENT WITH YOUR RECOMMENDATION TO REFLECT A**
15 **HIGHER CAPITALIZATION RATE?**

16 A. No. My recommendation to adjust plant is based on the actual average historical capital
17 additions. Here, I am recommending the use of the actual 2024 capitalization rate, so
18 the adjustments are consistent. More importantly, it was worth noting that the
19 adjustment to plant is to reflect additions to plant based on historical actual balances

²⁸ This is consistent with the Commission's previous decisions on this point. See Order No. PSC-2021-0206-FOF-WS, pp.101-102, issued June 4, 2021, *In re: Application for increase in water and wastewater rates in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties, by Utilities, Inc. cf Florida*. ("Our decision was based on the principal of avoiding double recovery. We have also previously approved this adjustment to capitalize labor associated with plant projects. As such, we hereby decrease salaries and wages expense by \$61,245 for water and \$353,675 for wastewater. A corresponding adjustment shall be made to decrease payroll tax expense by \$4,685 for water and \$27,056 for wastewater.") See also Order No. 2023-0388-FOF-GU at 90-93, issued December 27, 2023, in Docket No. 20230023-GU, *In re: Petition for rate increase by Peoples Gas System, Inc.* The Commission reduced undercapitalized O&M and ordered a study to be performed.

1 and the use of the historical capitalization rate for payroll is an “apples to apples”
2 adjustment.

3

4 **Q. WHAT IS YOUR RECOMMENDATION FOR THE POSITIONS BEING**
5 **ADDED?**

6 A. I am recommending that the O&M expense be reduced by a net \$23,111,000 in 2026,
7 and \$23,086,000 in 2027. As discussed earlier, the Company has not provided any
8 justification for the additions. My adjustment is based on the March 2025 three-month
9 average of 9,066, and to that I added 24 positions in 2026 and another 24 in 2027 that
10 were identified in the response to OPC’s Sixth Set of Interrogatories, No. 155.

11

12 **Q. WHY DID YOU STATE THE ADJUSTMENT TO EXCLUDE THE**
13 **REQUESTED ADDITIONS IS NET?**

14 A. The adjustment is net of the impact from making the adjustment for capitalization. If I
15 removed the employees and did not net the adjustment, there would be a double count.

16

17 **Q. WHAT IS THE TOTAL RECOMMENDED ADJUSTMENT TO 2026 AND 2027**
18 **PAYROLL O&M?**

19 A. I am recommending that the O&M expense be reduced \$129,285,000 (\$125,830,000
20 on a jurisdictional basis) in 2026 and \$143,473,000 (\$139,589,000 on jurisdictional
21 basis) in 2027.

1 **INCENTIVE COMPENSATION**

2 **Q. HAVE YOU ANALYZED FPL'S REQUEST FOR INCENTIVE**
3 **COMPENSATION FOR THE RESPECTIVE TEST YEARS?**

4 A. Yes. My analysis was performed to the best of my ability based on the information
5 supplied. FPL was requested to provide a summary of each plan for 2024 and projected
6 for 2025-2027, the total incentive compensation cost, the amount excluded from base
7 rates, and the amount included in base rates. The response to OPC's Eleventh Set of
8 Interrogatories, No. 313 identified thirteen different incentive plans. The response
9 indicates that eight of the plans do not include amounts in the 2026 and 2027 base rate
10 forecast and one includes costs I consider *de minimis*. The remaining four plans reflect
11 dollars in the projected test years 2026 and 2027 and are as follows:

- 12 ▪ NextEra Energy, Inc. Amended and Restated Long Term Incentive Plan
- 13 ▪ FPL Performance Dollar Long Term Incentive Program
- 14 ▪ FPL and FPLES Commercial Sales Commission Plan FINAL, January
15 2023
- 16 ▪ Energy Marketing and Trading Performance Incentive Compensation
17 Program, June 2017

18

19 **Q. WAS THE RESPONSE TO OPC'S ELEVENTH SET OF**
20 **INTERROGATORIES, NO. 313 SUFFICIENT?**

21 A. No. The response states that for the NextEra Energy, Inc. Amended and Restated Long
22 Term Incentive Plan, the costs included in base rates are identified in OPC's First Set
23 of Interrogatories, No. 24 and the amounts excluded are in MFR B-2 and C-3. The
24 adjustment referenced is a single dollar amount and does not distinguish the amounts

1 associated with the three respective adjustments being made. Based on this response,
2 and while it may present a bare minimum representation of what the Company is asking
3 to be included in base rates, the single dollar amount is not evidence as to what the total
4 costs and the amount excluded are for the long-term plan identified. After a review of
5 the workpapers and supporting excel files provided in response to OPC's First Request
6 of Production, No. 14, I was able to identify the adjustments made to different types of
7 compensation, but it remains unclear what the specific types are. The description of the
8 adjustments in the response were executive compensation and Non-Executive
9 Performance Shares. The executive compensation consisted of three types of costs.
10 The costs listed are "AMF Officer – RSA, PSA, NQSO," "AMF Incentive," and "AMF
11 50% non-officer." Clearly, these coded designations do not identify what specific
12 incentive plan was adjusted. The adjustment on the referenced schedules reportedly
13 excludes all executive incentive compensation, 50% of non-executive restricted stock
14 and target performance share awards, and 100% of any non-executive expense above
15 target for performance shares.

16 The response to OPC's Eleventh Set of Interrogatories, No. 313 indicated that
17 the FPL Performance Dollar Long Term Incentive Program, where amounts were
18 specifically identified as "O&M included in base rates," a capitalized portion excluded
19 from base rates," and a total. The problem, though, is that this is a long-term plan, and
20 it is not known whether the executive compensation adjustment the Company made
21 excluded any of the costs associated with this plan, and it is not clear why the
22 capitalized portion is said to be excluded from base rates when rate base is included in
23 base rates.

1 The next plan is the FPL and FPLES Commercial Sales Commission Plan
2 FINAL, January 2023. The information in response to OPC's Eleventh Set of
3 Interrogatories, No. 313 suggests that an amount included in base rates is based on an
4 amortization of the cumulative amount deferred. I do not question what FPL says is the
5 amortization, but the other information supplied does not make mathematical sense.
6 For example, the 2024 deferred amount is \$3,154,958, the 2025 amount paid is
7 \$5,336,173, and the amount amortized in 2025 is \$654,586, suggesting a cumulative
8 balance in 2025 of \$7,836,545 ($\$3,154,958 + \$5,336,173 - \$654,586$). The 2025
9 cumulative balance as listed in the response is \$7,931,259, so the math appears to be
10 missing some information. I would also be concerned as to why, if the payment is for
11 an amount earned over a future period, the payment was made in advance and why is
12 it reflected as a deferral possibly included in rate base.

13 The final identified plan is the Energy Marketing and Trading Performance
14 Incentive Compensation Program, June 2017. The response to OPC's Eleventh Set of
15 Interrogatories, No. 313 states that the costs are inclusive of the costs in the response
16 to OPC's Eleventh Set of Interrogatories, No. 328. That raises the question whether
17 this plan is being referred to as the non-officer performance incentive plan or whether
18 this plan's costs are included as a portion of the dollars identified as the non-officer
19 performance incentive plan costs. There also is a concern as to whether any of the
20 represented costs in the non-officer performance incentive plan were subject to the
21 Company's adjustment made in the MFRs. The reason for raising that concern is
22 because the response to OPC's Eleventh Set of Interrogatories, No. 328 specifically
23 states the amounts are "per FPL total company per books without any FPSC
24 adjustments." (Emphasis added.)

1 **Q. PLEASE EXPLAIN WHAT THE COSTS ARE THAT ARE IDENTIFIED IN**
2 **THE RESPONSE TO OPC’S ELEVENTH SET OF INTERROGATORIES, NO.**
3 **328.**

4 A. The Company indicated in the response that the FPL total company per books without
5 any FPSC adjustments for the 2026 projected test year included \$118,914,471 of non-
6 officer performance incentive compensation, of which \$75,870,168 or 63.8% was
7 expensed. The total 2027 projected test year included \$124,039,324 of non-officer
8 performance incentive compensation, of which \$81,204,545 or 65.5% was expensed.
9 On Exhibit HWS-2, Schedule C-5, I have summarized the historical costs from 2021-
10 2024 along with the projected costs from 2025-2027 separated between Base O&M,
11 Base Capital, Clause O&M and Clause Capital. While the response does indicate what
12 costs are O&M and capital, because it states the amounts are presented without any
13 FPSC adjustments, it is not evident whether the FPSC-directed executive compensation
14 adjustment made by FPL to O&M and capital are applicable to the non-officer
15 performance incentive compensation or whether is the amounts included in the
16 response are what FPL is actually requesting to include in base rates.

17
18 **Q. DID YOU EVER RECEIVE THE INFORMATION THAT WOULD ALLOW**
19 **YOU TO IDENTIFY WHAT COST WAS ADJUSTED AND WHAT**
20 **INCENTIVE COMPENSATION COSTS REMAIN IN THE COMPANY’S**
21 **REQUEST?**

22 A. On May 27, 2025, notice was received that a supplemental response was provided for
23 OPC’s First Set of Interrogatories, No. 24 (“Supplemental 24”). The attachment to the

1 Supplemental 24 response identified four incentive plans, the per book and O&M
2 amounts, the respective adjustments made in the filing, including the executive
3 compensation adjustment, and the adjusted jurisdictional O&M amounts included in
4 the Company's request. Despite being a summary of what costs are before and after
5 adjustments, the response unfortunately created some added concerns and confusion.
6 The first plan listed is Officer Incentive Compensation. The problem with that is that,
7 despite being asked for plan information in discovery, an Officer Incentive
8 Compensation plan was not specifically identified or provided. The next plan was the
9 Non-Officer Cash Annual Incentive Compensation plan. This plan, as discussed earlier,
10 had cost information provided in response to OPC's Eleventh Set of Interrogatories,
11 No. 328. The amounts in that response do not match the amounts in Supplemental 24.
12 The third plan listed was the Non-Officer Cash Long Term Incentive Compensation
13 plan, also known as the FPL Performance Dollar Long Term Incentive Program. The
14 dollars identified in the original response to OPC's Eleventh Set of Interrogatories, No.
15 313 did match the amount in Supplemental 24, but the amount in the supplement to
16 OPC's Eleventh Set of Interrogatories, No. 313 do not match. The last plan listed in
17 Supplemental 24 was Non-Officer Stock-Based Incentive Compensation, and when
18 compared to the response to OPC's First Set of Interrogatories, No. 24, the amounts
19 again did not match. That said, I will rely on Supplemental 24 when making my
20 recommendation.

1 **Q. DID YOU IDENTIFY A CONCERN WITH THE COMPANY’S INCLUSION**
2 **OF INCENTIVE COMPENSATION PLAN COSTS FOR THE REQUESTED**
3 **TEST YEARS AND/OR THE COMPANY ADJUSTMENTS MADE TO**
4 **EXCLUDE PORTIONS OF THE INCENTIVE COMPENSATION?**

5 A. Yes. In the past, the Commission has excluded a portion of, or all of, the projected
6 incentive compensation expense. The decision in the 2009 FPL rate case²⁹ first
7 excluded executive and non-executive incentive compensation from an above target
8 ratio to the target ratio. The order further excluded 100% of what was defined as target
9 executive compensation and 50% of what was identified as target non-executive
10 compensation. Also in the Florida Progress 2009 rate case the Commission disallowed
11 all of the requested incentive compensation stating that, “[Progress Energy Florida]
12 should pay the entire cost of incentive compensation, as its customers do not receive a
13 significant benefit from it.”³⁰ It is especially noteworthy that the decision was based on
14 the lack of customers receiving a “significant benefit,” instead of by application of a
15 standard that it lacks “any benefit.” There is a concern that the executive compensation
16 adjustment made by the Company is not consistent with the referenced FPL order.

17

18 **Q. WHAT IS THE ISSUE YOU HAVE WITH THE REQUESTED INCENTIVE**
19 **COMPENSATION ADJUSTMENT THE COMPANY MADE?**

20 A. In Docket No. 20210015-EI, the specifics of the calculation were not obvious, and the
21 same issue existed in the current filing and with the discovery responses. The May 27,

²⁹ Order No. PSC-2010-0153-FOF-EI, issued March 17, 2010 in Docket No. 2008067-EI, at 147-150, *In re: Petition for increase in rates by Florida Power & Light Company*.

³⁰ Order No. PSC-2010-0131-FOF-EI, Docket Nos. 20090079-EI, 090144-EI, 090145-EI, issued March 5, 2010, p. 115, *In re: Petition for increase in rates by Progress Energy Florida, Inc.*

2025, Supplement 24 clarified to some extent the identity of the costs excluded but the respective calculations remain an unknown. Absent the details of the calculation of the Company's adjustment for incentive compensation in the current rate case, a determination cannot be made whether the adjustment is consistent with the adjustment in Order No. PSC-2010-1031-FOF-EI. The total of the adjustments in Order No. PSC-2010-1031-FOF-EI excluded \$48,452,854 of incentive compensation compared to the current adjustments of \$58,049,183 in 2026 and \$61,365,476 in 2027. The concern I have is that 15 years have passed since the 2010 order was issued, and incentive costs have increased significantly. Absent the actual calculation details with an explanation of the calculation, the Company adjustment may be inconsistent with that order and overly conservative.

Q. PLEASE IDENTIFY ANY OTHER ISSUES YOU HAVE WITH THE INCENTIVE COMPENSATION COSTS, PLANS, OR THE ASSUMPTION THAT COSTS ARE APPROPRIATE.

A. The first issue is that the Company was unable to explain how the pool of dollars to be distributed was determined. The explanations always refer to goals and achievements but not to how the amount of dollars in the pool were calculated. It is evident from the plan that the distribution is based on goals and achievement, but it is not evident how the pool of dollars is determined. It is worth noting that according to the Florida Power & Light Company Leader Compensation Manual provided in response to OPC's First Request for Production of Documents, No. 22, the payment of incentive compensation is discretionary and could be discontinued at any time.

1 Second, adding to the concern with the forecasted amounts is the fact that the
2 Company proposes charging O&M expenses using a lessor percentage than what is
3 being charged historically to base payroll O&M expenses. This suggests that incentive
4 compensation does not follow base payroll, despite the fact that the payout of incentive
5 compensation is related to an employee's base pay. The concern here that the allocation
6 to capital does not follow payroll is compounded by the troubling phenomenon noted
7 elsewhere in my testimony when the Company ignores the historical capitalization
8 trend.

9 Third, according to the response to OPC's Eighth Set of Interrogatories, No.
10 231, from 2021 through 2024, 96.7% or more of eligible employees received an
11 incentive compensation payment. This raises a concern as to whether there really is an
12 incentive created for employees to perform above the day-to-day normal operational
13 requirements and expectations. If my perception is accurate, it would be inconsistent
14 with the very foundation underlying the existence of incentive compensation plans
15 where the plan is designed to put compensation at risk and create an incentive to
16 achieve goals that will require employees to improve operations. With such a perceived
17 high-performance level of 96.7% receiving incentive payments, the question arises as
18 to why such a significant rate request is needed and why there is an alleged need to hire
19 over 300 new employees.

20 Fourth, the Company's argument that incentive compensation is required to
21 attract and retain employees in the utility industry is not supported. The term incentive
22 compensation is a misnomer that has evolved over time to support collecting revenues
23 from customers to pay extra compensation at the discretion of the Company. In all the
24 years of my reviewing rate requests that included this argument by every company, I

1 have not seen any study that supports the claim that extra payments are being paid to
2 incent employees' performance. Instead – as is the case here – incentive compensation
3 has just evolved into nothing more than supplemental pay for virtually everyone.
4 Finally, and most importantly, I do not believe that the goals really provide an incentive
5 for improvement.

6

7 **Q. WHAT DO YOU MEAN THE TERM INCENTIVE COMPENSATION IS A**
8 **MISNOMER FOR DISCRETIONARY PAY?**

9 A. Years ago in utility regulation, the issues raised with compensation revolved around
10 the prudence of the annual forecasted increases or the level of pay of certain highly
11 compensated employees. Subsequently, ratemaking challenges evolved to address the
12 payment of discretionary bonuses paid to a select group of employees as added
13 compensation. That transitioned into challenges to the payment of incentive
14 compensation to top level employees. Again, there was a concern with the payment
15 being discretionary and/or a means to pay a select group of employees added
16 compensation. More recently, the phenomenon of incentive compensation was made
17 available to most employees, if not all of the employees of a company. This is the
18 background that brings us to the circumstances of this case.

19

20 **Q. THE COMPANY CLAIMS THE INCENTIVE COMPENSATION IS PART OF**
21 **A COMPENSATION PACKAGE THAT IS REQUIRED TO ATTRACT AND**
22 **RETAIN A COMPETENT WORKFORCE. WHY DO YOU STATE THE**
23 **CLAIM IS NOT SUPPORTED?**

1 A. As discussed earlier, I have not seen any study that supports this claim. Instead, the
2 Company claims that their position is supported by compensation surveys and that the
3 compensation paid to its employees falls within a range that is reasonable. The surveys
4 do support the fact that other companies within and without the utility industry pay
5 some form of incentive pay. The surveys do not differ significantly from vendor to
6 vendor and after many years of review, I found they are a waste of my time to review
7 because over time the conclusions were the same and the level of confidentiality
8 seemed to restrict access more and more. The worst part about the surveys is the cost
9 customers bear for these surveys when they are just tools for companies to justify the
10 increased compensation paid to their employees. In evaluating compensation included
11 in the base rates of a utility, there may be some merit to evaluating base pay but not
12 incentive compensation since there is not an apples-to-apples comparison of the
13 different corporate plans. Specifically, the surveys referred to do not have comparable
14 goals that truly incent employees to perform at a level over and above that upon which
15 the employees' base compensation is determined.

16 Numerous jurisdictions, where the same compensation surveys are utilized,
17 have excluded some or all of incentive compensation, as was the case in Florida in 2010
18 - 2011. In some cases, the costs are split in the regulators' decision, based on the
19 conclusion that both shareholders and customers benefit, while in some cases the
20 regulator excluded all the cost after determining that the goals are not sufficient, the
21 benefit is clearly for shareholders, or a combination thereof.

1 **Q. IS THERE ANY INDICATION THAT SOME ADDED PERFORMANCE IS**
2 **REQUIRED BY EMPLOYEES IN ORDER TO RECEIVE THE INCENTIVE**
3 **PAYMENTS?**

4 A. No. In my 45-plus years of analyzing bonus and incentive compensation costs and
5 plans, the performance metrics are key and the absence of a requirement for
6 improvement is a common problem. Essentially, it is a given that the Company's
7 payment will be made, indicating that this is really nothing more than supplemental
8 pay.

9
10 **Q. IS IT YOUR OPINION THAT FPL'S GOALS ARE NOT SUFFICIENT**
11 **ENOUGH TO CREATE AN INCENTIVE FOR IMPROVEMENT?**

12 A. Yes. OPC's First Set of Interrogatories No. 22 requested a summary of goals and
13 achievements for the years 2020-2024. The review of 2021-2024 did note that after
14 achieving the three service reliability goals in 2021, the goals set for 2022 were slightly
15 lower than the 2021 goals, but the new goals were not near what the achievement was
16 in 2021. In 2023, two of the three service reliability goals were similarly not set based
17 on the 2022 achievement. In 2024, the goals remained the same as 2023 despite
18 achievement that was 200% of target. This fact should be a signal that the so-called
19 exclusion of costs in the filing above target is skewed since the incentive costs
20 increased over the amount that was paid in 2024. Three of the goals for each year 2021-
21 2023 are clearly subjective as the goal is described as an "aggressive goal." In 2024,
22 one of the aggressive goals was changed to top decile performance and, ironically, that
23 goal was not achieved in 2024.

1 A specific goal for O&M expense was not fully achieved in 2021 and so the
2 goal for what is expensed was increased in 2022. In 2022, the Company achieved the
3 goal but instead of providing an incentive for 2023, the goal remained at the 2022 level.
4 It is also worth noting the O&M cost goal is adjustable. Similarly, the Capital
5 expenditure goals are not truly set as an incentive. The goals set for each year were
6 below what the Company was forecasting in each of those years according to the
7 response to OPC's Eighth Set of Interrogatories, No. 222. This fact should be taken
8 into consideration if the alternative approach trending adjustment to projected plant in
9 service is considered by the Commission.

10 Other notable items were the 2021 goals inclusion of "Successful completion
11 of the base rate proceeding." The actual achievement was also interesting as is
12 indicated "fair outcome for customers and 25% shareholders." This clearly indicates
13 shareholders benefit from incentive compensation.

14

15 **Q. WHY IS ESTABLISHING AN INCENTIVE COMPENSATION POOL OF**
16 **DOLLARS A PRIMARY CONCERN?**

17 A. The establishment of an incentive compensation pool of dollars is critical as that is
18 what will be paid out as an expense to be recovered from customers. Without any
19 indication whether the pool is set to reduce net income to fall within the allowed
20 earnings range, it should raise concerns for regulators. In response to inquiries as to
21 how the pool is established, the Company simply states that there is not a trigger
22 mechanism. Instead, it is linked to the achievement of goals. Absent some clear
23 explanation as to how the pool of dollars is calculated and justification for that level of
24 dollars, the Commission has no means of determining that a payout of bonus

1 compensation is just and reasonable, let alone earned. The Company's continued
2 reference to achievement of goals is merely a smokescreen to blur any idea as to how
3 that amount is determined. The fact is that the various goals serve as a means for the
4 distribution of a discretionary pool of dollars and is not for establishing the pool of
5 funds to be distributed. After receipt of Supplement 24, and as noted earlier, OPC did
6 not receive information on the Officer Incentive Compensation plan. Accordingly, I
7 must assume that plan does not provide detail on the calculation of the incentive pool.

8

9 **Q. HAS THE COMPANY JUSTIFIED THE INCLUSION OF THE INCENTIVE**
10 **COMPENSATION REQUESTED IN THE CURRENT FILING?**

11 A. Absolutely not. The Company's attempt at justification is similar to other utilities who
12 provide unsupported claims that incentive compensation is part of a compensation
13 package required to attract and retain competent employees. The fact that the goals are
14 not ratcheted up after being achieved is indicative that the compensation is more of a
15 guaranteed payout year after year than pay that is truly at risk. The fact that it is not
16 known how the amount of the pool is determined is strong evidence of this since its
17 derivation is not tied to increased performance through elevated goals.

18

19 **Q. ARE THERE ANY OTHER CONCERNS WITH THE INCENTIVE**
20 **COMPENSATION INCLUDED IN THE COMPANY'S REQUEST?**

21 A. Yes. Besides not knowing how the amount is determined, what the respective Company
22 adjustments were, and what amounts are actually included in the request, I am also
23 concerned that some portion of affiliate charges include incentive compensation which
24 is in turn included in the Company's request. The response to OPC's Eleventh Set of

1 Interrogatories, No. 302 states that affiliate incentive compensation is not reflected as
2 incentive compensation on FPL books. The response to OPC's First Set of
3 Interrogatories, No. 92 provided six attachments of affiliate charges to FPL. In
4 reviewing the costs in Attachment 5: 2024 Direct Charges from affiliated entities to
5 FPL, I was able to identify that \$6,588,039 were labeled incentive compensation. What
6 is included in the affiliate incentive compensation plans as goals and achievements is
7 not known and what generated the payouts is not known so these costs are clearly
8 questionable. The concern is heightened since the incentive in that detail is 18% of the
9 \$36,281,358 of payroll charged by affiliates to FPL. There is no evidence that this
10 amount of incentive compensation was adjusted out before the costs were invoiced to
11 FPL and included in the filing. This is a cost that could be considered for adjustment
12 because of the lack of detail, but I am not recommending one at this time. I believe that
13 the Commission should make further inquiries and satisfy itself that no affiliate charges
14 are being charged to customers in violation of its policies.

15
16 **Q. ARE YOU RECOMMENDING AN ADJUSTMENT FOR INCENTIVE**
17 **COMPENSATION BASED ON THE INFORMATION CURRENTLY**
18 **AVAILABLE?**

19 A. Yes. Consistent with the decision in Docket Nos. 20090079-EI, 20090144-EI, and
20 20090145-EI, in Order No. PSC-2010-0131-FOF-EI, where the Commission disallowed
21 all of the requested incentive compensation stating that "[Progress Energy Florida]
22 should pay the entire cost of incentive compensation, as its customers do not receive a
23 significant benefit from it," I am recommending that all of the FPL incentive
24 compensation be disallowed. The FPL goals are not sufficiently challenging to require

1 improvement in operations, some goals appear to be subjective, the Company has failed
2 to explain how the pool for the various plans are developed, and the Company failed to
3 provide the plans and the goals for 2025 let alone 2026 and 2027. If the goals are not
4 available, it is not possible to determine if the goals require an incentive for
5 improvement in 2026 and 2027. I am recommending jurisdictional-basis reductions of
6 the projected plans expense of \$87,478,000 in 2026 and \$93,063,000 in 2027.

7
8 **Q. HOW DID YOU DETERMINE YOUR ADJUSTMENT?**

9 A. I excluded 100% of the projected expense as reflected in Supplemental 24 for the Non-
10 Officer Cash Annual Plan, Non-Officer Cash Long-Term Plan, and the Non-Officer
11 Stock-Based Plan because the goals do not generate an incentive for improvement, the
12 costs are discretionary, and there are no known and measurable goals for the forecast
13 years.

14
15 **Q. WHAT IF THE COMMISSION CONCLUDES THAT BASED ON FPL'S PAST**
16 **PRECEDENT, SOME INCENTIVE EXISTS FOR ALLOWING SOME COSTS?**

17 A. If the Commission is inclined to ignore the fact that the costs cannot be known and
18 measurable, it should consider the most recent performance and the Company's failure
19 to make goals more challenging. Another consideration the Commission should factor
20 into their decision is the fact that beyond the benefit to shareholders for any supposed
21 extra performance, if actual future performance is below expectations, shareholders are
22 held harmless because the delta of the lower payment than the amount of incentive
23 compensation included in base rates will flow through to shareholders. Allowing any
24 incentive in base rates is a win-win for shareholders. As an alternative, I would

1 recommend excluding 100% of long-term costs and stock-based costs and at least 50%
2 of the Non-Officer Cash Annual plan in recognition of the fact that shareholders are
3 the primary beneficiary of any improvements in operations that produce savings and
4 performance over and above that which is expected as part of the employee's
5 employment commitment and customers may receive some benefit. Past precedent
6 coupled with the projected nature of the FPL filing requires the exclusion of 100% of
7 the non-officer performance incentive compensation costs but a split of the cost may
8 provide some incentive to make the plan truly an incentive plan.

9

10 **EMPLOYEE BENEFIT EXPENSE**

11 **Q. ARE THERE ANY CONCERNS THAT YOU HAVE WITH EMPLOYEE**
12 **BENEFITS FORECASTED FOR THE YEARS 2026 AND 2027?**

13 A. Yes. The filing on MFR Schedule C-6 reflects Pensions & Benefits charged to, or
14 projected to be charged to, account 926 for the years 2020-2027. The amounts for the
15 years 2020-2024 reflect actual and budgeted numbers. Actual expense ranged from a
16 low of \$25,443,000 in 2023 to a high of \$57,185,000 in 2022. The average for the five
17 years is \$39,604,000. As shown on Exhibit HWS-2, Schedule C-5, in three of the five
18 years, actual expense was below the budgeted amounts. Essentially, costs do fluctuate
19 from year to year and an assumption that costs will increase is not supported by history.
20 The forecasted expenses as reflected in account 926 are \$37,365,000 in 2025,
21 \$44,559,000 in 2026, and \$49,000,000 in 2027 in the MFR Schedule C-6. The
22 forecasted decrease in 2025 was followed by increases of 19.25% in 2026 and 9.97%
23 in 2027. Given the lack of supporting documentation for payroll costs there is a concern
24 the increases may not be supported.

1 **Q. WERE YOU ABLE TO IDENTIFY WHAT CONTRIBUTED TO THE**
2 **INCREASE IN EMPLOYEE BENEFITS EXPENSE?**

3 A. Yes, to some extent. The 2024 costs were an anomaly compared to earlier years and
4 the increase there was primarily impacted by an increase in medical costs, a significant
5 decrease in the negative pension credit, and an increase in payroll taxes. The increases
6 in 2026 and 2027 over the 2024 expense are primarily related to an increase in medical
7 and 401k costs. These increases are most likely materially influenced by the
8 Company's unrealistic requested increase in employees.

9

10 **Q. ARE YOU TAKING ISSUE WITH EITHER OF THE COSTS DRIVING THE**
11 **INCREASES IN BENEFITS?**

12 A. No, at this time I have not identified specific issues beyond the fact the increases which
13 are undoubtedly related to the requested increases in employees.

14

15 **Q. ARE YOU RECOMMENDING AN ADJUSTMENT TO EMPLOYEE**
16 **BENEFITS?**

17 A. Yes. As shown on Exhibit HWS-2, Schedule C-6, Page 1 of 2, I am recommending a
18 reduction to the projected expenses in the amount of \$12,491,000 (\$12,106,000 million
19 on jurisdictional basis) to employee benefit expense in 2026, and \$14,467,000 million
20 (\$14,029,000 million on jurisdictional basis) in 2027. The adjustment is a
21 straightforward flowthrough of my recommended payroll adjustment based on the
22 percentage of benefit expense to payroll expense as reflected in the filing. The
23 adjustment is based on the O&M employee benefits expense as reflected in MFR

1 Schedule C-4 for O&M, excluding clause amounts, and further adjusted for Company
2 adjustments reflected in MFR Schedule C-3.

3

4 **GENERATION MAINTENANCE**

5 **Q. DID YOU REVIEW THE FORECASTED GENERATION MAINTENANCE**
6 **COSTS?**

7 A. Yes. Budgeted and actual cost information for non-nuclear and nuclear generation
8 maintenance for 2020 through 2024 along with forecasted cost for 2025 through 2029
9 was provided in response to OPC's First Set of Interrogatories, No. 55 and in a
10 corrected response. The details provided included costs by plant and explanations for
11 historical variances between budgeted and actual.

12

13 **Q. WHAT DID YOU DETERMINE FROM YOUR REVIEW?**

14 A. The Company historically performs the required generation maintenance at a cost
15 below what is forecast. As shown on Exhibit HWS-2, Schedule C-12, in each of the
16 years 2020-2024, actual maintenance for both non-nuclear and nuclear maintenance
17 was significantly below budget. Performance-wise, this reflects a high level of
18 efficiency within FPL's operations. However, from a budgeting perspective, it is
19 problematic. Based on the historical budget-to-actual results, there is a high probability
20 that the forecasted costs reflected in the Company's request are overstated.

1 **Q. WHY IS THE COMPARISON OF HISTORICAL BUDGET-TO-ACTUAL A**
2 **PROPER MEASUREMENT OF WHETHER THE FORECASTED COSTS ARE**
3 **OVERSTATED?**

4 A. In my experience, the trend of historical budget-to-actual results provides a good
5 benchmark for determining whether future cost estimates can be relied on for setting
6 rates. The Commission utilizes benchmarking by applying escalation to historical costs
7 to evaluate the reasonableness of costs going forward. While a good practice in theory,
8 that methodology runs the risk of ignoring, in part, efficiencies that arise over time and
9 the improvements in quality. In fact, the Company acknowledged in response to OPC's
10 Eleventh Set of Interrogatories No. 314 that historical costs and estimates were used in
11 developing the proposed costs for 2025-2027. The response added that, in addition to
12 historical cost and estimates, other relevant inputs are applied.

13
14 **Q. DID YOU REVIEW ANY OF THE INPUTS THE COMPANY UTILIZED IN**
15 **PREPARING FORECASTED COSTS?**

16 A. Yes. The Company was requested to provide O&M and Capital forecast for each
17 business unit, including, but not limited to, all assumptions utilized, historical trends
18 utilized, calculations with formulas intact, the assignment of all business unit costs by
19 FERC account, and inflation or other escalation factor utilized.³¹ The response included
20 numerous documents but there is nothing linking the information to specific costs or
21 witnesses, so interpreting it was cumbersome. During depositions, OPC attempts to get
22 details on what the documents were and how to link them to costs in the MFR were not

³¹ OPCs Fifth Set of Interrogatories, No. 118

1 successful. In fact, in some cases, when asked about certain cost information, the
2 subject matter witnesses could not explain the development of the information.

3

4 **Q. HAVE YOU IDENTIFIED AN ISSUE WITH THE COMPANY'S FORECAST**
5 **OF MAINTENANCE TO BE PERFORMED?**

6 A. I am not taking issue with any specific maintenance costs or activities, but I have noted
7 that historically, FPL's budgeted costs have exceeded actual costs. In my experience
8 over more than four decades of reviewing the budgeting of costs, I have found that
9 contingencies are included when budgeted. This concept may be appropriate from a
10 management perspective because it allows for meeting goals by being below budget
11 and in some cases may provide some cushion if some unforeseen costs occur. The
12 question, though, is whether any such cushion in FPL's budgeting is excessive and
13 unjustified. As shown on Exhibit HWS-2, Schedule C-12, the variances fluctuate each
14 year so if an average is applied to the current forecast, there still is some cushion in the
15 forecast to account for that possible unforeseen cost if one occurs. Allowing an
16 excessive forecast that does not factor in historical variances would lead to
17 unreasonable rates, especially in a time when customer affordability concerns are
18 heightened. The forecasted planned maintenance for generation requires an adjustment
19 for the reasons I have detailed.

20

21 **Q. WHAT ARE YOU RECOMMENDING AS AN ADJUSTMENT TO THE**
22 **REQUESTED GENERATION MAINTENANCE FORECASTED FOR 2026**
23 **AND 2027?**

1 A. My recommendation is a reduction of non-nuclear maintenance expense of \$4,809,000
2 in 2026 and \$4,867,000 in 2027. I am recommending a reduction of nuclear generation
3 expense of \$6,592,000 in 2026 and \$5,349,000 in 2027. The combined reductions are
4 \$11,400,000 (\$10,927,000 on jurisdictional basis) in 2026 and \$10,217,000
5 (\$9,902,000 on jurisdictional basis) in 2027. These reductions are based on the actual
6 five-year average budget-to-actual variances of 21.82% and 10.54% for non-nuclear
7 and nuclear generation, respectively. I would note that the non-nuclear (favorable)
8 variance year-to-date February 2025 was 43.66%. Nuclear year-to-date for 2025 was
9 not provided.

10

11 **Q. PLEASE EXPLAIN WHY SCHEDULE C-12 INCLUDES A PAGE 3 THAT IS**
12 **NOT REFLECTED IN YOUR ADJUSTMENT.**

13 A. As part of the analysis associated with OPC witness Dauphinais, the revenue
14 requirement calculation he relied on included various other costs and one of the costs
15 was O&M expense. The costs on Schedule C-12, Page 3 are what was identified as
16 costs associated with the 2026 and 2027 solar plant requested by FPL. Since OPC
17 witness Dauphinais has recommended the plants not be included in rates, the associated
18 expense should also be excluded. However, because the costs could include
19 maintenance and other O&M costs, I have not excluded them out of concern with a
20 double count. Granted, while some cost could be excluded, I am not making an
21 adjustment absent a more sufficient level of detail.

1 **TRANSMISSION MAINTENANCE COSTS**

2 **Q. HAVE YOU IDENTIFIED CONCERNS WITH TRANSMISSION**
3 **MAINTENANCE BASED ON A COMPARISON OF HISTORICAL**
4 **BUDGETED COST TO ACTUAL COST?**

5 A. Yes. The comparison is shown on Exhibit HWS-2, Schedule C-13. Similar to
6 generation maintenance, the Company had favorable budget variances every year
7 during 2020-2024 as the actual costs were below the budgets. The transmission
8 variances, like with generation, fluctuated from one year to the next. Again, I am
9 recommending the use of the five-year average variance percentage in recommending
10 a reduction to the planned transmission maintenance. This is not taking issue with
11 performing the planned maintenance but recognizing that historically, the Company's
12 budgeting has unreasonably overstated the costs forecasted.

13

14 **Q, WHAT ADJUSTMENTS ARE YOU RECOMMENDING FOR 2026 AND 2027**
15 **TRANSMISSION MAINTENANCE COSTS?**

16 A. The forecasted transmission maintenance costs should be reduced by \$11,528,000
17 (\$10,566,000 on jurisdictional basis) in 2026 and \$13,805,000 (\$13,379,000 on
18 jurisdictional basis) in 2027.

1 **Q. WHY DID YOU USE A FIVE-YEAR AVERAGE WHEN EARLIER YOU**
2 **AVOIDED USING FIVE YEARS BECAUSE OF THE GULF POWER**
3 **TRANSITION?**

4 A. I could have used the three-year average, but my use of the five-year average results in
5 a more conservative adjustment. On line 8 Exhibit HWS-2, Schedule C-13, I show a
6 favorable three-year average of 12.18%, which is greater than the five-year average of
7 11.16%.

8

9 **PLANT DANIEL**

10 **Q. PLEASE IDENTIFY THE ADJUSTMENTS TO AMORTIZATION AND**
11 **OPERATING EXPENSES THAT YOU STATED ARE ASSOCIATED WITH**
12 **THE PLANT DANIEL REGULATORY ASSET APPROVAL.**

13 A. On Exhibit HWS-2, Schedule B-6, Page 3, I have identified three adjustments that are
14 required. The first adjustment is an increase to amortization expense of \$3,104,000 in
15 2026 and 2027 (\$3,014,000 in 2026 on jurisdictional basis and \$3,015,000 in 2027 on
16 a jurisdictional basis). This amortization is based on the approved write-off of the
17 regulatory asset over 10 years. The second adjustment is a reduction to Other Operation
18 & Maintenance expense of \$5,457,000 (\$5,287,000 on jurisdictional basis) in 2026 and
19 a reduction of \$5,342,000 (\$5,177,000 on jurisdictional basis) in 2027. The amounts
20 are based on the testimony of Company witness Liz Fuentes and Exhibit LF-6. The
21 third adjustment is a reduction to Taxes Other Than Income of \$2,789,000 (\$2,735,000
22 on jurisdictional basis) in both 2026 and 2027. Adjustments two and three are based
23 on the testimony of Company witness Liz Fuentes and Exhibit LF-6.

1 **SUPPLEMENTAL EXECUTIVE RETIREMENT PLAN (“SERP”)**

2 **Q. HAS THE COMPANY REQUESTED RECOVERY OF SERP?**

3 A. Yes. Based on the response to OPC’s First Set of Interrogatories, No. 25, the Company
4 is including \$3,587,546 in 2026 and \$3,590,238 in 2027, for recovery of SERP costs in
5 base rates.

6

7 **Q. WHAT IS SERP?**

8 A. SERP is a non-qualified deferred compensation plan offered to a company’s key
9 employees, typically high-ranking officials such as CEOs, CFOs, and other executives.
10 Unlike qualified retirement plans (such as a 401(k)), SERP contributions are not tax-
11 deductible when made by the employer. However, employers generally will receive a
12 tax deduction for SERP contributions when the benefits become taxable to the
13 executive. While the company does not get an immediate tax benefit for contributing
14 to a SERP, it can deduct the contributions later when the executive receives the
15 benefits. This treatment is available as a special way of compensating select employees.

16

17 **Q. IS THE COST A LEGITIMATE EXPENSE FOR INCLUSION IN BASE**
18 **RATES?**

19 A. No. The costs for SERP are over and above the allowable normal retirement plan
20 contributions provided for all employees. This is an added cost that is excessive
21 compensation and should not be the responsibility of customers. If shareholders
22 believe the costs are appropriate, then they should be responsible for the costs.

1 **Q. WHAT ARE YOU RECOMMENDING FOR TREATMENT OF SERP COSTS?**

2 A. I am recommending that O&M expense be reduced \$3,587,546 (\$3,472,000 on
3 jurisdictional basis) in 2026 and \$3,590,238 (\$3,475,000 on jurisdictional basis) in
4 2027.

5
6 **INSURANCE**

7 **Q. HAVE YOU REVIEWED THE COMPANY'S INSURANCE COST REQUEST?**

8 A. Yes. My analysis included a review of historical costs and compared that to the
9 forecasted costs. My analysis is contained on Exhibit HWS-2, Schedule C-7, and it
10 shows property insurance costs fluctuated from year to year while liability insurance
11 costs increased from 2021 to 2023 but declined in 2024. Despite this historical trend,
12 FPL is forecasting an unprecedented increase of 56% for property insurance and 67%
13 for liability insurance for the Prior Year 2025. The 2026 increase for property and
14 liability is a comparatively modest 6% over 2025. The 2027 increase for property and
15 liability is a comparative modest 3% and 6%, respectively, over 2026. It is interesting
16 that the 2028 property insurance forecast is a decrease from 2027.³² Clearly, the
17 aggressive 2025 forecasted increases are impacting the 2026 and 2027 forecasted costs.

18

19 **Q. WHAT IS DRIVING THE SIGNIFICANT INCREASE IN INSURANCE**
20 **COSTS?**

21 A. The increase in property insurance is driven by the significant decrease of \$8 million
22 in insurance refunds. The increase in liability insurance is an 82.8% increase in what

³² Corrected Response to OPC's First Set of Interrogatories, No. 43.

1 is labeled as “Liability Insurance – Other.” The single year increase exceeds the
2 increase over the three years 2022-2024 compared to 2021 costs.

3

4 **Q HAS THE COMPANY PROVIDED EVIDENCE THAT WOULD SUPPORT**
5 **SUCH A LARGE INCREASE IN COSTS?**

6 A. No. The response to OPC’s Eleventh Set of Interrogatories, No. 308 stated the
7 following:

8 Distributions in general are impacted by portfolio losses and the mutuals
9 investment results (i.e. market/stock volatility) and amounts can vary
10 significantly each year. For this reason, prior year results are not
11 indicative of future results. For example, in 2022, NEIL experienced an
12 investment loss which reduced the distribution paid in 2023 to \$8.9MM.
13 In 2023, above average market performance led to a higher distribution
14 amount paid in 2024 of ~\$18.3 MM. In 2024, wildfire losses are
15 expected to significantly reduce the distribution paid in 2025 versus the
16 amount paid in 2024. Lastly, the forecasted amounts in 2026 through
17 2027 reflect normal market returns.

18 The corrected response provided on May 21, 2025, stated the same except that it deleted
19 “paid in 2025 versus the amount paid in 2024. Lastly, the forecasted amounts in 2026
20 through 2027 reflect normal market returns.” This response is evidence that the refund
21 fluctuates from year to year and provides no evidence that a significant decrease can
22 be expected to occur. Additionally, the request in part a asked “[h]ow the projected
23 Property Insurance - Nuclear Distribution Refund (PSL and PTN) was determined and
24 why it’s significantly less than historical,” and both the original and the corrected
25 response only provided the simple explanation that the “*distributions vary year to year,*

1 primarily based on industry losses and the performance of investment portfolio,” and
2 that the distribution is “approved by the Board of Directors at *year-end*.” (Emphases
3 added.) The response then added, “[p]lease see Attachment 1 for the sensitivity analysis
4 used to estimate the 2025 through 2027 NEIL distributions.” This attachment included
5 two tabs. The first tab indicated the distributions for 2024 to 2026 are estimated to be
6 \$225 million each year. This is based on an estimated range of \$160 million to \$290
7 million. It further noted the 2023 distribution approved for 2023 to be paid in 2024
8 was \$300 million compared to the 2024 estimate that would be paid in 2025 in the
9 amount of \$225 million. Assuming the estimate is accurate, the 25% reduction would
10 put the 2025 refund at \$13.702 million ($(\$15.008\text{M} + \$3.261\text{M}) \times .75$) and that exceeds
11 the \$10 million ($\$8.215\text{M} + \1.785M) estimated by FPL. Clearly, the amount of refund
12 is not known at this time and history is something that needs to be considered in
13 conjunction with the estimates provided.

14 Part c of OPC’s Eleventh Set of Interrogatories, No. 308 asked how the Liability
15 Insurance – Other was determined. The response stated the premiums were determined
16 through discussions with the Company’s insurance broker. A vague reference to
17 “discussions” is not supporting documentation for the increase of 82.8% reflected in
18 2025, and no documentation of those discussions was provided to prove what was
19 relied on by the Company. The 2025 increase of 82.8% exceeds the 2026 and 2027
20 increases of 6.2% and 6.5%, respectively. It is very concerning that the Prior Year
21 escalation is increased significantly for premiums based on “discussions” without any
22 supporting documentation while the forecasted test years’ escalations return to a more
23 reasonable level. The problem is that the interim increase flows through to the cost in
24 the years rates are being set for.

1 Part d asked how the Liability Insurance - Nuclear Refund (PSL and PTN) (3)
2 was determined. The response stated: “actual distributions *vary year to year*, primarily
3 based on industry losses and the performance of investment portfolio.” (Emphasis
4 added.) It added that the distributions are projected through discussions between FPL’s
5 insurance broker and American Nuclear Insurers, and guidance on future distributions
6 is provided by Marsh every three years. A document identified as a refund calculator
7 tool provided as an attachment to the initial response identified estimates for the years
8 2021 to 2025 and was dated 7/27/2021. The corrected response provided the refund
9 calculator tool for the years 2022 to 2027 dated 4/28/2022. The updated document
10 increased the estimated refunds for 2023 and 2024, but what is concerning is why the
11 earlier dated document is relied on as opposed to a more current document. Curiously,
12 the response stated the guidance is provided every three years, but the documents
13 provided in the initial response and the corrected response suggest otherwise. The
14 information supplied by FPL does not provide sufficient support for the estimated
15 refunds forecasted by FPL.

16
17 **Q. WITH THE CONCERNS YOU HAVE IDENTIFIED, WHAT ADJUSTMENT**
18 **ARE YOU RECOMMENDING?**

19 A. On Exhibit HWS-2, Schedule C-7, I am recommending a reduction to property
20 insurance premium cost of \$3,702,000 in each year, 2026 and 2027. I have accepted
21 the Company’s forecasted premiums amounts and adjusted the refunds based on
22 Attachment No. 1 of 3 Amended, Tab 1 of 2 in response to OPC’s Eleventh Set of
23 Interrogatories, No. 308. As discussed earlier, this document suggests the refund would

1 be 75% of what the March 2024 refund was. Using that information, I multiplied the
2 2024 refund by 75%.

3 It is recommended that the liability insurance premium cost be reduced by
4 \$10,475,000 in 2026 and \$11,156,000 in 2027. The only adjustments I made to the
5 Company's forecasted amounts were that, instead of increasing the 2024 Liability
6 Insurance – Other by 82.8% as the Company did, I increased the 2024 premium by the
7 21.66% (the three-year average for this insurance) for 2025 and applied the same 6.2%
8 increase applied by the Company to determine the 2026 premium. For 2027, I used the
9 Company increase of 6.5% and applied that to my calculated 2026 premium.

10 My collective recommended insurance reductions are \$14,176,000
11 (\$13,642,000 jurisdictional) in 2026, and \$14,467,000 (\$14,029,000 jurisdictional) in
12 2027.

13

14 **INJURIES AND DAMAGES**

15 **Q. DID YOU IDENTIFY ANY CONCERNS WITH THE COMPANY'S REQUEST**
16 **FOR INJURIES AND DAMAGES?**

17 A. Yes. The Company states in MFR Schedule B-21 that the projected reserve balance is
18 based on historical averages. On Exhibit HWS-2, Schedule C-8, I have summarized
19 the annual expense for the years 2021-2024. The costs fluctuate year to year and the
20 average is \$20,469,000. The Company is forecasting an expense of \$18,562,000 in
21 2025, \$49,331,000 in 2026, and \$24,450,000 in 2027.

1 **Q. WHAT IS THE REASON FOR THE SIGNIFICANT INCREASE IN 2026?**

2 A. The MFR Schedule B-21 for 2026 states the accrual in 2026 includes \$24.9 million of
3 deferred expenses incremental to FPL's current approved accrual of \$15.3 million.
4 Including a write-off of dollars deferred in a prior year as an expense in the forecasted
5 years is troublesome because that proposed recovery would essentially be retroactive
6 rate making and would provide the Company with a significant reduction in risk while
7 ignoring the potential for over recovery.

8

9 **Q. PLEASE EXPLAIN YOUR CONCERNS.**

10 A. The use of reserves is a method for establishing an estimated cost within a specific year
11 so that the accounting standard of matching revenue and expenses can be applied. The
12 reserve is the best estimate at a specific point in time for a cost associated with an event.
13 For example, during a year when an event occurred, an injury and/or damage liability
14 for the Company is expected. Generally, it is not known at the time what the potential
15 liability will be, so an accrual is made to estimate that cost by crediting the reserve and
16 debiting expense. Similarly, based on history other injuries and/or damages will occur
17 and while claims have not been made during the year, the Company may be obligated
18 to compensate an injured party so an accrual is made on the assumption a claim will be
19 made and paid. The key factor is the expense in a specific year that represents a cost
20 to that year. The \$24.9 million in question is not a 2026 cost but a cost for a prior period
21 and should not be included in 2026. Allowing recovery of costs associated with an
22 event from a prior year would be the equivalent of retroactive ratemaking. The other
23 issue is the Company has an approved accrual of \$15.3 million a year for rate case
24 recovery. That means the Company will reflect an expense of \$15.3 million whether

1 the expense is more or less until such time rates are revised. What appears to be the
2 case here is that the Company had an event where the costs exceeded the annual accrual,
3 so the associated cost for that event was deferred by the Company for recovery in a
4 future rate proceeding. If the Company incurs a cost that is not included in rates, they
5 have the option of filing a rate request if it is significant enough to justify a request.
6 The Company's request here is one-sided and ignores the limitations of risk that has
7 been afforded them in the establishment of the reserve and accrual process. The request
8 is further one-sided because in the event the injury and damage liability in a year
9 covered by the accrual is less than what the accrual is, it would be unusual to see the
10 Company recording a deferred credit for the over recovery. It should also be noted that
11 the Company had the RSAM available to protect it from impacting its earnings so if
12 the cost impacted the return for the year, the Company could have theoretically
13 accounted for that cost by means of the RSAM like it did in 2017 when the RSAM was
14 used to charge an unexpected \$1.1 billion hurricane to income and still stay above an
15 11% achieved ROE. Finally, the request by the Company is not supported by any
16 testimony of which I am aware. FPL Witnesses Laney and Fuentes in Exhibit IL-1 and
17 Exhibit LF-1, respectively, claimed to be the sole sponsor for MFR Schedule B-21 yet
18 neither addressed the significant adjustment to expense in their testimony. Similarly,
19 MFR Schedule B-19, Miscellaneous Deferred Debit is co-sponsored by Witnesses
20 Laney and Fuentes where the deferral is reflected and adjusted out, yet there is no
21 testimony explaining what the deferred debit was and why it should be charged against
22 the reserve. Adding to the concern with the reserve and expense treatment is that the
23 Company witnesses responsible for the reserve did not discuss why the current reserve
24 accrual of \$15.3 million should be increased to \$21.2 million as reflected on MFR

1 Schedule B-21. The burden of proof to support recovery of costs requested is the
2 responsibility of the Company in its direct case filing, and the Company has clearly not
3 even attempted to provide justification for the expenses in 2025 and 2026. It is not
4 appropriate to add costs over and above what would be considered normal or that are
5 subject to approval for an annual accrual without identifying the special request in
6 testimony.

7
8 **Q. WHAT ARE YOU RECOMMENDING WITH RESPECT TO THE EXPENSE**
9 **IN 2025 AND 2026 AND THE ANNUAL ACCRUAL?**

10 A. On Exhibit HWS-2, Schedule C-8, I am recommending the annual accrual be
11 increased from \$15,300,000 to \$17,949,000 based on the historical average on which
12 the Company claims it relies. I am recommending an annual claims expense of
13 \$2,521,000 which is less than the \$3,240,000 requested by the Company. This annual
14 expense reduces the Company's 2026 and 2027 requests by \$28,862,000
15 (\$27,773,000 jurisdictional) and \$3,981,000 (\$3,858,000 jurisdictional), respectively.

16

17 **DIRECTORS & OFFICERS LIABILITY INSURANCE**

18 **Q. IS THE COMPANY REQUESTING DIRECTORS & OFFICERS' LIABILITY**
19 **INSURANCE?**

20 A. Yes. The responses to OPC's First Set of Interrogatories, No. 44 identified Directors
21 & Officers' Liability Insurance ("D&O" or "DOL") actual expense for the years 2022-
22 2024 and the forecast years 2025-2029. The amount requested is (BEGIN
23 CONFIDENTIAL) \$4,819,983 in 2026 and \$5,169,297 in 2027. (END
24 CONFIDENTIAL) The history of this cost is summarized on Exhibit HWS-2, Schedule

1 C-9. The cost requested is very concerning since it increased by 23.58% in 2024 and is
2 forecasted to increase by 25.81% in 2025, 17.11% in 2026, and 7.24% in 2027.

3

4 **Q. IS D&O INSURANCE APPROPRIATE FOR RECOVERY FROM**
5 **CUSTOMERS?**

6 A. No. D&O insurance is designed to protect directors and officers from decisions they
7 make that, if determined to be bad decisions or decisions of a questionable nature, will
8 result in some form of litigation. In my experience, the only litigation claims made
9 necessitating this coverage are made by shareholders. I am not aware of any time where
10 this phenomenon has not involved shareholder litigants. What is typically argued by
11 companies is that customers benefit from the Company having D&O insurance and
12 they need to maintain the insurance to attract and retain board members and officers.
13 This standard argument ignores the fact that customers are not filing suit against the
14 board and officers, and that it is the owners of the company initiating the suit and the
15 resulting cost. In my opinion, the risk premium included in the allowed return on equity
16 is, in part, designed to cover this cost.

17

18 **Q. WHAT ADJUSTMENT ARE YOU RECOMMENDING TO D&O INSURANCE**
19 **EXPENSE?**

20 A. I recommend that the entire cost of (BEGIN CONFIDENTIAL) \$4,819,983
21 (\$4,638,000 jurisdictional) in 2026 and \$5,169,297 (\$5,010,000 jurisdictional) in 2027
22 (END CONFIDENTIAL) be excluded from rates since this cost provides no benefit to
23 customers.

1 **Q. HAS RECOVERY OF D&O INSURANCE BEEN ADDRESSED IN PREVIOUS**
2 **RATE CASES IN FLORIDA?**

3 A. Yes. I addressed this issue in Docket No. 20090079-EI. In the Progress Energy Florida
4 (“PEF”) case, the Commission allowed PEF to place one half the cost of DOL insurance
5 in that single test year’s expenses while noting that other jurisdictions have made an
6 adjustment for DOL insurance, and that the Commission had disallowed DOL
7 insurance in wastewater cases.³³

8

9 **Q. SINCE THE COMMISSION DISALLOWED HALF THE COST IN THE**
10 **PROGRESS ENERGY FLORIDA DOCKET, WHY ARE YOU**
11 **RECOMMENDING A TOTAL DISALLOWANCE IN THIS CASE?**

12 A. First, I note that the Commission adjustments and Company adjustments in the filing
13 do not reflect the removal of D&O insurance by the Company, so they have ignored
14 the past precedent. I am recommending to the Commission that there be a complete
15 disallowance or -- at the very least -- an equal sharing as previously ordered because
16 the cost associated with DOL insurance benefits shareholders first and foremost. As
17 explained earlier, the benefit of DOL insurance is the protection shareholders receive
18 from directors’ and officers’ imprudent decision making. The benefit of this insurance
19 clearly inures primarily to shareholders; some of whom typically are the parties
20 initiating any suit against the directors and officers. Another issue is customers
21 shouldn’t have to pay for insurance to cover FPL officers and directors when the
22 shareholder is NextEra, the parent company.

³³ Order No. PSC-2010-0131-FOF-EI, Docket Nos. 20090079-EI, issued March 5, 2010, p. 9, *In re: Petition for increase in rates by Progress Energy Florida, Inc.*

1 **RATE CASE EXPENSE**

2 **Q. WHAT HAS THE COMPANY INCLUDED IN RATE CASE EXPENSE FOR**
3 **THIS RATE CASE?**

4 A. According to Company MFR Schedule C-2, FPL is requesting \$1,257,000 of
5 amortization for each of the years 2026 and 2027.

6

7 **Q. DID THE COMPANY EXPLAIN WHY IT HAS INCLUDED UNAMORTIZED**
8 **RATE CASE EXPENSE IN RATE BASE?**

9 A. Yes, the Company stated:

10 In addition, FPL is requesting that the unamortized balance
11 remain in rate base in the 2026 Projected Test Year and 2027
12 Projected Test Year as currently forecasted in order to avoid an
13 implicit disallowance of reasonable and necessary costs required
14 by the Company to present its evidence, respond to discovery,
15 and litigate this case. FPL's proposed multi-year rate plan
16 reduces the amount of rate case expenses FPL would otherwise
17 incur for multiple, back-to-back base rate case proceedings. Full
18 recovery of necessary rate case expenses is appropriate but will
19 not occur unless FPL is afforded the opportunity to earn a return
20 on the unamortized balance of those expenses.³⁴
21

22 **Q. HAS THE COMMISSION PREVIOUSLY DISALLOWED THE INCLUSION**
23 **OF UNAMORTIZED RATE CASE EXPENSE IN RATES?**

24 A. Yes. The Commission has repeatedly disallowed the inclusion of unamortized rate case
25 expense, for example:

³⁴ Direct Testimony of Liz Fuentes, p. 11.

...

[W]e have a long-standing practice in electric and gas rate cases of excluding unamortized rate case expense from working capital, as demonstrated in a number of prior cases. The rationale for this position is that ratepayers and shareholders should share the cost of a rate case; i.e., the cost of the rate case would be included in O&M expense, but the unamortized portion would be removed from working capital. This practice underscores the belief that customers should not be required to pay a return on funds spent to increase their rates. For the foregoing reasons, we find that the unamortized rate case expense of \$2,450,000 shall be removed from working capital consistent with our long standing practice.³⁵ (Emphasis added.) (citations omitted)

Q. ARE THERE CONCERNS WITH THE AMOUNT REQUESTED?

A. Yes. Pursuant to FPL MFR Schedule C-10, the requested test year costs of \$5,029,000 are to be amortized over four years. According to the response to OPC First Request for Production of Documents, No. 14, the cost consists of \$4,405,000 for outside consultants' costs and \$624,000 of costs identified as "various." The amount of costs appears excessive based on my years of reviewing costs. For example, the \$500,000 included for the test year dismantlement study and \$550,000 for the depreciation study are significant. The regulatory cost of \$426,000 is more than twice that of the previous case. The \$500,000 of cost for return on equity testimony is significantly more expensive compared to the \$295,00 in 2021. It is also notable that the depreciation study in the previous docket was \$288,000 compared to the \$550,000 in this case.

³⁵ PSC Order No. PSC-12-0179-F0F-EI, Docket No. 20110138-EI, issued April 3, 2012, p. 30-31, *In re: Petition for increase in rates by Gulf power Company*.

1 **Q. WHAT ARE YOU RECOMMENDING?**

2 A. I am recommending the entire cost of the case be excluded reducing the annual expense
3 by \$1,257,000. The working capital allowance would then be reduced \$4,400,000 in
4 2026 and \$3,143,000 in 2027.

5
6 **Q. WHY SHOULD ALL THE COSTS BE EXCLUDED FROM RECOVERY**
7 **WHEN THE COMMISSION ONLY DISALLOWED RATE BASE**
8 **TREATMENT OF THE DEFERRED COST?**

9 A. The purpose of the filing is to increase rates so shareholders can earn a reasonable
10 return. The primary beneficiary of this rate case is shareholders, and they should be
11 responsible for the cost. Additionally, the results of OPC's analysis demonstrate that
12 FPL is not entitled to any rate increase for the year 2026. These two elements of the
13 case, as filed, further indicate that customers should not pay for the litigation costs of
14 an unnecessary, inappropriate filing.

15
16 **UNCOLLECTIBLE EXPENSE**

17 **Q. ARE YOU RECOMMENDING AN ADJUSTMENT TO FPL'S**
18 **UNCOLLECTIBLE FACTOR?**

19 A. Yes. FPL is proposing an uncollectible rate of 0.124% in 2026 and 0.122% in 2027.
20 The projected rates applied to the adjusted projected gross revenues result in a
21 requested bad debt expense of \$19,311,000 in 2026, and \$19,230,000 in 2027. On
22 Exhibit HWS-2, Schedule C-11, I have reflected the actual net bad debt factor by year
23 from 2021-2024. On lines 5 and 6 of my schedule, I have calculated the four-year
24 average for 2021-2024 and the three-year average for 2022-2024. The 2022-2024 rate

1 was computed to exclude any effect of the transition due to the merger with Gulf Power
2 Company. This Commission has a practice of establishing bad debt expense level on a
3 three-year average.³⁶ I applied the 0.110% to the as-filed, adjusted projected gross
4 revenue, and that results in a reduction to expense of \$2,121,000 in 2026, and
5 \$1,915,000 in 2027. With the OPC recommended increase to the level of revenue
6 forecasted in the years 2026 and 2027, a second adjustment increasing expense of
7 \$146,000 in 2026, and \$166,000 in 2027 should be made.

8

9 **PAYROLL TAX EXPENSE**

10 **Q. WILL YOUR RECOMMENDED ADJUSTMENT TO PAYROLL IMPACT**
11 **PAYROLL TAX EXPENSE?**

12 A. Yes. On Exhibit HWS-2, Schedule C-6, I have calculated a reduction to projected
13 payroll tax expenses of \$9,157,000 (\$8,875,000 jurisdictional) in 2026, and \$9,710,000
14 (\$9,416,000 jurisdictional) in 2027. The adjustment is a simple flowthrough of my
15 recommended payroll adjustment and incentive compensation adjustment. I
16 determined the effective payroll tax expense rate in each of the respective years 2026
17 and 2027 by dividing the test year payroll tax expense on line 10 by the total of O&M
18 payroll costs expensed on line 7 in the respective test years. I then applied the effective
19 rate to the recommended total adjustment to payroll expense as shown on line 14.

³⁶ See Order No. PSC-11-0199-PAA-WU, Docket 20100149-WU, issued April 22, 2011, p. 8, *In re: Application for increase in water rates in Lee County by Ni Florida, Inc.*

1 **DEPRECIATION EXPENSE**

2 **Q. PLEASE EXPLAIN HOW YOU REFLECTED OPC WITNESS WILLIAM**
3 **DUNKEL’S REVISIONS TO DEPRECIATION RATES?**

4 A. OPC Witness William Dunkel provided me his revised depreciation rates for the
5 different types of historical and projected production plant and energy storage balances.
6 On HWS Exhibit-2, Schedule C-14, Page 4 of 4, I summarized the plant information
7 from Mr. Dunkel’s recommendation. For each category, an overall average rate was
8 calculated. The average rates were then applied to the 13-month average for the
9 respective plant categories as reflected in FPL’s MFR Schedule B-7. The respective
10 calculations are reflected on Exhibit HWS-2, Pages 2-3 of 4. The calculated result
11 reduces projected depreciation expense by \$166,990,000 in 2026, and by
12 \$176,920,000 in 2027. The adjustments on jurisdictional basis are \$164,501,000 in
13 2026, and \$174,336,000 in 2027.

14
15 **Q. HOW DOES THE ADJUSTMENT IMPACT RATE BASE?**

16 A. On Exhibit HWS-2, Schedule C-14, Page 1 of 4, the respective adjustments to
17 accumulated depreciation are reflected on line 14. Projected accumulated depreciation
18 is reduced \$82,251,000 in 2026, and \$251,669,000 in 2027, on a jurisdictional basis.
19 The 2026 adjustment includes 50% of the \$164,501,000 expense adjustment for 2026.
20 The 2027 adjustment is the \$165,501,000 expense adjustment for 2026 plus 50% of the
21 \$174,336,000 2027 expense adjustment. These percentages are consistent with the
22 forecasted plant adjustment recommended above.

1 **Q. ARE THERE OTHER ADJUSTMENTS TO DEPRECIATION EXPENSE**
2 **BEYOND THE PLANT ADJUSTMENTS DISCUSSED EARLIER?**

3 A. Yes. Based on OPC witness Dauphinais' recommended plant adjustment, depreciation
4 on the solar plant recommended for disallowance will need to be excluded. As shown
5 on Exhibit HWS-2, Schedule B-2, projected depreciation expense should be reduced
6 \$34,493,000 (\$33.087 million jurisdictional) in 2026, and \$68,869,000 (66.079 million
7 jurisdictional) in 2027. The change to accumulated depreciation is reflected on Exhibit
8 HWS-2, Schedule B-2, Page 1 of 3. Projected accumulated depreciation is reduced
9 \$17,421,000 (\$16.711 million jurisdictional) in 2026, and \$69,102,000 (\$66.303
10 million jurisdictional) in 2027.

11

12 **PROPERTY TAXES**

13 **Q. IS THERE AN ISSUE WITH THE FORECASTED PROPERTY TAXES AS**
14 **REFLECTED IN THE FILING?**

15 A. Yes. Property taxes in 2024 were \$807,452,000, and the forecasted taxes are
16 \$933,972,000 for 2026, and \$1,053,060,000 for 2027. The response to OPC's First Set
17 of Interrogatories, No. 77 provided the taxes paid and the taxable value for the years
18 2021-2024, and the projected taxable values for 2025-2027. The issue that is most
19 obvious is the fact that the effective tax rate has consistently decreased from 2022 to
20 2024, yet FPL has used the 2024 effective tax rate assuming further reductions are not
21 possible. It would be inappropriate to ignore the historical trend and the distinct
22 possibility the effective rate will continue to decline.

1 Another factor to consider is FPL has indicated that in some cases it is allowed a 4%
2 discount for paying the taxes early.³⁷ I am not making a specific adjustment for the 4%,
3 but I am relying on that discount to continue to drive the effective rate downward.
4

5 **Q. IS THERE ANY OTHER REASON WHY YOU BELIEVE THE TAX RATE**
6 **COULD CONTINUE TO DECLINE?**

7 A. Taxpayers can appeal their taxable value and seek tax abatements. A Company as large
8 as FPL has that ability. In fact, the response to OPC First Request for Production No.
9 43 includes a project planning document for the proposed Milton Center indicating tax
10 abatements are planned and the tax rate for (BEGIN CONFIDENTIAL) Santa Rosa
11 County (a rate of 1.21%) will be less than current tax rate in Escambia County (a rate
12 of 1.77%) (END CONFIDENTIAL).
13

14 **Q. WHAT ARE YOU RECOMMENDING FOR PROPERTY TAX EXPENSE?**

15 A. Two adjustments are required. The first adjustment is to reflect the property tax rate
16 based on the 2024 effective tax rate continuing to decline. This adjustment, as shown
17 in Exhibit HWS-2, Schedule C-16 line 18, is based on an effective rate of 1.57% applied
18 to the forecasted taxable value according to FPL, resulting in a reduction of
19 \$10,964,000 in 2026 and \$12,511,000 in 2027.

20 Second, as shown on Exhibit HWS-2, Schedule C-16, Lines 6 and 7, are
21 adjustments to reflect my recommended adjustment to plant and plant held for future
22 use. Applying the forecasted effective tax rate to the ratioed plant adjustment reduces

³⁷ FPL Response to OPC's First Set of Interrogatories, No. 77.

1 projected property taxes \$21,099,000 in 2026, and \$34,573,000 in 2027. Since I have
2 already reflected an adjustment to property tax for Plant Daniel, I am reducing the
3 respective adjustments \$2,665,000 in 2026 and \$2,811,000 in 2027. The net property
4 taxes adjustment related to plant adjustments is \$18,434,000 in 2026 and \$31,763,000
5 in 2027 as shown in line 13.

6 The combined adjustment to property tax expense would be \$29,397,000 in
7 2026 (\$28,249,000 jurisdictional), and \$44,274,000 in 2027 (\$42,577,000
8 jurisdictional) as shown on Lines 19 and 21 of Exhibit HWS-2, Schedule C-16.

9

10 **Q. WHAT IS THE RATIOED PLANT ADJUSTMENT TO WHICH YOU**
11 **REFERRED?**

12 A. The tax rate is applied to a taxable value. The taxable value is generally less than the
13 actual cost of plant. If I had made an adjustment based on the plant value, the
14 adjustment would have been overstated. As shown on line 4 of Exhibit HWS-2,
15 Schedule 16 I calculated a ratio based on the projected taxable value in relation to total
16 plant. Applying that ratio to the plant adjustments results in an estimated taxable value
17 to which the effective rate can be applied.

18

19 **DISMANTLEMENT EXPENSE**

20 **Q. PLEASE EXPLAIN YOUR UNDERSTANDING OF FPL's ADJUSTMENT TO**
21 **DISMANTLEMENT EXPENSE?**

22 A. The jurisdictional adjustments increased expense by \$57,102,000 in 2026, and by
23 \$57,116,000 in 2027. Both adjustments are based on a change of \$59,556,196, which
24 is the adjustment identified by FPL Witness Ned Allis on his Exhibit NWA-2, Page 10

1 of 115. The change is all treated as a base rate change. The study by Witness Allis
2 recommends an annual accrual of \$106,426,201 which is \$58,745,742 higher than the
3 current accrual of \$47,680,539. Witness Allis then added \$810,454 associated with the
4 Environmental Cost Recovery Clause to the \$58,745,742 to arrive at the base rate
5 adjustment of \$59,556,196.
6

7 **Q. WHAT ADJUSTMENT IS OPC RECOMMENDING TO THE**
8 **DISMANTLEMENT ACCRUAL AMORTIZATION?**

9 A. OPC witness William Dunkel analyzed the Company's request for increasing its
10 amortization expense for dismantlement and is recommending that the projected annual
11 expense of \$106,426,282 be reduced to \$51,999,577. As shown on Exhibit HWS-2,
12 Schedule C-15, I have reflected that adjustment. In addition, the adjustment removes
13 the impact of the ECRC \$810,454 adjustment FPL witness Allis added to his calculated
14 dismantlement adjustment. The total adjustment is a reduction of \$55,237,000 or a
15 jurisdictional adjustment of \$52,961,000 in 2026, and \$52,974,000 in 2027 as reflected
16 on Line 14 of Exhibit HWS-2, Schedule C-15.
17

18 **Q. WHAT ADJUSTMENT ARE YOU PROPOSING TO ACCUMULATED**
19 **DEPRECIATION RELATED TO THE ADJUSTMENTS TO THE**
20 **DISMANTLEMENT STUDY?**

21 A. Accumulated depreciation should be reduced by \$26,481,000, in 2026 and \$79,448,000
22 in 2027 on a jurisdictional basis as shown on Exhibit HWS Exhibit 2, Schedule B-2.

1 **DUES**

2 **Q. IS THE COMPANY REQUESTING RECOVERY OF DUES?**

3 A. Yes. The dues consist of non-industry dues and industry dues. Most companies may
4 pay various dues to gain access to relevant information associated with the operations
5 of their companies. Some dues are paid to promote economic development within the
6 community or state and some dues are to promote the business within the community.
7 Most dues are a discretionary cost of business. Contractors, hair salons, accounting
8 and legal firms, and other businesses within the community compete for customers by
9 advertising and by paying dues of one sort or another. The competition for customers
10 is a driving force for advertising and paying dues in the hope that the company can
11 make a profit. FPL is a regulated utility operating in a monopoly where there is no real
12 competition, and, unlike the businesses that have to compete for customers to survive,
13 FPL has a profit margin established to give an opportunity to a reasonable return that
14 competitive businesses do not have. While companies that compete for business can
15 say the cost associated with promotional and economic development dues are
16 reasonable and prudent, an investor-owned utility cannot make the same claim.

17

18 **NON-INDUSTRY DUES**

19 **Q. WHAT HAS THE COMPANY INCLUDED FOR NON-INDUSTRY**
20 **MEMBERSHIP DUES IN THE 2026 AND 2027 PROJECTED TEST YEARS?**

21 A. The Company has included projected test year cost of \$333,966 in 2026 and \$324,282
22 in 2027 for non-industry dues. However, the Company states that these amounts do
23 not reflect adjustments for economic development costs or amounts allocated to FPL's

1 affiliates.³⁸ This common caveat is evasive since the purpose of the question is to
2 determine what FPL is asking customers to pay in the form of non-industry dues. If
3 the Company believes the allocation of costs is relevant, the information should be
4 supplied when asked.

5
6 **Q. WHAT AMOUNT DID THE COMPANY REMOVE FOR ECONOMIC**
7 **DEVELOPMENT EXPENSES IN ITS FILING?**

8 A. The Company removed \$448,000 and \$441,000 from the 2026 and 2027 projected test
9 years, respectively for economic development expenses.³⁹ This schedule does not
10 indicate what amounts were specifically removed from non-industry dues, industry
11 dues or both.

12
13 **Q. PLEASE DESCRIBE THE ORGANIZATIONS INCLUDED IN NON-**
14 **INDUSTRY DUES.**

15 A. The Company provided a list of over 100 non-industry organizations which it has
16 categorized into four groups: chambers of commerce, economic development
17 organizations, homebuilder and manufacture organizations, and league of cities
18 organizations plus the classifications of “Corporate” and “N/A”. The NA classification
19 was for organizations where the charges were incorrectly recorded above the line.⁴⁰
20 The response did provide the identification of organizations for the year 2024 but not
21 for the projected test years despite a request for that information. This is relevant

³⁸ OPC’s First Set of Interrogatories, No. 35a.

³⁹ MFR Schedules C-2 and C-3.

⁴⁰ OPC’s Twelfth Set of Interrogatories, No. 333.

1 because the amounts in the projected test years are a single number with no identity.
2 In reviewing the 2024 listing and assuming it applies to the forecasted test years 2026
3 and 2027, I have classified the organization into three categories for simplification
4 purposes. The categories are Chamber of Commerce, Economic Development and
5 Other.

6

7 **Q. ARE RATEPAYERS THE PRIMARY BENEFICIARIES OF SUCH**
8 **MEMBERSHIPS?**

9 A. No. Memberships in such organizations are primarily image-enhancing and, as such,
10 benefit primarily the Company and its shareholders. As discussed earlier, the cost for
11 dues associated with economic development are not considered reasonable and prudent
12 because FPL has a designated service territory and does not have to solicit business.

13

14 **Q. DID THE COMPANY CLAIM THAT RATEPAYERS BENEFIT FROM NON-**
15 **INDUSTRY DUES MEMBERSHIPS?**

16 A. Yes. The Company stated the following⁴¹:

17 **Chamber of Commerce (A):** FPL's expenditures to these organizations relate to
18 economic development activities, which support better employment opportunities,
19 stronger local economies, and assistance with research and marketing activities for
20 local economic development efforts. FPL's collaboration with these chambers of
21 commerce across FPL's service area provides support for business expansion and
22 recruitment which benefits FPL's customers.

⁴¹ OPC's Twelfth Set of Interrogatories, No. 333.

Economic Development Organization (B): FPL's involvement in economic development organizations supports better employment opportunities and stronger local economies through business development and recruitment, including the design of strategic plans for economic development activities. These [sic] collaborations support businesses expansion and recruitment which benefits FPL's residential and business customers.

Homebuilder and Manufacturer Organizations (C): FPL's involvement in homebuilder and manufacturer organizations supports economic development activities, to support business and industry development or recruitment. These collaborations aid essential economic development project coordination before and during the construction process, which benefits FPL's business and residential customers.

League of Cities Organizations (D): FPL customers see significant benefits from the company's involvement in League of Cities organizations. The collaboration promotes economic development through business and industry development and recruitment and the design of strategic plans for economic development activities. Furthermore, the collaboration improves communication during storm response efforts and allows FPL to educate local governments on energy conservation and beneficial programs.

Clearly, the three categories other than chambers of commerce are all economic development costs as represented by FPL.

1 **Q. SHOULD RATEPAYERS BE RESPONSIBLE FOR THESE COSTS?**

2 A. No. Ratepayers should not be responsible for these memberships that are not necessary
3 for the provision of utility service.

4
5 **Q. WHAT IS YOUR RECOMMENDED ADJUSTMENT?**

6 A. As the Company and its shareholders are the primary beneficiaries of this expense, and
7 such memberships are not necessary for the provision of utility service, recovery of all
8 non-industry memberships costs should be disallowed. I recommend the removal of
9 all non-industry dues in both of the projected test years including the dues classified as
10 corporate. The benefit of corporate dues as listed by the Company is redundant to the
11 industry dues. Non-industry dues should be reduced \$333,966 (\$324,000 jurisdictional)
12 in 2026 and \$324,282 (\$314,000 jurisdictional) in 2027.

13

14 **INDUSTRY DUES**

15 **Q. WHAT COSTS HAS THE COMPANY INCLUDED FOR INDUSTRY DUES IN**
16 **THE PROJECTED TEST YEARS?**

17 A. The Company has included \$26,507,000 (\$24,469,000 jurisdictional) in 2026 and
18 \$26,505,000 (\$24,562,000 jurisdictional) in 2027.⁴² The Company excluded certain
19 industry dues pursuant to prior Commission precedent of \$53,000 in both of the
20 projected test years.⁴³ The Company also removed economic development expenses of
21 \$448,000 in the 2026 projected test year and \$441,000 in the 2027 projected test year.⁴⁴

22 As stated above, this schedule does not indicate what amounts were specifically

⁴² MFR Schedule C-15.

⁴³ MFR Schedule C-2, C-3, Note 11.

⁴⁴ MFR Schedule C-2, C-3.

1 removed from non-industry dues, industry dues, or both. The economic development
2 adjustment is 5% of total economic development and is not specific to dues.

3

4 **Q. WHAT ARE YOUR CONCERNS WITH THIS EXPENSE?**

5 A. The first concern with the forecasted years is the Company has acknowledged that the
6 2024 costs above the line were overstated because FPL incorrectly charged \$170,000
7 of lobbying costs above the line. Overall, the concern is that the Company has not
8 removed all costs for grants, donations, activities outside the U.S., and lobbying for all
9 the organizations. In addition, full recovery of some of these dues from ratepayers does
10 not appear to be appropriate. The appearance of these costs above the line also calls
11 into question the rigor with which FPL records costs which should be recorded below
12 the line. This is especially troubling due to FPL's use of the RSAM since 2013. As
13 noted by OPC witness Timothy Devlin, the Company has used billions of dollars of
14 ratepayer-provided depreciation expense to offset expenses in order to achieve above-
15 the-midpoint reported ROEs. During this 12-year period, if costs that should have been
16 recorded below the line have been recorded above the line, then those costs will end up
17 being passed on to current and future customers in the form of the higher rate base
18 necessitated by the restoration of the accumulated depreciation reserve after the
19 RSAM-related Reserve Amounts have been charged to income. I recommend that the
20 Commission investigate this further and determine if between rate cases, the Company
21 allowed the RSAM to absorb below-the-line costs for ratepayer recovery contrary to
22 Commission policy.

1 **Q. HAS THE COMPANY REMOVED LOBBYING FROM ITS REQUEST?**

2 A. According to the Company:

3 ...FPL does not charge or plan to charge customers for lobbying expenses. As
4 required by the FERC Title 18 CFR 101 - Uniform System of Accounts, FPL
5 records all lobbying expenses to FERC account 426.4, Expenditures for Certain
6 Civic, Political, and Related Activities. This FERC account is a below-the-line
7 account and, therefore, is not included in FPL's cost of service. Generally,
8 invoices from external organizations for dues and/or memberships indicate the
9 portion related or allocated to lobbying activities, if any. FPL reviews the
10 applicable invoices from these organizations, as well as the nature of the
11 services provided, and utilizes unique master data in its accounting system (*i.e.*,
12 work breakdown structures or WBS and/or Business Area) to record any
13 lobbying expenses below-the-line, ensuring the expenses are not included in
14 rates charged to customers.

15
16 As noted in FPL's response to FEL's Second Set of Interrogatories, No. 48,
17 after the year-end close for calendar year 2024, FPL determined that three
18 vendor invoices indicated a portion of industry association dues for 2024
19 totaling \$170 thousand were related to lobbying activities and were
20 inadvertently not recorded as below-the-line lobbying expenses. As a result, a
21 correcting entry to move the \$170 thousand to below-the-line expenses was
22 recorded in March 2025. This was noted on page 2 of MFR C-15 for the 2024
23 Historical Year. Additionally, as reflected on page 2 of MFR C-15 for the 2026
24 and 2027 Projected Test Years, FPL identified \$24 thousand of lobbying
25 expenses that were incorrectly reflected in FPL's cost of service for 2026 and

1 2027. FPL will reflect adjustments to 2026 and 2027 in FPL's Notice of
2 Identified Adjustments to be filed at a later time in this docket. The individuals
3 that recorded these invoices incorrectly have been notified and refresher
4 training for invoice processors and approvers will be conducted annually to
5 ensure compliance of FPL policy related to recording of lobbying expenses.⁴⁵
6

7 While the Company has removed some lobbying costs from its request, my concern is
8 that not enough has been removed. There also is a concern that some costs are
9 redundant like the multiple Human Resource vendors and the best practices vendors.
10 There is also a concern that to the extent the information and/or participation in the
11 different organizations is in reality for economic development. I question whether the
12 Company's employees fully utilize the information that supposedly is available. I also
13 have a concern in this regard related to the potential RSAM absorption of below-the-
14 line costs in the past transferring of these costs above the line through rate base
15 recovery.
16

17 **Q. HOW HAVE YOU DETERMINED SUCH COSTS REMAIN IN THE FILING?**

18 A. I reviewed information for the industry associations included in the projected test years
19 including discovery responses, Form 990s, Return of Organization Exempt from
20 Income Tax, and other publicly available information. Based on this review, I
21 recommend additional adjustments to industry dues. Some of these vendors' Form 990s
22 indicated they provide grants and have lobbying yet according to the response to OPC's
23 Twelfth Set of Interrogatories No334, only six of the vendors had costs recorded below
24 the line. Clearly, the costs being charged to customers are not totally reasonable and

⁴⁵ FEL's Third Set of Interrogatories No. 60.

1 prudent. It is interesting to note that in each of the years 2026 and 2027, dues only
2 accounted for \$500,000 of the total cost to which the 5% adjustment was applied.⁴⁶
3

4 **Q. WHAT ADJUSTMENT ARE YOU PROPOSING FOR INDUSTRY DUES?**

5 A. The Company adjustment for economic development is based on a total cost inclusive
6 of marketing, labor, administrative cost, websites, dues, a symposium, but mostly
7 economic development “activities.” While a significant portion of the dues is
8 considered questionable as to reasonableness and prudence, I am not recommending an
9 adjustment to any of the specific vendors dues. Instead, since the Company has clarified
10 the economic development costs adjustment applies to the dues expense, I am
11 recommending that the economic service cost serving as the basis for the 5% economic
12 development factor be increased to 50%. As discussed earlier, FPL does not operate
13 in a competitive environment as it has a designated service territory. If economic
14 development is considered necessary for FPL, then the cost of that should be shared
15 equally between customers and shareholder. If development improves the business
16 base, then shareholders will benefit. Consistent with the Company’s cost basis for its
17 adjustment, an additional adjustment of \$4,159,000 (\$4,030,000 jurisdictional) in 2026
18 and \$4,095,000 (\$3,970,000 jurisdictional) in 2027 is required. I am also
19 recommending that any such costs that have been recorded above the line and absorbed
20 into rate base through the RSAM should be investigated further by the Commission.

⁴⁶ Company response to OPC’s First Request For Production of Documents, No. 14.

1 **INCOME TAXES**

2 **Q. WHAT ADJUSTMENT ARE YOU RECOMMENDING TO INCOME TAX**
3 **EXPENSE?**

4 A. On Exhibit HWS-2, Schedule C-18, I have increased projected income tax expense
5 \$184,356,000 associated with the \$727,385,000 increase in projected operating income
6 in 2026. Projected income taxes increased \$204,391,000 in 2027.

7
8 **VII. CAPITAL STRUCTURE**

9 **Q. DO YOU HAVE ANY ADJUSTMENTS TO FPL'S PROPOSED CAPITAL**
10 **STRUCTURE?**

11 A. Since OPC Witness Lawton accepted the proposed capital structure for purposes of his
12 analysis, I do not reflect any adjustments to the capital structure. The capital structure
13 as reflected in Exhibit HWS-2, Schedule D has been adjusted for the reconciliation of
14 rate base to capital structure factoring in Citizens' recommended adjustments. Below,
15 I reflect the proper interest synchronization adjustment necessitated by the
16 reconciliation of projected rate base and projected capital structure.

17
18 **INTEREST SYNCHRONIZATION**

19 **Q. PLEASE EXPLAIN THE INTEREST SYNCHRONIZATION ADJUSTMENT.**

20 A. Rate base changes occur based on forecasted plant and other rate base components, and
21 OPC has recommended changes to those forecasted amounts. Associated with the
22 changes in rate base, the amount of estimated interest for tax purposes changes. That
23 change, along with changes in the interest rate for financing rate base, impacts income
24 taxes. As shown on Exhibit HWS-2, Schedule C-19, my recommended reduction to

1 rate base results adjusts OPC Witness Daniel Lawton's capital structure increasing the
2 interest deduction. Factoring in the Company adjustment for interest synchronization,
3 the result is an increase to income tax expense of \$90,307,000 (\$86.311 million
4 jurisdictional) in 2026, and \$106,601,000 (\$99.452 million jurisdictional) in 2027.

5
6 **VIII. OTHER ISSUES**

7 **STORM RESERVE**

8 **Q. WHY IS THE STORM RESERVE BEING ADDRESSED BY FPL IN THIS**
9 **BASE RATE PROCEEDING?**

10 A. FPL Witness Scott R. Bores explains how the storm cost recovery mechanism included
11 in FPL's settlement agreements and approved by the Commission mitigates some risk,
12 but FPL's exposure remains significant. When asked if the proposed storm cost
13 recovery framework eliminates storm recovery risk, his response was "No." His
14 explanation to the contradiction was that the framework does not eliminate the risks
15 borne by investors related to storm losses because the Company continues to bear the
16 risk of cost disallowances for decisions made in real-time, but later reviewed by
17 opposing parties, often many months after the incremental debt costs are incurred.⁴⁷
18 Witness Bores then explains the history of how FPL agreed to a storm reserve in the
19 amount of \$150 million, which was increased to \$220 million through the use of carry-
20 over RSAM as part of the prior settlement. The witness then details how the reserve
21 has been entirely depleted and restored multiple times claiming the size of this reserve
22 is insufficient to fund the storm restoration costs that FPL has routinely experienced by

⁴⁷ FPL Witness Bores testimony, p. 50-52.

1 reference to restoration cost of a single major hurricane such as Ian, of approximately
2 \$1 billion, or the back-to-back hurricanes Debby, Helene and Milton, which also
3 amounted to approximately \$1.2 billion in incremental costs in 2024.⁴⁸
4

5 **Q. IS FPL SEEKING TO INCREASE THE STORM RESERVE IN BASE RATES?**

6 A. No. FPL does not seek to replenish its storm reserve through base rates, so it has not
7 included any additional costs in its revenue requirement request. Instead, FPL is
8 proposing the continuation of the storm cost recovery mechanism and is proposing to
9 increase the reserve to \$300 million, an increase of \$80 million to the \$220 million
10 reserve level agreed to during the 2021 Rate Settlement period. Ironically, FPL refers
11 to the 36% increase to the proposed storm reserve as being modest.⁴⁹
12

13 **Q. SHOULD THE COMPANY BE ALLOWED TO INCREASE THE STORM**
14 **RESERVE FROM \$220,000,000 TO \$300,000,000?**

15 A. No. I do agree that, if it is otherwise legal to implement the storm cost recovery
16 mechanism in the absence of a settlement agreement, the current framework can work
17 well and should be continued, but I do not believe that there is a necessity to increase
18 the reserve. The Company claims that there are risks if the reserve is not increased, but
19 that claim is disingenuous when you apply the Company's standard of comparisons to
20 other companies. In some jurisdictions, companies don't have the luxury of a
21 mechanism that allows for recovery of storm costs outside of a rate proceeding. Even
22 in jurisdictions where storm mechanisms do exist, the mechanics and the reserve

⁴⁸ FPL Witness Bores testimony, p. 44.

⁴⁹ FPL Witness Bores testimony, p. 51.

1 amount are not as generous. The Company may argue that other companies do not have
2 the storms that FPL does. But that argument ignores the ice storms of the north and the
3 frequency of tornadoes in the Midwest. The mechanism with the current reserve level
4 is more than adequate, especially considering that recovery is all but guaranteed.

5
6 **SOLAR AND BATTERY BASE RATE ADJUSTMENTS**

7 **Q. IS THERE ANOTHER SPECIAL REQUEST BY FPL INCLUDED WITH ITS**
8 **BASE RATE FILING?**

9 A. Yes. FPL witness Armando Pimentel, Jr. stated that in addition to the base rate request,
10 FPL is asking for SoBRAs in 2028 and 2029 limited to the recovery of cost-effective
11 solar power plants and battery storage. Witness Pimentel continues stating that an
12 approval of this request, among other elements of FPL's petition, would enable the
13 Company to commit to not asking for another general base rate increase until 2030, at
14 the earliest.⁵⁰

15
16 **Q. WHAT OTHER FPL WITNESSES HAVE PROVIDED TESTIMONY**
17 **ADDRESSING THE REQUEST FOR SoBRAS?**

18 A. FPL witness Liz Fuentes states she supports the proposal. Witness Scott Bores first
19 states the SoBRAs will address recovery of the incremental base revenue requirements
20 for new reliable, cost-effective solar generation and battery storage facilities in 2028
21 and 2029, upon a demonstration of either an economic need or resource need in those
22 years. He also states that the SoBRAs will address the treatment of ITCs generated by

⁵⁰ Testimony of FPL witness Armando Pimentel, Jr., p. 9.

1 battery storage facilities that enter service during the four-year rate period and will
2 reflect then-current tax law.⁵¹ His testimony references Exhibit SRB-7, the “Solar and
3 Battery Base Rate Adjustment (SoBRA) Mechanism” that in the beginning states “FPL
4 may build solar and battery generation projects in 2028 and 2029 and recover its costs
5 through a SoBRA.”

6 FPL witness Tim Oliver provides the recent history and accomplishments of
7 having the ability to add solar power and battery storage. He explains that solar power
8 generation remains a highly viable, cost-effective, and favorable energy resource option
9 due to relatively low equipment and construction costs, availability of equipment, and
10 the fact that solar energy does not require fuel. Next, he emphasizes the importance of
11 the Inflation Reduction Act of 2022 (“IRA”) introducing solar PTCs, which enhance
12 cost-effectiveness by reducing revenue requirements and lowering customer bills.
13 Witness Oliver then provides accolades for the addition of 7,932 MW_{AC} of solar power,
14 including 2,980 MW_{AC} under the SoBRA mechanism approved by the Commission in
15 Order Nos. PSC-2016-0560-AS-EI and PSC-2021-0446-S-EI that resulted in lower
16 fuel costs and resulted in FPL paying \$114 million in property taxes, creating 12,600
17 construction jobs, and avoiding 14 million tons of carbon dioxide emissions from 2021
18 to 2024. In his promotion of the requested SoBRAs, he alludes to the importance of the
19 IRA providing an ITC, thereby supporting continued investment in battery storage. The
20 discussion then focuses on how the resource plans have identified an increasing total
21 reliability need for additional firm capacity between 2028 and 2030 based on current
22 planning assumptions.⁵²

⁵¹ Testimony of FPL witness Scott Bores, p. 58-62.

⁵² Testimony of FPL witness Tim Oliver, p. 8-20.

1 **Q. DOES THE PRESENTATION BY FPL WITNESSES PROVIDE**
2 **JUSTIFICATION FOR COMMISSION APPROVAL OF THE SoBRAS**
3 **REQUEST?**

4 A. No, it does not. The SoBRA request as explained is dependent on the IRA of 2022
5 provision for ITCs in future years. The Company has acknowledged in response to
6 discovery and in deposition that while preparing the current filing no consideration was
7 given to the possibility of the current administration and Congress cancelling the solar
8 tax credits available under current law. That is a significant risk given that an Executive
9 Order has focused on reversing the IRA the Company is depending on and the recent
10 legislation passed by the United States House of Representatives also would possibly
11 eliminate renewable tax credits. Another significant factor impacting the request is the
12 perceived need for adding solar facilities. This is rebutted by OPC witness Dauphinais
13 with his recommendation to exclude solar facilities in 2026 and 2027 because the
14 resource need is not there. Another factor, as I indicated earlier, is that Exhibit SRB-7
15 states “FPL *may* build solar and battery generation projects in 2028 and 2029 and
16 recover its costs through a SoBRA.” That suggests that despite the purported plans as
17 explained in Company testimony, there is the possibility FPL may not need to construct
18 solar projects in 2028 and 2029. Another factor is, as I discussed earlier, the 2024 TYSP
19 identified a planned 21,009 MW increase in projects, but when the 2025 TYSP was
20 prepared, in one year, the previously planned number of solar facilities was reduced
21 1,341 MW, or 18 - 74.5 MW solar units. This leads to the issue of whether it makes
22 sense to provide FPL with another mechanism for automatic recovery of costs without
23 the ability for customer advocates to properly evaluate the need for adding solar
24 facilities. The request for the 2028 and 2029 SoBRAs should be denied.

1 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

2 A. Yes, it does at this time. Due to the limited time allowed to review a filing that the
3 Company has had significantly more time to assemble, there may be a need to
4 supplement my testimony. As I noted earlier, the Company's filing of a Notice of
5 Identified Adjustments may have an effect on my analysis and recommendations. The
6 timing of the Notice of Identified Adjustments made it impossible to reconcile the
7 notice with the filing and extensive discovery. Additionally, the Company has filed
8 numerous "corrected" and "supplemental" discovery responses. I will review the
9 Notice of Identified Adjustments, and any further "corrected" or "supplemental"
10 discovery responses, and, if warranted, file supplemental testimony incorporating their
11 impact.

12 Finally, the fact that I do not address any other particular issues in my testimony
13 or am silent with respect to any portions of FPL's Petition or direct testimony in this
14 proceeding should not be interpreted as an approval of any position taken by FPL.

1 BY MS. WESSLING:

2 Q Mr. Schultz, did you -- did your prefiled
3 testimony in this docket also contained seven exhibits
4 labeled HWS-1 through HWS-7?

5 A Yes.

6 MS. WESSLING: And for the record, I believe
7 those exhibits have been identified on the CEL as
8 Exhibits 188 through 194.

9 CHAIRMAN LA ROSA: Okay.

10 BY MS. WESSLING:

11 Q Mr. Schultz, do you have any corrections to
12 make to any of your exhibits?

13 A Not that I am aware of.

14 Q And have you prepared a summary of your
15 testimony?

16 A Yes, I have.

17 Q All right. If you could, go ahead and please
18 provide that. Thank you.

19 A Good afternoon, Commissioners, staff,
20 intervenors and customers.

21 FPL requested an increase in base rates of
22 \$2.5 billion over the two-year period 2026 and '27. The
23 request also seeks to increase the storm reserve from
24 220 million to 300 million. FPL has also included a tax
25 adjustment mechanism to replace the RSAM, and a proposed

1 SoBRA mechanism for 2028 and 2029 solar and battery
2 projects. The tax adjustment mechanism should not be
3 allowed for many reasons, including that it essentially
4 provides FPL with a guaranteed return.

5 My testimony recommends adjustments of a
6 number of costs in rate base and cost of service. I
7 won't be addressing them all in my summary, as there are
8 numerous ones.

9 The rate base includes an excessive amount of
10 plant held for future use. This includes properties
11 that have been held for more than 25 years, and were not
12 addressed in the 2024 or the 2025 ten-year site plans.
13 The '26 property -- the 2026 properties cost customers
14 in excess of \$117 million before the revenue requirement
15 multiplier applied and the property taxes are added
16 without any benefit for customers. The requirement for
17 filing a ten-year site plan allows for long-term
18 planning, and allowing the company to include plant
19 beyond that timeline requires customers to pay for
20 properties that are so distant they are based primarily
21 on speculation.

22 My testimony also includes recommended
23 adjustments to capital additions based on OPC Witness
24 Dauphinais. And if the Commission were to determine
25 that his adjustments weren't fully supported, I have

1 recommended an alternative based upon historical trends
2 of cost compared to what has been put into service and
3 forecasted.

4 A major concern is the FPL request for O&M
5 payroll sentence. It is overstated because the company
6 has reflected an increase of 315 employees over the 2024
7 actual employee complement of 9,112, and has a plant
8 complement in 2026 of 9,382, and in 2027 of 9,427. The
9 real issue here is the company provided no testimony to
10 support adding all these positions.

11 The March '25 complement turned out to be 46
12 positions less than the 2024 average. And the company
13 has historic actual employee complement is significantly
14 lower than the historical plan complement. In fact,
15 this is supported by an issue that occurred with the
16 2021 settlement being made, and a reduction made in 2022
17 of 424 positions after that settlement.

18 Another contributing factor to the company's
19 overstatement is they included in 2026 and 2027 an O&M
20 allocation of payroll of 66 percent and 67 percent
21 respectively. This compares to the 2024 O&M percentage
22 of 56.6 percent. They have an increase in capital
23 spending, yet have a decrease in the amount of
24 capitalization.

25 Another unsupported cost is the incentive

1 comp. The inclusion of incentive comp or goals are not
2 set to incentivize employees to perform above what is
3 expected is not justified.

4 Maintenance costs requested are excessive
5 based on actual historical costs typically being less
6 than the plan spending. The company performance that
7 historically results in actuals below forecasted costs
8 should not be ignored as it was -- would award the
9 company costs that will likely not occur.

10 Another problem is the insurance costs. The
11 company has reflected a significant increase in
12 insurance costs in 2025, and then compounded on to that
13 in '26 and '27. That significant increase is not
14 supported by any documentation in this filing.

15 Similarly, the company has asked for an
16 increase in injuries and damages. This is a result of
17 an accrual that was deferred prior to the respective
18 rate periods that are in here, and they are asking to
19 shift at that money that should be just reflected in the
20 2024 year and 2025 if need be, but not '26 and '27.

21 CHAIRMAN LA ROSA: Mr. Schultz, we are out of
22 time. Can you start to bring in your summary for a
23 landing?

24 THE WITNESS: Certainly.

25 I simply reflected my recommendations. They

1 are detailed in my testimony, and I have reflected
2 the recommendations based upon other witnesses in
3 my testimony. And my recommendations resulted in a
4 revenue sufficiency of \$620 million for 2026.

5 Thank you.

6 CHAIRMAN LA ROSA: Thank you.

7 MS. WESSLING: Thank you, Mr. Chair. And at
8 this time, OPC tenders Mr. Schultz for
9 cross-examination.

10 CHAIRMAN LA ROSA: Thank you.

11 FEL?

12 MS. McMANAMON: No questions.

13 CHAIRMAN LA ROSA: FAIR?

14 MR. SCHEF WRIGHT: No questions. Thank you,
15 Mr. Chairman.

16 CHAIRMAN LA ROSA: FEIA.

17 MR. MAY: We have no questions.

18 CHAIRMAN LA ROSA: Walmart?

19 MS. EATON: No questions.

20 CHAIRMAN LA ROSA: FRF?

21 MR. BREW: FRF does not have questions.

22 CHAIRMAN LA ROSA: FIPUG?

23 MR. MOYLE: No questions.

24 CHAIRMAN LA ROSA: FPL?

25 MR. BURNETT: No questions.

1 CHAIRMAN LA ROSA: Staff?

2 MR. STILLER: No questions.

3 CHAIRMAN LA ROSA: Commissioners, do we have
4 any questions?

5 Seeing none, back to OPC for redirect.

6 MS. WESSLING: Thank you. At this time, OPC
7 asks that Mr. Schultz's previously identified
8 exhibits now be entered into the record.

9 CHAIRMAN LA ROSA: Assuming no objections,
10 seeing none, so moved.

11 (Whereupon, Exhibit Nos. 188-194 were received
12 into evidence.)

13 CHAIRMAN LA ROSA: Seeing -- is there anything
14 else that needs to be entered into the record?
15 Seeing none.

16 Thank you, Mr. Schultz. You may be excused.

17 MS. WESSLING: Thank you. And I just want to
18 thank all the parties for accommodating the date
19 certain for our witnesses.

20 CHAIRMAN LA ROSA: Absolutely. Thank you.

21 (Witness excused.)

22 CHAIRMAN LA ROSA: All right. So the next
23 witnesses -- group of witnesses we have up is for
24 FEIA.

25 MR. MAY: Yes, Your Honor.

1 CHAIRMAN LA ROSA: Are you ready to call your
2 witnesses?

3 MR. MAY: Sure. FEIA would call Mr. Robert
4 Provine to the stand.

5 CHAIRMAN LA ROSA: Mr. Provine, do you mind,
6 when you get settled, just continue standing and
7 raise your right hand?

8 Whereupon,

9 ROBERT PROVINE

10 was called as a witness, having been first duly sworn to

11 speak the truth, the whole truth, and nothing but the

12 truth, was examined and testified as follows:

13 CHAIRMAN LA ROSA: Thank you. Feel free to
14 get settled in.

15 Over to you guys once your witness is ready.

16 EXAMINATION

17 BY MR. MAY:

18 Q Good afternoon, Mr. Provine.

19 A Good afternoon.

20 Q Would you please state your full name and
21 business address for the record?

22 A Robert Provine. 1204 South Congress
23 Boulevard, Austin, Texas.

24 Q And by whom are you employed and in what
25 capacity?

1 A I am employed by Timberline Real Estate
2 Partners, where I serve as Chief Operating Officer, and
3 I am a partner. I also serve as President of the
4 Florida Energy for Innovation Association, which we
5 refer to as FEIA.

6 **Q On June 9 of this year, did you prepare and**
7 **cause to be filed in this case 13 pages of prefiled**
8 **direct testimony?**

9 A Yes.

10 **Q Do you have any edits to that prefiled**
11 **testimony?**

12 A Yes. I have a few minor cleanup edits to
13 remove passing reference to two FEIA witnesses, Buddy
14 Rizer and Mohamed Ahmed who have been withdrawn and are
15 no longer able to participate, one for health reasons
16 and one due to preexisting international business travel
17 commitments.

18 **Q Very briefly, can you walk us through those**
19 **minor edits?**

20 A Yes, it's just a few.

21 On page six, line nine, remove the reference
22 to Witness Rizer and Witness Ahmed. On page seven, line
23 19, remove the reference to Witness Rizer. On page
24 nine, line 16, remove the reference to Witness Ahmed.
25 On page nine, line 19, strike the sentence that begins

1 FEIA Witness Rizer. On page nine, line 22, strike the
2 sentence that begins in addition Witness Ahmed. On page
3 10, line 10, remove the reference to Witness Ahmed. And
4 finally, on page 12, lines one and two, remove the
5 reference to Witness Rizer.

6 **Q Do you have any other edits to your prefiled**
7 **direct testimony?**

8 A No.

9 **Q Mr. Provine, with those minor edits noted, if**
10 **I were to ask you the same questions today that are**
11 **contained in your prefiled direct testimony, would your**
12 **answers be the same?**

13 A Yes.

14 MR. MAY: Mr. Chairman, I would ask that the
15 prefiled direct testimony of Mr. Provine be entered
16 into the record as though read.

17 CHAIRMAN LA ROSA: So moved.

18 (Whereupon, prefiled direct testimony of
19 Robert Provine was inserted.)

20

21

22

23

24

25

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

ROBERT PROVINE

on behalf of Intervenor,

Florida Energy for Innovation Association, Inc.

1 **Q. PLEASE STATE YOUR FULL NAME.**

2 A. My name is Robert Provine.

3 **Q. BY WHOM ARE YOU EMPLOYED?**

4 A. I am employed by Timberline Real Estate Partners, where I serve as Partner
5 and Chief Operating Officer.

6 **Q. WHAT IS YOUR EDUCATIONAL AND EMPLOYMENT**
7 **BACKGROUND?**

8 A. I hold a Master of Science in Information Systems from New York
9 University's Courant Institute of Mathematical Sciences, and a BA in
10 Business Administration from the University of North Carolina, Chapel Hill's
11 Keenan Flagler Business School. I have over 30 years of experience in the
12 technology and real estate development sectors. My Curriculum Vitae is
13 attached as Exhibit PR-1.

14 **Q. ON WHOSE BEHALF ARE YOU SUBMITTING TESTIMONY?**

15 A. I am testifying on behalf of the Florida Energy for Innovation Association,
16 Inc. ("FEIA"), of which I am a Director and serve as the President.

17 **Q. WHAT IS FEIA?**

18 A. FEIA is a Florida not-for-profit association, headquartered in Orlando, whose
19 members are comprised of companies that are engaged in the development of
20 data centers in Florida and affiliates of those companies that are existing
21 electric customers of FPL. FEIA was formed to represent its members'
22 interests before Florida governmental entities, including the Florida Public
23 Service Commission ("Commission"), and specifically to ensure the data
24 center industry has access to fair, just, reasonable and non-discriminatory
25 electricity rates.

1 **Q. WHY IS FEIA’S OFFICE IN ORLANDO?**

2 A. FEIA members have data center projects and operations across FPL’s
3 territory, including in Volusia, St. Lucie and Palm Beach Counties. Thus,
4 Orlando is a convenient central location.

5 **Q. WHY IS IT IMPORTANT FOR DATA CENTERS TO HAVE**
6 **REASONABLE AND NON-DISCRIMINATORY ELECTRIC RATES?**

7 A. Data Centers are designed to support the substantial computational demands
8 of the artificial intelligence (commonly referred to as AI) and related high
9 technology industries that the State of Florida seeks to attract. Data centers
10 require a constant, reliable, and cost-effective electric power source to operate
11 their computer servers, cooling systems, storage, and other essential
12 infrastructure. More specifically, electricity is the single largest operating
13 expense for hyperscale data centers, often comprising up to 60% of total
14 operating costs, making electricity rates a primary factor in any data center
15 operator’s site selection. If Florida wishes to attract hyperscale data centers
16 and take advantage of their significant beneficial economic impacts, then it is
17 essential that electricity rates and their related contractual structure be
18 competitive on a national basis and consistent with their true cost of service.

19 **Q. WHAT ARE FEIA’S INTERESTS IN THIS PROCEEDING?**

20 A. FEIA is currently comprised of four (4) members. Three of our members
21 (75% of the membership) are current retail customers of FPL. Two of our
22 members are engaged in the development of data center sites located in FPL’s
23 exclusive retail service territory and are thus reliant on FPL for a reliable and
24 cost-effective electric power service. All FEIA members have a substantial
25 interest in the Commission approving fair, just, reasonable and non-

1 discriminatory rates.

2 **Q. HAVE FEIA MEMBERS ENTERED INTO FORMAL AGREEMENTS**
3 **WITH FPL REGARDING THE SUPPLY OF ELECTRICITY TO**
4 **THEIR DATA CENTER SITES?**

5 A. Yes. FEIA members that are planning to develop data centers are actively
6 seeking to obtain electric service from FPL and have entered into formal
7 agreements with FPL that call for the utility to analyze and report on the cost
8 of the facilities needed to supply electric power to their data center sites.
9 These agreements and studies are styled: "Study and Engineering Estimate
10 Agreements," which I refer to in my testimony as "Engineering Study
11 Agreements." As a condition for entering into these agreements, FPL required
12 those FEIA members to agree to keep the details of the Engineering Study
13 Agreements confidential.

14 **Q. HAVE FEIA MEMBERS PAID MONIES TO FPL PURSUANT TO**
15 **THOSE ENGINEERING STUDY AGREEMENTS?**

16 A. Yes. While I am not permitted to discuss specifics due to the aforementioned
17 confidentiality agreements, I can state that FEIA members and their affiliates
18 have paid FPL more than \$1,000,000 in exchange for FPL performing these
19 studies. FEIA members made these payments in anticipation of FPL
20 supplying electricity to their data center sites at reasonable and non-
21 discriminatory rates. On that basis alone, FEIA members have a substantial
22 and non-speculative stake in that investment which will be impacted by the
23 outcome of this proceeding.

24 **Q. WHEN DID FEIA MEMBERS FIRST APPROACH FPL ABOUT**
25 **SUPPLYING ELECTRIC SERVICE TO THEIR DATA CENTER**

1 **PROJECTS?**

2 A. FEIA members and their affiliates initially contacted FPL around the first
3 quarter of 2024, with formal requests submitted around September 2024.

4 **Q. AT THAT TIME, WHAT FPL RATE CLASSIFICATION APPLIED**
5 **TO FEIA MEMBERS' DATA CENTER PROJECTS?**

6 A. At that time, FPL advised that customers with loads of the magnitude
7 requested by FEIA members and their affiliates would be classified as
8 General Service Large Demand ("GSLD-3") customers, and provided a
9 sample GSLD-3 bill, stating that the rates, terms, and conditions of FPL's
10 GSLD-3 Tariff were applicable. FPL also stated that its current GSLD-3 rates
11 may change as part of FPL's future rate case, but emphasized that, in any
12 event, FPL's rates are generally below the national average.

13 **Q. IS FPL PROPOSING TO CHANGE ITS GSLD-3 CUSTOMER**
14 **CLASSIFICATION IN THIS PROCEEDING?**

15 A. Yes. FPL is proposing to close its GSLD-3 Tariff to data centers with a load
16 of 25 MW or more and a load factor of 85 percent or more. Under FPL's
17 proposal, data center customers of FEIA members and their affiliates would
18 be reclassified as Large Load Contract Service (LLCS-1 and LLCS-2)
19 customers and required to take electric service under the rates, terms, and
20 conditions of FPL's proposed LLCS-1 and LLCS-2 Tariffs.

21 **Q. ARE THE RATES, TERMS AND CONDITIONS OF ELECTRIC**
22 **SERVICE UNDER THE PROPOSED LLCS TARIFFS DIFFERENT**
23 **FROM THE GSLD-3 TARIFF?**

24 A. Yes, they are dramatically different. Under its LLCS-1 Tariff, FPL proposes
25 charging data center customers an amount that is more than 65% higher than

1 would be charged under its current GSLD-3 Tariff. The proposed LLCS-2
2 Tariff is undefined, but it is understood to be even higher than LLCS-1. In
3 addition to increasing rates, the LLCS Tariffs would condition essential
4 electric service on data center customers executing an LLCS Service
5 Agreement and other related contracts. These agreements would, for the first
6 time, impose on data center customers a minimum 20-year term, a monthly
7 “take-or-pay” requirement of not less than 90% of the customer’s contract
8 demand, additional security payments, and other significant new
9 requirements. None of these contractual terms and conditions are required
10 under the current GSLD-3 Tariff.

11 **Q. CAN YOU SUMMARIZE HOW THE COMMISSION’S DECISIONS**
12 **IN THIS DOCKET WILL IMPACT FEIA MEMBERS?**

13 A. In this case, the Commission will decide whether to allow FPL to close the
14 GSLD-3 Tariff to data center customers, reclassify them under the new
15 proposed LLCS Tariff, and charge them for electricity under the proposed
16 LLCS-1 and LLCS-2 Rate Schedules.

17 The Commission’s decision on whether to establish a new LLCS customer
18 classification for data centers, with significantly higher rates under FPL’s
19 proposed LLSC-1 and LLSC-2 Rate Schedules, will directly affect the
20 electricity costs of data centers being developed by FEIA members and their
21 affiliates and threaten the projects’ viability. Furthermore, 75 percent of FEIA
22 members are current retail customers of FPL and rely on FPL for electric
23 service. Thus, FPL’s request to increase base rates overall by approximately
24 \$8.9 Billion will directly impact their cost of electricity. The interests of all
25 FEIA members will be directly affected by the Commission’s decisions in

1 this proceeding.

2 **Q. WHY HAS FEIA INTERVENED IN THIS PROCEEDING?**

3 A. In addition to protecting FEIA's immediate interests as I just explained, FEIA
4 is committed to supporting data center growth in Florida, which drives
5 significant economic benefits, including job creation, tax revenue, and
6 infrastructure development. We are extremely concerned that FPL's proposed
7 LLCS Tariff will have far-reaching policy implications for the State of Florida
8 and for the emerging data center industry in the state. In fact, FEIA Witnesses
9 Loomis, ~~Rizer~~, Mangum, and ~~Ahmed~~ have all concluded that, unless
10 modified, FPL's proposed LLCS Tariff and contractual service conditions
11 will drive costs of electricity for data centers to levels that are uncompetitive
12 with other states and effectively result in leading data center operators
13 deciding against locating in Florida altogether.

14 Historically, reliability concerns associated with Florida's vulnerability to
15 hurricanes and storms have deterred data center development. Those
16 concerns, coupled with elevated insurance and construction costs, have
17 created a challenging landscape for development of large data centers and
18 other AI-driven projects. However, FPL has transformed this landscape by
19 investing billions of dollars to harden its transmission and distribution
20 network. FPL's efforts have delivered industry-leading reliability and
21 resilience, as evidenced by minimal outages during recent hurricane seasons.
22 These advancements have improved Florida's position to compete nationally
23 as a data center hub – but to actually realize this hinges on offering highly
24 competitive electricity rates and a rate structure that address lingering market
25 perceptions of risk.

1 If the Commission approves the LLSC Tariff as currently proposed there is
2 no doubt data center investment in Florida will be deterred and Florida's role
3 in the digital and AI economy will be significantly limited. With those risks
4 in mind, FEIA's testimony aims to inform the Commission of reasonable and
5 targeted modifications to the proposed LLCS Tariff, which include market-
6 appropriate rates and contractual terms that would ensure that Florida
7 becomes a constructive environment for data center investment – all without
8 adversely impacting the general body of ratepayers. By intervening in this
9 proceeding, FEIA is asking the Commission to approve a tariff rate and rate
10 structure for data centers that is fair, just, reasonable and non-discriminatory.
11 To do otherwise would hamper the state's economic development goals.

12 **Q. WHAT SPECIFIC HARMS TO FLORIDA'S ECONOMIC**
13 **DEVELOPMENT MISSION DOES FEIA SEE IF THE PROPOSED**
14 **LLCS TARIFF RATES ARE APPROVED?**

15 A. FEIA believes the proposed LLCS Tariff rate and contractual structure
16 imposes overly burdensome rates, terms, and conditions for essential electric
17 service which, if approved, would significantly damage Florida's ability to
18 attract and retain data center investment. As detailed in the testimonies of
19 FEIA Witnesses ~~Rizer~~ and Mangum, this will result in a potential loss to the
20 state of billions of dollars in economic activity. If approved in its current form,
21 the LLCS Tariff would jeopardize Florida's standing in the national AI and
22 technology economy, threatening job creation, tax revenue, infrastructure
23 development, and long-term digital resilience.

24 **Q. WHAT CURRENT FLORIDA POLICIES ENCOURAGE DATA**
25 **CENTER INVESTMENT?**

1 A. The Florida legislature has demonstrated its strong support for data center
2 development by passing a robust sales tax exemption for equipment and
3 electricity used by qualifying data centers. In the most recent year, Governor
4 Ron DeSantis and Secretary of Commerce J. Alex Kelly have clearly
5 indicated public support for the data center and AI sector by advocating for
6 an extension of this data center tax exemption as well as supporting other
7 strategic policies and investments aimed at fostering innovation and economic
8 growth. Governor DeSantis has prioritized creating a business-friendly
9 environment by championing tax exemptions for data center infrastructure to
10 ensure cost efficiencies for energy-intensive AI operations. Secretary Kelly
11 has emphasized workforce development, with initiatives like the Florida Job
12 Growth Grant Fund channeling millions to train Floridians in AI, machine
13 learning, and related fields, all to strengthen the talent pipeline for the tech
14 industry.

15 Other state officials have demonstrated support for these efforts by aligning
16 educational programs with industry needs, such as expanding semiconductor
17 and AI training at Florida's universities. Florida's Department of Commerce
18 collaborates with local governments and economic development partners to
19 streamline infrastructure improvements, ensuring reliable power and
20 connectivity for data centers. These coordinated efforts demonstrate Florida's
21 strategic commitment to becoming a premier hub for AI-driven data center
22 technologies, fostering job creation and technological innovation.

23 **Q. IN YOUR VIEW, WHAT IS THE PRIMARY FACTOR IN DATA**
24 **CENTER SITE SELECTION?**

25 A. Electricity pricing.

1 **Q. PLEASE EXPLAIN.**

2 A. According to International Data Corporation's September 2024 report,
3 electricity is the single largest operating expense for hyperscale data centers,
4 often comprising up to 60% of their total operating costs. As such, even small
5 rate differences can shift billions in operating costs over time, making
6 electricity rates the primary factor in any data center operator's site selection.
7 FPL's proposed LLCS Tariff, and in particular the new Incremental
8 Generation Charge ("IGC"), undermines the state's economic development
9 strategy by making Florida uncompetitive for power-intensive digital
10 infrastructure.

11 **Q. WHAT BENEFITS DO DATA CENTERS PROVIDE TO THE STATE**
12 **OF FLORIDA?**

13 A. As discussed in more detail in the testimony of FEIA's other expert witnesses,
14 data centers deliver high-wage jobs, robust tax revenues, and improved digital
15 services without increasing the burden on residential or other commercial
16 customers. FEIA Witnesses ~~Ahmed~~ and Loomis explain that data centers'
17 stable, large-scale power demand can enable a utility like FPL to spread its
18 fixed costs over a greater volume of electricity sales, thus contributing to
19 lower unit costs of electricity for all customers. ~~FEIA Witness Rizer discusses~~
20 ~~how their robust tax revenue generation provides the potential for lower future~~
21 ~~state and local tax rates for all customers.~~
22 ~~In addition, Witness Ahmed explains that the transmission and related FPL~~
23 ~~system upgrades required to support data center operations are financed not~~
24 ~~by the general body of ratepayers but by the data centers themselves through~~
25 ~~a combination of direct funding of the required project-specific improvements~~

1 ~~and the revenue generated by their long-term electricity contracts.~~ As such,
2 supporting data center growth aligns with the Commission's obligation to
3 balance fair cost recovery with broader economic welfare.

4 **Q. WHAT ARE YOUR SPECIFIC CONCERNS REGARDING FPL'S**
5 **PROPOSED LLCS RATES?**

6 A. FPL's proposed LLCS-1 rate materially exceeds those in many competing
7 markets and is more than 65% above the current GSLD-3 rate, while the
8 LLCS-2 is undefined but understood to be higher than LLCS-1. LLCS rates
9 thus impose disproportionate costs on low-risk, high-volume data center
10 customers. As is explained by FEIA Witnesses ~~Ahmed~~ and Loomis, a data
11 center's consistent power usage profile, forward-funding of required
12 transmission upgrades, and long-term contracts generate a materially lower
13 risk profile and cost to serve than GSLD-3 customers. However, FPL's
14 proposed LLCS rates are far higher than the GSLD-3 rate, which is
15 inconsistent with fundamental cost-causation principles found in Chapter 366
16 of the Florida Statutes.

17 **Q. WHAT CAUSES FPL'S LLCS RATES TO BE SO MUCH HIGHER**
18 **THAN THE GSLD-3 RATES?**

19 A. As detailed by Witnesses Loomis and Ahmed, FPL's proposal to introduce a
20 completely new rate element, the Incremental Generation Charge ("IGC"), is
21 the primary factor contributing to the overall rate increase reflected in the
22 LLCS proposals. As further explained by Witnesses Ahmed and Loomis,
23 FEIA does not believe the level or structure of the IGC is appropriate or
24 supported by the necessary empirical data.

25 **Q. HAS FPL PROVIDED A COST-OF-SERVICE STUDY TO SUPPORT**

THE NEW IGC ELEMENT IN ITS LLCS TARIFF?

A. No. As detailed by Witnesses Loomis and Ahmed, FPL has not made a cost-of-service study publicly available that provides sufficient support to justify a new LLCS customer classification or the novel IGC rate element. For these and other reasons explained by Witnesses Loomis and Ahmed, the proposed rate and rate design fail to comply with the Commission's foundational ratemaking requirements that all rates must be cost-based, just, reasonable, and non-discriminatory.

Q. ASIDE FROM THE LEVEL OF THE RATES, DOES FEIA HAVE OTHER CONCERNS ABOUT FPL'S PROPOSED LLCS TARIFF?

A. Yes. FPL's proposed LLCS Tariff would create a new customer classification for data centers and impose burdensome contractual terms and conditions far exceeding those for GSLD customers. Specifically, FPL proposes that applicants for service under the LLCS Tariff must: (i) execute a 20-year LLCS Service Agreement ("LSA"), whereas there is no minimum term for GSLD customers; (ii) enter into complex and multi-billion dollar service and security agreements in a compressed six-month time frame after acceptance of FPL's Engineering Study, whereas no such agreements are required for GSLD customers; (iii) require a minimum 90% "take or pay" obligation, whereas GSLD customers are not subject to minimum customer load or demand guarantees; and (iv) provide additional security guarantees, whereas there is no similar security requirement for GSLD customers.

As discussed in FEIA Witness Loomis's testimony, this discriminatory structure deviates from standard national practices and falls far short of Florida's statutory requirement that rate structures are to be cost-based, fair,

1 reasonable and non-discriminatory. As a result, and as detailed in FEIA
2 ~~Witness Rizer's~~ testimony, it significantly undermines Florida's
3 competitiveness and ability to attract hyperscale data centers and their
4 associated positive economic impacts.

5 **Q. IS FPL'S PROPOSAL TO CREATE A NEW LLCS CUSTOMER**
6 **CLASSIFICATION SUPPORTED BY A COST-OF-SERVICE**
7 **STUDY?**

8 A. No. As stated earlier, no cost-of-service study has been provided to support
9 FPL's LLCS Tariff proposal.

10 **Q. WHAT IS YOUR FORMAL PROPOSAL FOR DATA CENTER**
11 **RATES?**

12 As outlined in Witness Loomis' testimony, FEIA respectfully recommends
13 that the Commission amend the proposed LLCS Tariff to comport with the
14 detailed recommendations in Witness Loomis' testimony. Those
15 recommendations would eliminate redundant security requirements for
16 creditworthy customers, align rates, contract terms and conditions with
17 industry standards, and provide a fair and balanced approach that retains the
18 spirit and substance of FPL's proposal. Moreover, FEIA's recommendations
19 would ensure FPL's financial stability, advance Florida's goal of attracting
20 data center investment, and comply with accepted cost-of-service principles.

21 **Q. DOES FEIA'S PROPOSED STRUCTURE AFFECT THE GENERAL**
22 **BODY OF RATEPAYERS, AND IF SO, HOW?**

23 A. FEIA's proposals are designed to avoid any adverse impact on the general
24 body of rate payers. The rates and streamlined contractual structure which
25 FEIA proposes would ensure that a data center customer's revenues cover the

1 full cost of service, including generation, transmission, and administrative
2 costs, without subsidies from other ratepayers. Data centers' high and stable
3 load factors and self-funded transmission upgrades minimize FPL's risks in
4 ensuring that any infrastructure upgrade costs incurred are fully matched with
5 corresponding revenues. Additionally, the large and stable demand of data
6 centers should enable FPL to spread its fixed costs over a greater volume of
7 electricity sales resulting in lower unit costs of electricity for all customers,
8 thus placing downward pressure on the rates for residential and small business
9 customers. Moreover, by attracting data center investment, FEIA's proposal
10 enhances economic benefits like job creation and tax revenue, further
11 benefiting Florida's citizens without burdening the general body of
12 ratepayers.

13 **Q. IS THERE ANY OTHER INFORMATION YOU WOULD LIKE TO**
14 **SHARE IN THIS PROCEEDING?**

15 A. Yes. I would like for all stakeholders to know that FEIA is committed to
16 collaborating with the Commission, FPL, the Office of Public Counsel, and
17 other parties to develop a balanced Tariff for data centers that supports
18 economic growth, protects residential and small-business customers, and
19 maintains FPL's financial integrity.

20 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

21 A. Yes.

22

23

24

1 BY MR. MAY:

2 Q Mr. Provine, have you attached any exhibits to
3 your prefiled testimony?

4 A Yes. My CV is attached as Exhibit PR-1.

5 MR. MAY: Mr. Chairman, I would note for the
6 record that Exhibit PR-1 is identified as Exhibit
7 No. 231 in the Comprehensive Exhibit List.

8 CHAIRMAN LA ROSA: Okay.

9 BY MR. MAY:

10 Q Do you have any changes to that exhibit,
11 Mr. Provine?

12 A No.

13 Q Have you prepared a brief summary of your
14 prefiled testimony?

15 A Yes.

16 Q Would you please provide a very brief summary?

17 A Good afternoon, Chairman La Rosa and
18 Commissioners. My testimony addresses three topics.

19 First, I explain that FEIA is an association
20 comprised of companies that are actively developing data
21 centers within FPL's service area, as well as their
22 affiliates. 75 percent of FEIA's members are existing
23 electric customers of FPL.

24 Second, I explain that FEIA intervened in this
25 proceeding because it and its members had substantial

1 concerns about the rates, terms and conditions contained
2 in FPL's originally proposed large load contract service
3 tariff, as well as concerns regarding the overall rate
4 request.

5 Third, my testimony explains the data centers
6 can bring significant economic development and other
7 benefits to the people of Florida, benefits that can be
8 achieved without burdening the general body of
9 ratepayers.

10 That concludes my summary.

11 MR. MAY: Mr. Chairman, FEIA would tender
12 Mr. Provine for cross-examination.

13 CHAIRMAN LA ROSA: Thank you.

14 OPC?

15 MR. PONCE: Thank you.

16 EXAMINATION

17 BY MR. PONCE:

18 Q Good afternoon, Mr. Provine.

19 A Hello.

20 Q Before getting into your testimony, I would
21 just like some background on FEIA.

22 FEIA has four members, right?

23 A Correct.

24 Q One of these members is Timberline Investment
25 Partners, LLC?

1 A Yes.

2 Q Now, is your employer Timberline Real Estate
3 Partners, the same entity as FEIA member Timberline
4 Investment Partners?

5 A Timberline Investment Partners is a subsidiary
6 thereof.

7 Q And then of the remaining members, only three
8 are current FPL customers, right?

9 A Correct.

10 Q And of those -- of FEIA's four members, only
11 two have requested engineering studies from FPL?

12 A Two are currently under engineering studies.

13 Q Those studies -- well, let me ask. Have those
14 studies been finished yet?

15 A The two that are ongoing are still ongoing, so
16 not yet completed.

17 Q Regardless of whether those studies have been
18 accepted or not, it's true that FPL doesn't anticipate
19 any large load customers until 2018 -- excuse me, 2028,
20 right?

21 A That's my understanding. Yes.

22 Q So even if a FEIA member accepted the results
23 of an FPL engineering study on January 1, 2026, there
24 are no guarantees that their data center will be
25 operational by 2028?

1 A No.

2 **Q Now, is it fair to say that it is speculative**
3 **whether a FEIA member will be affected by the LLCS**
4 **tariffs at all?**

5 MR. MAY: Objection. He is asking for whether
6 the witness believes something is legally
7 speculative. I think that asks for a legal
8 conclusion.

9 CHAIRMAN LA ROSA: Can you rephrase the
10 question that doesn't ask for a --

11 MR. PONCE: If I could respond. I wasn't
12 asking for a legal conclusion.

13 CHAIRMAN LA ROSA: Can you rephrase the
14 question?

15 MR. PONCE: Sure, I will try.

16 BY MR. PONCE:

17 **Q The LLCS customers only apply to data centers**
18 **at 25 megawatts or higher, with an 85 percent or higher**
19 **load factor?**

20 A Any user that would be 25 megawatts or greater
21 under the original proposal, yes. It's not specific to
22 data centers.

23 **Q Since no FEIA member has accepted an**
24 **engineering study yet, that means there haven't been any**
25 **plans to break ground anywhere, right?**

1 A There is lots of activity going on on the
2 sites, actually, in advance, because these are very
3 long-term projects, so there is a lot of entitlement and
4 work that has to happen, you know, long in advance of
5 the commencement of actually breaking ground.

6 **Q Given that no FEIA members are currently**
7 **operating a data center that has 25 megawatts or higher,**
8 **and that of the two that have requested engineering**
9 **studies, those studies have not been complete yet. I am**
10 **not asking as a legal conclusion, but just based on**
11 **these facts, there is no guarantee that any FEIA member**
12 **will be affected by these tariffs, right?**

13 A Well, FEIA members are also general service
14 demand, large demand, general service non-demand,
15 residential, and et cetera, so they would be impacted
16 regardless as ratepayers.

17 **Q Well, these LLCS tariffs are for commercial**
18 **and industrial customers, right?**

19 A Specifically for LLCS?

20 **Q Correct. So you mentioned residential how**
21 **would he this be affected, then?**

22 A I am sorry, could you rephrase your -- restate
23 your question, please?

24 **Q Which question?**

25 **CHAIRMAN LA ROSA: The last question is the**

1 question he was asking.

2 BY MR. PONCE:

3 Q So given that the LLCs tariffs affect
4 commercial and industrial, why, then, would residential
5 be affected?

6 A I don't believe -- I thought were you
7 referring to FEIA members holistically.

8 Q Turning to your testimony, you support the
9 idea that data centers will bring economic benefits to
10 Florida, right?

11 A I am sorry, can you re-- I couldn't hear you.

12 Q Turning to your testimony, you support the
13 idea that data centers will bring economic benefits to
14 Florida, right?

15 A Yes.

16 Q Isn't it true that reliability concerns have
17 historically deterred data center development in
18 Florida?

19 A Historically Florida has not been a primary
20 data center designation because of perceived risk
21 associated with storms, but that has materially changed
22 over the last several years with the growth of AI and
23 the demand-side of that equation has grown dramatically,
24 and has led data center developers and end users to look
25 to new market such as Florida, which they very actively

1 looking at at this time.

2 **Q And some of those other concerns preventing**
3 **data center development include elevated insurance**
4 **costs?**

5 A Yes.

6 **Q And also elevated construction costs?**

7 A Yes, moderately, correct, as with any
8 development type in Florida.

9 **Q You mentioned hurricanes. Subject to check,**
10 **didn't Hurricane Ian require eight restoration days for**
11 **FPL to restore power in 2022?**

12 A I don't have those -- I don't have that data
13 to hand.

14 And one thing I would say relevant to that is
15 that data centers plug directly into the transmission
16 network of grids and not through the distribution
17 network. So when these storms happen, it's usually the
18 distribution network that goes down, not the
19 transmission network, which are much more hardened. So
20 it's very rare that the transmission network goes down.
21 But that -- your specific question, I do not have data
22 to hand for that specific storm.

23 **Q It's fair to say, though, that storms in**
24 **recent years have knocked out power for FPL customers,**
25 **right?**

1 A Again, I need to see the specifics, because
2 from a data center perspective, what's relevant is, is
3 the generation and transmission network down, not the
4 distribution network.

5 It's almost invariably the distribution
6 network that goes down in the storm, and not the
7 transmission network, off which the data center -- users
8 of scale such as a data center would be pulling the
9 power directly from the high capacity transmission
10 lines.

11 **Q It is, nonetheless, possible for those**
12 **transmission centers to be down, too, though, right?**

13 A Anything is possible, but it's very rare.

14 **Q Don't data centers need to run continuously?**

15 A Yes.

16 **Q And don't data centers use a range of on-site**
17 **generation and energy storage solutions to ensure no**
18 **interruptions during switchover?**

19 MR. MAY: Objection. That question is
20 compound. There is three or four questions
21 embedded in his inquiry.

22 CHAIRMAN LA ROSA: Can you unfold that a
23 little?

24 MR. PONCE: Sure.

25 BY MR. PONCE:

1 **Q Data centers use on-site generation to ensure**
2 **there is no interruption in their power, right?**

3 A Well, it's project specific, but almost all
4 projects would have backup generation as -- on-site in
5 the event of an outage from the primary generation
6 source.

7 **Q That would also include battery backup, right?**

8 A It could. Generally, that is diesel or
9 natural gas, not battery.

10 **Q Isn't it true, then, that based on their**
11 **backup generation options, data centers can be**
12 **curtailable?**

13 A As any user potentially could be curtailable.

14 **Q Isn't it fair to say that Florida's hurricane**
15 **outlook remains unpredictable?**

16 A I am sorry, are hurricanes unpredictable?

17 **Q That the hurricane outlook remains**
18 **unpredictable.**

19 A I think that's a fair assessment.

20 **Q And isn't it also fair to say that Florida**
21 **insurance costs remain elevated?**

22 MR. MAY: Objection. The witness has not
23 testified as to elevated insurance provisions or
24 premiums in this state. He is not an insurance --
25 he is not offered as an insurance expert.

1 CHAIRMAN LA ROSA: I am going to go to my
2 Advisor. Is this outside the scope of testimony?

3 MS. HELTON: If he has not testified to that,
4 Mr. Chairman, I would say yes.

5 THE WITNESS: Can we move on to asking within
6 the scope?

7 MR. PONCE: If I could just respond briefly?

8 CHAIRMAN LA ROSA: Sure. Please.

9 MR. PONCE: If we could go to his direct
10 testimony at page six lines 14 -- actually it would
11 be C37-4361.

12 CHAIRMAN LA ROSA: Okay.

13 BY MR. PONCE:

14 **Q You mention here that one of the issues**
15 **preventing data center development is elevated**
16 **insurance, right?**

17 A Historically -- it's on a relative basis, it
18 depends what you are comparing it to, but, yes, I mean,
19 Florida relatively, if you look probably on an average
20 nationally, will have elevated property insurance costs.

21 **Q Well, it's fair to say they haven't changed,**
22 **right?**

23 A Not that I am aware of.

24 **Q You also mention here that construction costs**
25 **are also a cause of delayed data center development?**

1 A I am sorry, could you repeat the question?

2 **Q And you also mention here that construction**
3 **costs are also a cause of delayed data center**
4 **development?**

5 A I am sorry, you are saying delayed?

6 **Q Correct.**

7 A Delayed data center development? High cost
8 and moderately elevated construction costs are a reality
9 in Florida, yes.

10 **Q It's fair to say that those construction costs**
11 **have also not changed, right?**

12 A Yes. That's fair.

13 **Q In other words, other than potentially**
14 **improvements to FPL's reliability, don't there remain**
15 **challenges to data center development in Florida?**

16 A The -- what's driving -- what's driving data
17 centers to Florida now is a massive increase in the
18 demand for power. So as I said before, they are looking
19 outside of the normal kind of historically more mature
20 data center markets to new markets, Florida being one of
21 them, and they are looking through historical
22 challenges, such as the storm risk, such as the elevated
23 insurance and construction risks, because they are
24 materially outweighed by the need for power and compute.

25 **Q Is it also fair to say that increasing**

1 **scrutiny by PSCs in other states are also driving data**
2 **centers to Florida?**

3 A I am sorry, could you repeat the question?

4 Q **Sure.**

5 **Is it fair to say that increasing scrutiny by**
6 **other state PSCs is also driving data centers to**
7 **Florida?**

8 A I wouldn't characterize it as increased
9 scrutiny, but as existing available generation capacity
10 is utilized in other markets that naturally leads data
11 centers to seek out new markets that have available
12 power.

13 Q **On page eight, line eight of your testimony,**
14 **and this would be C37-4643, you discuss here that**
15 **Governor DeSantis has prioritized creating a business**
16 **friendly environment by championing tax exemptions for**
17 **data center infrastructure?**

18 A Is that a question?

19 Q **Yes.**

20 A Yes.

21 Q **Were you aware that Governor DeSantis recently**
22 **told the Police Benevolent Association the following: I**
23 **am going to be very clear, I am not going to let a data**
24 **center pass on the cost to you and have you --**

25 MR. MAY: Objection, that's hearsay.

1 MR. PONCE: To begin with, hearsay is
2 allowable in Chapter 120 proceedings. I would also
3 note that as an expert, I can ask him about things
4 that are not in evidence.

5 CHAIRMAN LA ROSA: I go to my Advisor when you
6 start quoting the law.

7 MS. HELTON: Mr. Chairman, under Florida law,
8 for administrative proceedings, hearsay is
9 admissible if it's corroborated by other means, and
10 in this instance, I am struggling with how
11 Mr. Ponce would be able to corroborate that
12 question.

13 CHAIRMAN LA ROSA: Can we get a little bit of
14 background to better clarify so we can make a
15 better determination?

16 MR. PONCE: If you can give me one moment.

17 CHAIRMAN LA ROSA: Sure.

18 MR. PONCE: Well, I would just note that under
19 120.57(1)(c) notes that hearsay evidence may be
20 used for the purpose of supplementing or explaining
21 other evidence. This is for the purpose of
22 supplementing or explaining the witness' direct
23 testimony.

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

25 MS. HELTON: Can I confer with my

1 administrative law expert next sitting next to me,
2 please?

3 CHAIRMAN LA ROSA: Let's make sure we get it
4 right. Yes, please.

5 MR. MAY: We would also note that there has
6 been no cross-examination exhibit listed for this
7 particular line of questioning, and we think it --
8 I thought the rules of the Commission was to avoid
9 trial by ambush, so...

10 CHAIRMAN LA ROSA: Thank you.

11 MS. HELTON: Mr. Chairman, Mr. May is correct.
12 We have made -- tried to be very clear with respect
13 to the fact that trial by ambush is not allowed at
14 the Commission, and we have required all parties to
15 provide their cross-examination exhibits by a date
16 certain, as you ordered in the Order Establishing
17 Procedure. And I know there has been a little bit
18 of wiggle room in this proceeding just because of
19 the timing of everything, but it's my understanding
20 that Mr. Prov -- I am, I am not sure how to say
21 your name.

22 THE WITNESS: Provine.

23 MS. HELTON: Provine, his testimony was filed
24 as part of the direct case, and so I am really
25 struggling with Mr. Ponce using, appears to be a

1 newspaper article, and reading that into the record
2 when we don't have an exhibit, and that is not our
3 practice. So my recommendation, Mr. Chairman,
4 would be to not allow this line of
5 cross-examination.

6 CHAIRMAN LA ROSA: So -- go ahead.

7 MR. PONCE: Just one last thing.

8 CHAIRMAN LA ROSA: What is your response?

9 MR. PONCE: I feel like the witness opened the
10 door by mentioning the Governor in his testimony.
11 I am just asking if he was aware of some more
12 contemporaneous statement.

13 MR. MAY: If he is limiting his questions, Mr.
14 Chairman, to whether Mr. Provine was aware, I think
15 we don't have an objection of that one, if he
16 knows.

17 CHAIRMAN LA ROSA: If it's as simple as that,
18 we will allow the question, but otherwise, I am
19 going to go back to the initial objection if the
20 questioning goes deeper.

21 BY MR. PONCE:

22 **Q Then let me ask you this way, then, Mr.**
23 **Provine. Were you aware that the Governor recently**
24 **stated: I am going to be very clear, I am not going to**
25 **let a data center pass on the cost to you and have your**

1 **electricity bills go up even more than they are?**

2 A Yes.

3 Q If you were aware, does that change how you
4 describe the Governor -- excuse me, let me rephrase.

5 If you are aware, would that change how you
6 characterize Governor DeSantis' actions where he states
7 here that has prioritized creating a business friendly
8 environment by championing tax exemptions for data
9 center infrastructure?

10 A I can't speak for the Governor, but based on
11 his actions, or the actions of his administration in the
12 state by approving a very robust sales tax exemption for
13 data centers for a further 10 years would indicate
14 support.

15 Q Moving on. Data centers typically operate
16 most efficiently with air temperatures between 64
17 degrees Fahrenheit and 80 degrees Fahrenheit, right?

18 A I believe that's a fair characterization.

19 Q It's also fair to say that it is typically
20 hotter than that in Florida, right?

21 A Typically?

22 Q Yes, sir.

23 A I mean, over a year, we would have to look at
24 whether statistics, but I don't have that to hand.

25 Q Fair enough.

1 **Let me ask this, then: You mentioned the ben**
2 **-- your testimony mentions the benefits of data centers,**
3 **but isn't one of the costs the water data centers need**
4 **to meet these cooling requirements?**

5 MR. MAY: Objection. He has gone well beyond
6 the scope in the prefiled testimony. He is
7 attempting to interject into this proceeding water
8 resource issues, which is not in his testimony.

9 We objected to this line of questioning in the
10 discovery, and we renew that objection now. The
11 relevance of this is outside the scope.

12 MR. PONCE: If I can briefly?

13 CHAIRMAN LA ROSA: Please.

14 MR. PONCE: The relevance is that the witness
15 is here to discuss the benefits of data centers.
16 If there are benefits, then conversely, there must
17 be costs as well. That is what I am trying to get
18 at.

19 CHAIRMAN LA ROSA: Go to my Advisors again. I
20 wasn't there for the previous discussion.

21 MS. HELTON: Mr. Chairman, I am having a
22 really hard time hearing Mr. Ponce and hearing the
23 articulation of his questions, so I know we are at
24 issue is it water resources, but I couldn't hear
25 his exact question.

1 That being said, one or two questions about
2 water resources, I think that's fair. But when we
3 get -- I think to go beyond that and to get very
4 deeply into that subject, I don't think that's the
5 purpose of this proceeding.

6 CHAIRMAN LA ROSA: Can you restate the
7 question so that we can hear?

8 MR. PONCE: Well, maybe this will help. If we
9 can go into F2-3343?

10 CHAIRMAN LA ROSA: Okay.

11 MR. MAY: Again, Mr. Chairman, when -- if he
12 is going to ask the witness about this, I just want
13 the record to note that when this interrogatory was
14 served on my client, we objected on the grounds of
15 relevance. That objection was registered on June
16 22nd. We renew that objection today.

17 It's irrelevant because the regulation of
18 water resources is within the exclusive province of
19 the Florida Department of Environmental Regulation,
20 and the relevant water management districts, not
21 the Commission.

22 MR. PONCE: I am looking at this answer, and I
23 do not see a specific objection attached to it.

24 CHAIRMAN LA ROSA: Is there an objection to
25 this response?

1 MR. MAY: Its objection number nine. Scroll
2 up. The objection was: By providing responses
3 herein, FEIA does not concede that any
4 interrogatory is relevant to this action or is
5 reasonably calculated to lead to the discovery of
6 admissible evidence. We answered the question in
7 good faith with that objection noted.

8 MR. PONCE: This is a general objection and
9 not a specific one. In Florida, general objections
10 like this have no effect.

11 MR. MAY: We disagree.

12 CHAIRMAN LA ROSA: Go to staff. I feel like I
13 keep on coming back to you.

14 MS. HELTON: I am going to give you the same
15 answer I gave you before, Mr. Chairman. I think
16 one or two questions about this, I think is fair,
17 you know, just to give you a general understanding,
18 but I don't know -- I agree that DEP is the agency
19 that has jurisdiction over water regulation from
20 the perspective, I think, that Mr. Ponce is getting
21 to, but for your education, a couple of questions
22 along that line, but I don't think we need to spend
23 a lot of time on it.

24 CHAIRMAN LA ROSA: Can you keep the questions
25 within the purview of the PSC and our regulatory

1 authority?

2 MR. PONCE: I can try. I just want to note
3 again, it's grounded in the witness describing
4 benefits in his testimony, there is always
5 benefits, there is always a cost. I will just ask
6 one question.

7 CHAIRMAN LA ROSA: Go ahead and then I will
8 stop and redirect you if we start going too far.

9 BY MR. PONCE:

10 Q Isn't it true that a data center using
11 traditional evaporative cooling systems consume hundreds
12 of millions of water -- hundreds of millions over a
13 billion gallons of water annually?

14 A Using legacy evaporative technology, that's
15 correct, but modern data centers, especially in water
16 constrained areas, use different technology, such a
17 closed-loop and hybrid systems, which reduce the water
18 consumption by over 90 percent, which brings it in line
19 with other types of real estate development, whether it
20 be manufacturing, golf courses, et cetera, and far less
21 water than many of those uses.

22 Q Last question. You mentioned there is
23 differences in these technologies. It's up to the data
24 center which technology they pick, right?

25 A I am sorry?

1 CHAIRMAN LA ROSA: Can you repeat the
2 question, because I couldn't hear it?

3 MR. MAY: I am having a difficult time, Mr.
4 Chairman, hearing Mr. Ponce.

5 CHAIRMAN LA ROSA: Can you restate the
6 question?

7 BY MR. PONCE:

8 **Q This is the last question. You described how**
9 **there are different technologies at work here. It is up**
10 **to a data center which technology they want to employ,**
11 **right?**

12 A Yes, a data center will use the most efficient
13 technology available, and best practice in any water
14 constrained area is to use closed-loop or hybrid
15 systems, because not only do they put less burden on the
16 constrained resource, you also get a very substantial
17 payback over time for the modest additional upfront cost
18 that's required.

19 **Q I have nothing further. Thank you,**
20 **Mr. Provine.**

21 A Thank you.

22 CHAIRMAN LA ROSA: Thank you.

23 FEL?

24 MR. LUEBKEMANN: Thank you, Mr. Chairman.

25 EXAMINATION

1 BY MR. LUEBKEMANN:

2 Q Good afternoon, Mr. Provine.

3 A Good afternoon.

4 Q Just a few questions for you.

5 In a conversation with Mr. Ponce about
6 statements the Governor had recently made, do you recall
7 that?

8 A About statements recently made?

9 Q About not passing on costs?

10 A I am sorry. Whose statements?

11 Q The Governor's statements about not passing on
12 costs --

13 A Yes.

14 Q -- do you recall this --

15 A Yes.

16 Q -- animated discussion?

17 A Yes.

18 Q And you responded by referring to your
19 testimony, where you talked about the tax credit, the
20 tax break given to data centers over the next 10 years?

21 A Yes.

22 Q You would agree that offering a tax break in
23 one realm to data centers is not the same as suggesting
24 that this commission should give them preferential rate
25 status?

1 A No, absolutely not.

2 Q So it is your testimony that the Governor's
3 statements there should be seen as a blanket endorsement
4 for data centers regardless of any costs he might was on
5 to other customer classes?

6 A No. No. First of all I can't speak for the
7 Governor, but, you know, that's not what I said at all.
8 So that's the opposite of what I meant.

9 Could you restate your question? I think
10 there is a little confusion.

11 Q Sure. What I am trying to understand, there
12 was a statement that you referred to in your testimony
13 about the tax break, and there is a more recent
14 statement that Mr. Ponce was referring to about not
15 passing on electric costs. You -- I understood you to
16 suggest that the Governor's earlier statement was meant
17 to be an endorsement of creating an environment in this
18 state to attract data centers to make Florida a place
19 that has a lot of data centers, is that a fair --

20 A Yes, I agree with that.

21 Q So with that predicate, you would agree that
22 that can be a true intention without it being the
23 intention that data centers receive a cross-subsidy from
24 other customer classes on their electricity bills?

25 A There should be no cross-subsidization, and

1 that's at the root in everything we believe and are
2 trying to achieve in this rate case and in every
3 territory in which we operate. There should be no
4 cross-subsidization between ratepayers, and I believe
5 that's what we are achieving through these proposals.

6 MR. MAY: Mr. Chairman, I just wanted to
7 remind the witness to stay within the confines of
8 the first phase of this case.

9 THE WITNESS: Noted.

10 BY MR. LUEBKEMANN:

11 **Q And just one last question for you. Was FEIA**
12 **incorporated on or around May 8th of this year?**

13 A I believe that's correct.

14 **Q Okay. Thank you that's all my questions.**

15 A Thank you.

16 CHAIRMAN LA ROSA: Thank you.

17 FAIR?

18 MR. SCHEF WRIGHT: No questions. Thank you.

19 CHAIRMAN LA ROSA: Walmart?

20 MS. EATON: No questions.

21 CHAIRMAN LA ROSA: FIPUG?

22 MR. MOYLE: No questions.

23 CHAIRMAN LA ROSA: FRF? I am so sorry.

24 MR. BREW: Well, now I got to ask some.

25 CHAIRMAN LA ROSA: You got to.

1 MR. BREW: No. No questions.

2 CHAIRMAN LA ROSA: No questions, okay.

3 FPL?

4 MR. BURNETT: No questions.

5 CHAIRMAN LA ROSA: Staff?

6 MR. STILLER: No questions.

7 CHAIRMAN LA ROSA: Commissioners, do we have
8 questions?

9 Seeing none, back to FEIA, as I have been
10 saying it incorrectly.

11 MR. MAY: You said it perfectly.

12 I would like to make a correction my colleague
13 reminded me. I said that Mr. Provine's CV was CEL
14 No. 231. That's incorrect. It's 224, and I
15 apologize.

16 CHAIRMAN LA ROSA: Okay.

17 Back to you for redirect, is there any or --

18 MR. MAY: We have no redirect.

19 CHAIRMAN LA ROSA: Okay. Would you like to
20 move exhibits into the record?

21 MR. MAY: Yes, sir. FEIA would like to move
22 into evidence CEL Exhibit 224, which is Mr.
23 Provine's CV.

24 CHAIRMAN LA ROSA: Are there objections?

25 Seeing none, so moved.

1 (Whereupon, Exhibit No. 224 was received into
2 evidence.)

3 CHAIRMAN LA ROSA: Is there anything else that
4 needs to be moved into the record from any of the
5 other parties?

6 Seeing none, we can go ahead and excuse
7 Mr. Provine. Thank you for your testimony today.

8 THE WITNESS: Thank you.

9 (Witness excused.)

10 CHAIRMAN LA ROSA: We will give it back to
11 FEIA for your -- to call your next witness.

12 MR. MAY: Could I have one minute to get my --

13 CHAIRMAN LA ROSA: Please.

14 MR. MAY: -- next witness notebook?

15 Mr. Chairman, FEIA would call Dr. David Loomis
16 to the stand.

17 CHAIRMAN LA ROSA: Thank you.

18 Mr. Loomis, if you don't mind remain standing
19 and raise your right hand certain are.

20 Whereupon,

21 DAVID GLENN LOOMIS

22 was called as a witness, having been first duly sworn to
23 speak the truth, the whole truth, and nothing but the
24 truth, was examined and testified as follows:

25 THE WITNESS: I do.

1 CHAIRMAN LA ROSA: Excellent. Great. Thank
2 you. Feel free to get settled in.

3 EXAMINATION

4 BY MR. MAY:

5 Q Good afternoon, Dr. Loomis.

6 A Good afternoon.

7 Q Would you please state your name and business
8 address for the record?

9 A My name is David Glenn, G-L-E-N-N, Loomis,
10 L-O-O-M-I-S. And my business address is 1604 Visa
11 Drive, Suite 1, Normal, Illinois, 61761.

12 Q By whom are you employed and in what capacity?

13 A I am President of Strategic Economic Research,
14 LLC, and I am an economist.

15 Q On June 9th of this year, did you prepared and
16 cause to be filed in this case 19 pages of prefiled
17 direct testimony?

18 A Yes.

19 Q Do you have any edits to that prefiled direct
20 testimony?

21 A Yes, just a few. As witness Provine
22 mentioned, we have two FEIA witnesses that are no longer
23 in the case, and so I need to remove those lines.

24 On page eight, lines 10 and 11, remove the
25 reference to Witness Ahmed. On page 13, line four,

1 strike the phrase, as explained in greater detail in
2 that a Witness Ahmed's testimony. But the remainder of
3 that sentence is based on my own knowledge.

4 And on page 18, line four, strike the phrase,
5 as further substantiated in FEIA Witness Ahmed's
6 testimony. And the remainder of that sentence is based
7 on my own knowledge.

8 **Q Thank you.**

9 **Do you have any other edits to your direct**
10 **testimony?**

11 A No.

12 **Q Dr. Loomis, with those edits noted, if I were**
13 **to ask you the same questions today that are contained**
14 **in your prefiled direct testimony, would your answers be**
15 **the same?**

16 A Yes.

17 MR. MAY: Mr. Chairman, we would ask that the
18 prefiled direct testimony of Dr. David Loomis be
19 entered into the record as though read.

20 CHAIRMAN LA ROSA: So moved.

21 (Whereupon, prefiled direct testimony of David
22 Glenn Loomis was inserted.)

23

24

25

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

DAVID LOOMIS

on behalf of Intervenor,

Florida Energy for Innovation Association, Inc.

1 **I. INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME, BUSINESS AFFILIATION, AND**
3 **ADDRESS.**

4 A. My name is David Loomis. I am Professor Emeritus of Economics at Illinois
5 State University, former Executive Director of the Institute for Regulatory
6 Policy Studies, and President of Strategic Economic Research, LLC. My
7 business address is 1604 Visa Drive, Suite 1, Normal, IL 61761.

8 **Q. WHAT IS YOUR EDUCATIONAL AND PROFESSIONAL**
9 **BACKGROUND?**

10 A. I have a Bachelor of Arts in Mathematics and in Honors Economics, as well as
11 a Doctor of Philosophy in Economics, from Temple University in Philadelphia,
12 Pennsylvania. My current Curriculum Vitae is attached as Exhibit DGL-1.
13 For twenty-six years, I taught regulatory economics in the graduate economics
14 program at Illinois State University. During that time, I was also the Executive
15 Director at the Institute for Regulatory Policy Studies, a public-private
16 partnership between Illinois State University and the regulatory community in
17 the Midwest consisting of the Illinois Commerce Commission, PJM, MISO,
18 Commonwealth Edison, Exelon (Constellation), Ameren, Illinois American
19 Water, Aqua, Nicor Gas, Peoples Gas, Citizens Utility Board and others
20 throughout its history.

21 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE STATE**
22 **REGULATORY BODIES?**

23 A. Yes. I have testified before the Illinois Commerce Commission, Indiana Utility
24 Regulatory Commission, Iowa Utilities Board, Kentucky State Board on

1 Electric Generation and Transmission Siting, Louisiana Public Service
2 Commission, Mississippi Public Service Commission, Missouri Public Service
3 Commission, New Mexico Public Regulation Commission, Ohio Power Siting
4 Board, the Public Service Commission of West Virginia, and the Public Service
5 Commission of Wisconsin. This is my first time testifying before the Florida
6 Public Service Commission (“Commission”).

7 **Q. ON WHOSE BEHALF ARE YOU SUBMITTING TESTIMONY**
8 **TODAY?**

9 A. I am testifying on behalf of the Florida Energy for Innovation Association
10 (“FEIA”), an alliance of data center providers and groups committed to
11 advancing Florida’s position as a competitive and innovation-driven data center
12 market. FEIA is an intervenor in this proceeding.

13 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

14 A. I have been retained by FEIA to review the discovery and testimony in this case
15 and provide my expert testimony and analysis concerning whether the Large
16 Load Contract Service (“LLCS”) Tariff proposed by Florida Power and Light
17 (“FPL”) is reasonable and designed in accordance with sound ratemaking
18 principles.

19 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

20 A. My analysis shows that FPL is proposing to do two things with respect to its
21 proposed LLCS Tariff. First, FPL is asking the Commission for approval to
22 close its existing General Service Large Demand -3 (“GSLD-3”) Tariff to data
23 centers with a load of 25 MW or more and a load factor of 85 percent or more.
24 Second, upon closure of the GSLD-3 Tariff, FPL is asking the Commission for

1 approval to reclassify those large data centers as LLCS customers who,
2 depending on their geographic location, would be required to take electric
3 service under the rates, terms, and conditions of FPL's proposed LLCS-1 or
4 LLCS-2 Tariff. My analysis shows that the proposed new LLCS-1 and LLCS-
5 2 customer classifications are not designed in accordance with sound rate
6 making principles and that the rates, terms and conditions set forth in the
7 proposed rate schedules LLCS-1 and LLCS-2 are unreasonable, arbitrary and
8 discriminatory. In particular, they are not supported by an appropriate cost-of-
9 service study and therefore lack justification for the creation of a new rate
10 schedule.

11 Finally, I make a series of recommendations regarding how FPL's proposed
12 LLCS Tariff can be refined to encourage the responsible development of data
13 centers in the state while at the same time protecting the general body of
14 ratepayers.

15 **II. OVERVIEW OF FPL'S PROPOSAL**

16 **Q. PLEASE GENERALLY DESCRIBE FPL'S LLCS TARIFF PROPOSAL.**

17 A. As I explained, FPL is proposing to close its existing GSLD-3 and GSLD(T)-3
18 Tariffs to large load data centers and reclassify them as LLCS customers under
19 a brand-new customer classification. LLCS customers would be required to
20 take electric service under the rates, terms, and conditions of FPL's proposed
21 LLCS-1 or LLCS-2 Tariff depending on where the data center is located.
22 According to the direct testimony of FPL Witness Cohen, the LLCS-1 Tariff
23 has total combined load cap of 3 Gigawatts ("GW") and applies only to "three
24 zones in the vicinity of Sunbreak in St. Lucie County, Tesoro in Martin County

1 and Sugar in Palm Beach County”. LLCS-1 will be closed to new or
2 incremental load at the time the total combined 3 GW load becomes fully
3 subscribed [Cohen, p.24, lines 9-10]. The LLCS-2 Tariff applies to FPL’s
4 service areas outside of the LLCS-1 zones and does not have a subscription
5 limit. Of note, the LLCS-2 territory covers the majority of FPL’s service
6 territory.

7 **Q. CURRENTLY, UNDER WHAT FPL CUSTOMER CLASSIFICATION**
8 **WOULD LARGE DATA CENTERS BE ASSIGNED?**

9 A. Under FPL’s current tariff, large data centers with a load of 25 MW or more
10 and a load factor of 85 percent or more are classified as GSLD customers and
11 would pay for electric service under FPL’s Rate Schedule GSLD-3 or
12 GSLD(T)-3.

13 **Q. DO THE RATES UNDER THE GSLD-3 TARIFF DIFFER FROM THE**
14 **PROPOSED LLCS-1 AND LLCS-2 TARIFFS?**

15 A. Yes. While there are some structural similarities, there are significant
16 differences. Like the GSLD-3 tariff, the proposed LLCS-1 and LLCS-2 tariffs
17 include a base charge, a demand charge, an energy charge, along with
18 applicable riders. However, the LLCS tariffs introduce a new and distinct
19 component—an Incremental Generation Charge (“IGC”)—which is designed
20 to ensure that costs for the incremental generation necessary to serve these loads
21 is recovered from the LLCS-1 and LLCS-2 customers. [Witness Cohen, p. 25,
22 lines 18–21.] Under LLCS-1, FPL proposes setting the IGC at \$28.07 per
23 kilowatt (kW) per month, while under LLCS-2 the IGC is undefined.

24 **Q. HOW DOES THE ALL-IN LLCS-1 RATE COMPARE TO THE GSLD-3**

1 **RATE?**

2 A. Today, as shown in Exhibit DLG-2, under FPL's current GSLD-3 Tariff, a
3 large data center would pay FPL approximately 5.98 cents per kWh for electric
4 service pre taxes and fees. Under FPL's proposed LLCS-1 Tariff that same data
5 center would pay, inclusive of the IGC, approximately 10.16 cents per kWh pre
6 taxes and fees. That represents an increase in rates of approximately 69%.

7 **Q. ARE THE RATES UNDER THE LLCS-2 TARIFF THE SAME AS THE**
8 **LLCS-1 TARIFF?**

9 A. The LLCS-2 Tariff is structured similarly to LLCS-1. Like LLCS-1 Tariff, the
10 LLCS-2 Tariff includes an IGC, but the amount of that charge is undefined.
11 FPL claims that it "is not able to provide a stated rate for the incremental
12 generation capacity necessary to serve customer loads under this rate schedule"
13 [Cohen, p. 25, lines 1-4].

14 **Q. DO THE TERMS AND CONDITIONS FOR SERVICE UNDER THE**
15 **LLCS TARIFFS DIFFER FROM THE TERMS AND CONDITIONS**
16 **UNDER THE GSLD-3 TARIFF?**

17 A. Yes, as shown in Exhibit DGL-3, there are substantial contractual differences.
18 Customers served under LLCS-1 and LLCS-2 would be required to enter a rigid
19 20-year contract that imposes a maximum contracted demand amount,
20 minimum take-or-pay requirements, substantial exit fees for early termination,
21 provide significant levels of additional security, and complete the set of multi-
22 billion dollar contracts within a compressed six month period after acceptance
23 of FPL's formal engineering study ("Engineering Study"). None of those
24 contractual requirements apply under the GSLD-3 Tariff.

1 **Q. HOW DOES FPL JUSTIFY THE NEED FOR THE CREATION OF A**
2 **NEW RATE SCHEDULE?**

3 A. In her testimony, FPL Witness Cohen justifies the new rate schedules by stating
4 that they will protect the general body of customers served by FPL because FPL
5 believes these LLCS-1 and LLCS-2 customers would require significant
6 investments in new incremental generation capacity that would not be otherwise
7 needed to serve the general body of customers [Cohen, p. 23, lines 19-22].
8 She further states that the purpose is “to ensure that the general body of
9 customers is protected from higher costs to serve such large load customers”
10 [Cohen, p. 23 lines 15-17]. She also mentions that certain of the initial LLCS-
11 1 and LLCS-2 rate elements are set at similar levels as in the GSLD-3 rate
12 schedule. However, according to our analysis, adding FPL’s proposed IGC
13 turns an approximately 15% effective rate increase for GSLD-3 customers into
14 an approximately 69% rate increase for LLCS-1 customers. Although the IGC
15 for LLCS-2 is undefined and it is not clear what the effective LLCS-2 rate might
16 be, FPL has indicated that it would be higher than LLCS-1. (See Exhibit DGL-
17 2 for further detail.)

18 **Q. DOES FPL EXPECT ANY DATA CENTER CUSTOMERS TO USE**
19 **LLCS-1 OR LLCS-2?**

20 A. FPL does not include any LLCS customer revenue in its 2026 or 2027 test years,
21 citing the absence of executed agreements. That said, FPL is currently
22 conducting Engineering Studies for multiple large data center projects with in-
23 service expectations beginning in 2028 and 2029. These projects provide
24 sufficient visibility to make reasonable pro forma cost and revenue

assumptions. A more transparent and accurate approach would have acknowledged substantial potential LLCS revenue starting in 2028 and incorporated that into long-range planning and cost allocation analysis.

III. RATE COMPARISON AND THE IGC IMPACT

Q. YOU PREVIOUSLY TESTIFIED THAT THE LLCS-1 RATE IS APPROXIMATELY 69% HIGHER THAN THE GSLD-3 RATE BECAUSE THE LLCS-1 TARIFF INCLUDES AN IGC. PLEASE EXPLAIN YOUR UNDERSTANDING OF THE IGC.

A. The IGC is a new rate element that is not present in any other FPL rate schedule for any other rate class. It is supposed to capture the new generation buildout that would be required to satisfy the load for the new LLCS customers. FPL proposes that the IGC be set \$28.07 per kW. For LLCS-1 customers that element alone amounts to approximately 4.52 cents per kWh, or 45% of the total proposed LLCS-1 rate assuming a 1000 MW data center at an 85% Load Factor. For LLCS-2 customers, the amount of the IGC is left unspecified, making it impractical for customers to assess its commercial feasibility.

Q. IN YOUR PROFESSIONAL OPINION, HAVE OTHER STATES ADOPTED AN IGC COMPONENT IN DESIGNING RATES FOR DATA CENTERS?

A. Yes. For example, Entergy Louisiana uses an Additional Facilities Charge (“AFC”) to recover infrastructure costs for large-load customers, including data centers. Unlike FPL’s proposed \$28.07/kW/month IGC, Entergy’s AFC is set significantly lower at \$9.16/kW/month. Furthermore, Entergy’s AFC is repaid over a 20-year contract term, and typically negotiated with customers to ensure

1 the charge is cost-justified and commercially viable. This is explained in further
2 detail in Exhibit DGL-5 to my testimony.

3 **Q. IN YOUR PROFESSIONAL OPINION, HAS THE IGC CHARGE BEEN**
4 **PROPERLY JUSTIFIED IN THIS PROCEEDING?**

5 A. No. There are several aspects of the IGC that indicate lack of proper
6 justification, including the incorporation of peak year costs across the entire 20-
7 year term of the LLCs service agreement, potential over-estimation of the
8 incremental generation capacity required to serve data centers, and a general
9 lack of information and assumptions required to assess the appropriate IGC
10 level. These concerns are further detailed in the testimony of FEIA ~~Witness~~
11 ~~Ahmed.~~

12 **Q. HAS FPL PROVIDED A COST-OF-SERVICE STUDY TO SUPPORT**
13 **THE IGC?**

14 A. No, it has not. FPL states only that the IGC is based on the cost of new solar
15 generation and battery storage, which is needed to serve large data center
16 demand. FPL asserts that this new solar generation and battery storage is cost-
17 effective due in part to solar production tax credits and battery investment tax
18 credits set forth in the Inflation Reduction Act of 2022 (“IRA”) [See Pre-filed
19 Direct Testimony of FPL Witnesses Oliver and Whitley].

20 **Q. IS THERE ENOUGH CERTAINTY IN THE MARKET FOR SOLAR**
21 **AND STORAGE FOR THE COMMISSION TO ESTABLISH A NEW**
22 **IGC RATE ELEMENT?**

23 A. Not in my opinion. Congress is currently proposing to phase out the federal
24 Production Tax Credit (PTC) and the Investment Tax Credit (ITC) enshrined in

1 the previous administration's Inflation Reduction Act. The House Ways and
2 Means Committee's draft budget, part of a Republican-sponsored reconciliation
3 package, proposes to phase out the technology-neutral clean energy PTC
4 (Section 45Y) and ITC (Section 48E) for projects not placed in service by the
5 end of 2028. The credits would remain at full value through 2028, then step
6 down to 80% in 2029, 60% in 2030, 40% in 2031, and zero in 2032. This would
7 accelerate the phase out compared to the IRA's original timeline, which allowed
8 full credits through 2032 or until U.S. power sector greenhouse gas emissions
9 reach 25% of 2022 levels, whichever is later.

10 These tax credits were assumed to be sustained at their full value when FPL did
11 its assessment in their Integrated Resource Plan (IRP). FPL proposes to
12 increase their solar and battery generation from 12% to 34% in Schedule 6.2,
13 Page No. 173 of FPL's Ten-Year Power Plant Site Plan 2025 - 2034, while
14 materially decreasing their use of lower-cost available sources of generation.
15 The potential for material reductions and earlier expiration of the ITC and PTC
16 incentives create significant risks of material cost overruns and significant and
17 unexpected future increased rates for the general body of rate payers.

18 **Q. WHAT RECOMMENDATION WOULD YOU OFFER THE**
19 **COMMISSION IN REGARD TO THE IGC?**

20 Because of the multiple layers of market uncertainty concerning solar and
21 battery storage, I would recommend that it approve an amended LLCS Tariff
22 structure consistent with the suggestions in my testimony.

23 **IV. COST OF SERVICE AND RATEMAKING PRINCIPLES**

24 **Q. YOU PREVIOUSLY TESTIFIED THAT FPL PROPOSES TO CLOSE**

1 ITS GSLED-3 TARIFF TO LARGE DATA CENTERS AND ASSIGN
2 THEM TO A NEW LLCS CUSTOMER CLASSIFICATION. IN YOUR
3 PROFESSIONAL OPINION, ARE THERE SOME BASIC STEPS THAT
4 A UTILITY SHOULD UNDERTAKE IN CREATING A NEW
5 CLASSIFICATION OF CUSTOMERS?

6 A. Yes. Typically, a utility would be expected to perform a cost-of-service study
7 to analyze how costs are allocated to the new customer group within a utility's
8 overall cost structure. This process would help determine the appropriate
9 revenue requirement for the new group, create a fair rate setting environment,
10 and ensure there is no cross-subsidization between customer classes.

11 **Q. WHY IS A COST-OF-SERVICE STUDY IMPORTANT?**

12 A. It provides a basis for setting fair, equitable and non-discriminatory rates for all
13 customer classes, ensuring that each group contributes its fair share to the utility's
14 overall revenue requirement.

15 **Q. DID FPL PERFORM A COST-OF-SERVICE STUDY TO SUPPORT THE**
16 **CREATION OF THE NEW LLCS CUSTOMER CLASSIFICATION?**

17 A. I have seen no cost-of-service study for the new LLCS customer classification.
18 In her testimony, Witness Cohen points to Witness DuBose as having justified
19 costs in her cost of service study. However, LLCS costs do not appear in that
20 study.

21 FPL's claim of cost justification for the LLCS-1 Incremental Generation
22 Charge of \$28.07/kW of Demand (as per Rate Schedule LLCS-1 MFR No. E-
23 14 Attachment No. 1A of 15 Page 130 of 270) lacks transparency and FPL has
24 yet to provide any figures for the Incremental Generation Charge for LLCS-2

1 customers (as per Rate Schedule LLCS-2 MFR No. E-14 Attachment No. 1A
2 of 15 Page 133 of 270).

3 **Q. HOW WOULD YOU RESPOND IF FPL SAYS IT IS UNABLE TO**
4 **INCLUDE THE LLCS COSTS IN THE COST OF SERVICE STUDY**
5 **BECAUSE THERE ARE NO EXISTING CUSTOMERS ON WHICH TO**
6 **BASE THE COSTS?**

7 A. FPL bears the burden of proof to justify any new rate or customer class. While
8 FPL may argue that the absence of current LLCS customers prevents a cost-of-
9 service study, that does not relieve it of the obligation to demonstrate the cost
10 basis for the proposed rates, similar to the current process it completes for all
11 other rate schedules. The exclusion of LLCS costs suggests that FPL lacks a
12 clear understanding of the actual costs to serve these customers. A proper
13 approach would be to present a detailed cost projection showing how LLCS
14 customers materially differ from GSLD customers, consistent with the
15 ratemaking principle that rates must reflect cost causation. The lack of concrete
16 cost data highlights the uncertainty surrounding the true cost to serve these
17 loads, making it difficult for FPL to reasonably incorporate them into the cost-
18 of-service study at this time.

19 **Q. ARE THERE OTHER STEPS A UTILITY SHOULD TAKE IN**
20 **CREATING A NEW LLCS CUSTOMER CLASSIFICATION?**

21 A. Yes. A utility should adhere to the principles of parity and gradualism to avoid
22 dramatic rate increases.

23 **Q. WHAT DO YOU MEAN BY PARITY AND GRADUALISM?**

24 A. A rate class is at “parity” if it is earning the same as the system retail rate of return.

1 By “gradualism”, I am referring to the principle of trying to obtain parity to the
2 greatest extent possible without increasing any customer class’s rates by more than
3 1.5 times the system average. According to FPL witness Cohen, the Commission’s
4 practice of gradualism is “long-standing”.

5 **Q. IN YOUR OPINION HAS FPL ADHERED TO THE COMMISSION’S**
6 **LONG-STANDING PRACTICE OF GRADUALISM IN THIS CASE?**

7 A. Not with respect to its proposal to move large data centers to the new LLCS
8 Tariff. As I mentioned earlier, large data centers are currently considered GSLD
9 customers and, as such, would be charged rates under FPL’s GSLD-3 Tariff,
10 i.e., approximately 5.98 cents per kWh for electric service pre taxes and fees.
11 Under FPL’s proposed LLCS-1 Tariff, that same data center would pay
12 approximately 10.16 cents per kWh pre taxes and fees. That represents an
13 increase in rates of approximately 69%.
14 The average rate increase for FPL’s system is 6.10 percent for the 2026 test
15 year, and 5.36 percent for the 2027 test year. Thus, FPL’s proposal to increase
16 the rates for large data center customers by 69% (Exhibit DGL-2), is far greater
17 than 1.5 times the system average increase.

18 **Q. DOES FPL’S PROPOSED TREATMENT OF LLCS CUSTOMERS**
19 **ALIGN WITH PRINCIPLES OF RATE PARITY ACROSS CUSTOMER**
20 **CLASSES?**

21 A. No. FPL’s proposal creates an entirely new customer class for large data
22 centers, but without demonstrating that these customers impose materially
23 different cost burdens than those already served under GSLD-3.

24 **Q. IN PROPOSING A NEW CUSTOMER CLASSIFICATION FOR**

1 **LARGE DATA CENTERS, DOES FPL CONSIDER THAT LARGE**
2 **LOAD/HIGH LOAD FACTOR CUSTOMERS CAN PROVIDE**
3 **BENEFITS TO THE GENERAL BODY OF RATEPAYERS?**

4 A. No. ~~As explained in greater detail in FEIA Witness Ahmed's testimony,~~
5 regulators typically recognize that larger load / higher load factor-customers
6 can lower the per kWh cost of power through an increased revenue base,
7 enabling wider amortization of fixed grid costs and consistent load factors
8 reducing the need for costly capital infrastructure.

9 **Q HAVE ANY LARGE DATA CENTER OPERATORS AGREED TO BE**
10 **SERVED BY FPL UNDER THE LLCS TARIFF STRUCTURE?**

11 A. None that I or any of the FEIA members are aware of, and this is further
12 confirmed in Cohen's testimony, "FPL does not have any agreements to serve
13 any customers of this size in 2026 or 2027" [Cohen, p. 23, lines 7-8].

14 **Q. DOES THAT SURPRISE YOU?**

15 A. No. In my professional opinion, the rates, terms and conditions that FPL
16 proposes for large data centers are not only unjustified, they are also excessive.
17 Based on my experience, top tier hyperscale operators are likely to consider
18 FPL's territory a "no-go" zone when compared to data center tariffs in other
19 states. That assessment will continue until the LLCS rate and structure
20 proposals are materially modified to conform with the actual cost of service and
21 market norms in competing markets.

22 **Q. HOW SHOULD FPL SERVE THESE LARGE DATA CUSTOMERS**

23 A. I would recommend that the Commission approve an amended LLCS Tariff
24 structure for large data centers consistent with my testimony.

V. LLCS CONTRACT TERMS AND INDUSTRY COMPARISON

Q. EXPLAIN HOW THE RATES FPL PROPOSES TO CHARGE LARGE DATA CENTERS ARE UNREASONABLE AND EXCESSIVE?

A. FPL's proposed LLCS rate of over 10 cents/kWh before taxes and fees reflects a 69% increase from the current GSLD-3 rate (Exhibit DGL-2), primarily due to an unsupported IGC. This increase is excessive given data centers' superior load characteristics, lower cost to serve, and consistent demand. Charging the highest-cost rate to the lowest-cost customers violates basic cost-causation principles and undermines Florida's competitiveness in the data center industry.

Q. EXPLAIN HOW FPL'S PROPOSED LLCS CONTRACTUAL TERMS ARE UNREASONABLE AND EXCESSIVE.

A. The proposed LLCS tariff imposes burdens materially beyond industry norms and FPL's own GSLD-3 terms, including a 20-year contract, 90% take-or-pay minimums, redundant credit and performance security requirements, and a very limited six-month period in which to complete multiple, complex multi-billion-dollar contracts (Exhibit DGL-3). These terms create unnecessary risk, limit flexibility, fail to meet Florida's statutory requirement under Chapter 366 for "just and reasonable" cost-based rates, and diverge sharply from practices in competing states. All of these contract terms will undermine Florida's ability to attract data center investment.

Q. IS THE 20-YEAR LLCS SERVICE AGREEMENT TERM REASONABLE?

A. No. A 20-year LLCS Service Agreement ("LSA") term is excessively long for businesses as compared with industry standards and accepted market practice.

1 The following are examples of contract lengths for large load customers in other
2 relevant markets: Indiana & Michigan Power has a minimum 12-year contract
3 term with up to a 5-year extension; AEP Ohio requires a minimum of 10 years
4 with up to a 3-year load ramp; and, Georgia Power has a 15-year minimum
5 contract length (Exhibit DGL-4).

6 A 12-year LSA with two 5-year optional extensions would align with standard
7 business planning horizons and industry practices, providing FPL planning
8 certainty while preserving customer flexibility.

9 **Q. IS THERE JUSTIFICATION FOR THE MINIMUM TAKE-OR-PAY**
10 **REQUIREMENT OF 90% OF THE CUSTOMER'S CONTRACT**
11 **DEMAND?**

12 A. No. FPL has not proven that a take-or-pay charge of 90% of the customer's
13 contract demand is necessary. Data centers' high load factors and predictable
14 usage ensure robust and predictable revenue streams. A take-or-pay charge of
15 65% of the contract demand would provide adequate protection and is
16 consistent with industry standards (Exhibit DGL-3).

17 **Q. IS THE INCREMENTAL GENERATION PERFORMANCE SECURITY**
18 **REASONABLE?**

19 A. No. Requiring customers to post an additional 100% collateral for the IGC over
20 a 20-year contract is excessive and duplicative as the IGC is included in the
21 contractual assurances under the LLCs Service Agreement. For a 1,000 MW
22 data center, this would mean over \$6 billion in redundant upfront collateral —
23 an unreasonable burden that shifts infrastructure risk onto customers who also
24 lack the right to resell unused capacity without FPL's consent (Exhibit DGL-

1 3, DGL-5).

2 **Q. ARE YOU RECOMMENDING ANY REFINEMENTS TO FPL'S LLCS**
3 **TARIFF?**

4 A. Yes. FEIA recommends that the LLCS Tariff be revised to align with cost-of-
5 service principles, standard industry practices, and Florida's economic
6 development goals. Specifically, the following changes are essential to ensure
7 the tariff is fair, reasonable, and commercially viable:

- 8 **ICG Performance Security:** Eliminate redundant IGC collateral
9 for customers executing LLCS Service Agreements who meet FPL's
10 stated creditworthiness requirements. If the customer executing the
11 LLCS Service Agreement does not meet FPL's creditworthiness
12 standards, then the ICG Performance Security would be provided
13 but at an amount reflecting FPL's actual generation costs, not the
14 arbitrary 20-year contract value.
- 15 **Contract Term:** Reduce the minimum term from 20 years to a base
16 of 12 years with optional extensions at the customer's discretion.
- 17 **Take-or-Pay Requirement:** Adjust the minimum Customer
18 Demand Load from 90% to 65%, which would be consistent with
19 operational norms and still sufficient for FPL cost recovery and
20 resource planning.
- 21 **CIAC Terms:** Remove the 5-year cap on Contribution in Aid of
22 Construction (CIAC) refunds for off-site transmission to ensure full
23 repayment of customer-funded upgrades.

- 1 ▪ **Final Rate:** Set the all-in LLCS rate, including the IGC, at a level
2 comparable to FPL's proposed GSLD-3 rate (~6.89 cents/kWh),
3 reflecting data centers' low cost-to-serve, high load factor, and
4 credit strength.
- 5 ▪ **Engineering Acceptance Period:** Extend the period commencing
6 on the date of completion of the Engineering Study, during which
7 the LLCS Service Agreement and other relevant FPL contracts must
8 be executed, from six months to 18 months (MFR No. E-14, 2026
9 Projected Test Year, Attachment No. 1A of 15, Page 132 of 217).

10 These revisions preserve FPL's ability to recover prudent costs, maintain
11 system integrity, and protect the general body of rate payers while ensuring
12 Florida remains competitive for large-scale digital infrastructure investment.

13 **VI. MARKET VIABILITY AND LONG-TERM PLANNING**

14 **Q. ARE THE LLCS-1 AND LLCS-2 RATE SCHEDULES DESIGNED TO** 15 **ACCOMMODATE THE ENTRY OF DATA CENTERS INTO** 16 **FLORIDA?**

17 A. No, these rate schedules will lead to prohibitively expensive energy costs for
18 data centers with insufficient cost justification. There are no current customers
19 for LLCS-1 and LLCS-2 and there likely will not be if these rate schedules
20 become effective. These rates are a stealth 69% rate increase over the existing
21 GSLD-3 rate and violate basic ratemaking principles (Exhibit DGL-2). Data
22 center customers will look to locate elsewhere, where the electricity costs are
23 not artificially inflated (Exhibit DGL-6). As others will address in testimony,
24 this appears to conflict with the State of Florida's leadership strategy to attract

1 this industry.

2 **Q. CAN FPL SERVICE LLCS CUSTOMERS PROFITABLY WITH**
3 **LOWER RATES?**

4 A. Yes. ~~As further substantiated in FEIA Witness Ahmed's testimony,~~ serving data
5 centers at competitive rates generates robust, predictable revenue streams,
6 leveraging their high load factors, consistent usage patterns, and strong credit
7 profiles to spread fixed costs effectively over a materially increased revenue
8 base. Reducing the LLCS rates to a level consistent with higher cost of service
9 rate classes such as GSLD-3, to whom FPL is currently profitably generating
10 and transmitting power, would preserve profitability while maintaining fairness
11 and avoiding unnecessary cross-subsidization and protecting the general body
12 of ratepayers.

13 **Q. IN YOUR OPINION, ARE THERE ADDITIONAL BENEFITS TO FPL**
14 **RESIDENTIAL AND COMMERCIAL CUSTOMERS?**

15 A. Yes. Adding data centers will benefit the general body of ratepayers by helping
16 to share the burden of joint and common costs over a significantly increased
17 revenue base. Further, they provide tax revenue and jobs that provide an
18 economic benefit to the entire community. See FEIA Witnesses Magnum and
19 Rizer testimonies for more details on the economic impact that Data Center
20 projects can provide.

21 **Q. HOW WOULD THESE CHANGES BENEFIT FLORIDA?**

22 A. Implementing these reforms would position Florida as a premier destination
23 for data center investment and the AI industry, unlocking long-term tax
24 revenues, job creation, and statewide economic growth, while ensuring utilities

1 maintain fair compensation and system stability with no negative impacts on
2 the general body of rate payers. Aligning with best practices in competitive
3 jurisdictions will further strengthen Florida's reputation as an innovation-
4 friendly and economically resilient market.

5 **Q. WHAT IS YOUR OVERALL RECOMMENDATION?**

6 A. I would recommend that the Commission approve an amended LLCS Tariff
7 structure consistent with my testimony.

8 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

9 A. Yes.

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1 BY MR. MAY:

2 Q Dr. Loomis, have you attached any exhibits to
3 your prefiled direct testimony?

4 A Yes. Exhibits DGL-1 through DGL-6.

5 Q Thank you.

6 MR. MAY: Mr. Chairman, we will note for the
7 record that Exhibits DGL-1 through DGL-6 are
8 identified as Exhibits 225 through 230 on the
9 Comprehensive Exhibit List.

10 CHAIRMAN LA ROSA: Okay.

11 BY MR. MAY:

12 Q And, Dr. Loomis, were those exhibits prepared
13 by you or under your direct supervision?

14 A Yes.

15 Q Do you have any edits to those exhibits?

16 A No.

17 Q Dr. Loomis, on July 9, 2025, did you also
18 prepare and cause to be filed in this case seven pages
19 of rebuttal testimony?

20 A Yes.

21 Q Do you have any corrections or revisions to
22 that rebuttal testimony?

23 A No.

24 MR. MAY: Mr. Chairman, I would ask that the
25 rebuttal testimony of Dr. Loomis be inserted into

1 the record as though read.

2 CHAIRMAN LA ROSA: So moved.

3 (Whereupon, prefiled rebuttal testimony of
4 David Glenn Loomis 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: July 9, 2025

REBUTTAL TESTIMONY

OF

DAVID LOOMIS

on behalf of

Florida Energy for Innovation Association, Inc.

FLORIDA ENERGY FOR INNOVATION, INC.

REBUTTAL TESTIMONY

OF

DAVID LOOMIS

Docket No. 20250011-EI

Q. PLEASE STATE YOUR NAME, EMPLOYER, TITLE, AND THE ORGANIZATION YOU REPRESENT.

A. My name is David Loomis. I am Professor Emeritus of Economics at Illinois State University, former Executive Director of the Institute for Regulatory Policy Studies, and President of Strategic Economic Research, LLC. I am testifying on behalf of the Florida Energy for Innovation Association (“FEIA”).

Q. ARE YOU THE SAME DAVID LOOMIS WHO FILED DIRECT TESTIMONY IN THIS PROCEEDING?

A. Yes.

Q. HAVE YOUR TITLE, DUTIES OR RESPONSIBILITIES CHANGED SINCE FEIA FILED YOUR DIRECT TESTIMONY ON JUNE 9, 2025?

A. No.

Q. WHAT ARE THE PURPOSES OF YOUR REBUTTAL TESTIMONY?

A. My rebuttal testimony responds to the direct testimony of Jeff Pollock, filed on behalf of the Florida Industrial Power Users Group (“FIPUG”), to explain why the

Commission should decline any suggestion to address the Large Load Contract Service (“LLCS”) Tariff proposed by Florida Power & Light Company (“FPL”) in some future rulemaking proceeding or some later limited proceeding in 2027.

Q. WHAT ARE YOUR GENERAL OBSERVATIONS REGARDING FIPUG WITNESS POLLOCK’S DIRECT TESTIMONY?

A. Mr. Pollock provides a thoughtful analysis of FPL’s proposed LLCS Tariff and recognizes that the tariff is structured in a way that imposes unfair prices and more stringent terms and conditions on LLCS customers versus other commercial and industrial customers. Mr. Pollock also appears to suggest that the Commission defer consideration of FPL’s proposed LLCS Tariff until some future rulemaking proceeding, and then reassess the LLCS Tariff at a future limited proceeding in 2027.

Q. DO YOU AGREE WITH MR. POLLOCK’S TESTIMONY?

A. I agree in concept with much of his testimony. Mr. Pollock points out that the proposed LLCS Tariff has deficiencies and imposes inequities on large load customers. Notably, he does not advocate rejection of the tariff; rather, he offers several ways to improve the LLCS Tariff and its contractual requirements. In that respect, Mr. Pollock’s testimony is similar to my direct testimony in which I support a revised LLCS Tariff that serves the needs of consistent, high-load-factor users while protecting the interests of the general body of rate payers.

However, I do not agree with the suggestion that the Commission defer

1 consideration of FPL’s proposed LLCS Tariff in this rate case and instead “consider
2 a rulemaking proceeding to establish standardized policies and practices that should
3 apply to new very large load customers served by all Florida utilities.”
4

5 Deferring FPL’s proposed LLCS Tariff to a future rulemaking will substantially
6 delay a final decision of the LLCS rates and service conditions for several years if
7 not longer. This extended period of uncertainty is likely to arrest the development
8 of data centers in the state and defeat the purpose of Florida’s policy to facilitate
9 the growth of this technology market.
10

11 I also disagree with the suggestion that if the Commission approves an LLCS Tariff
12 in this rate case, it should “require FPL to file a limited proceeding in 2027 with
13 updated Minimum Filing Requirements”. Such a future limited proceeding is
14 unnecessary, would add additional cost, and would inject great uncertainty for large
15 load customers, thus thwarting development of data centers within FPL’s territory.
16

17 **Q. PLEASE ELABORATE ON WHY YOU DISAGREE WITH PORTIONS OF**
18 **MR. POLLOCK’S TESTIMONY.**

19 **A.** Mr. Pollock’s suggestion that the Commission initiate “a rulemaking proceeding to
20 establish standardized policies and practices” for data center customers of all
21 Florida utilities misapplies the Commission’s regulatory role as an arm of the
22 Legislature. The Commission’s role is to implement the policies of the Florida
23 Legislature—not to “establish data center policy.” The Florida Legislature and the
24 Governor have made it clear that major investment in large data centers is to be

1 encouraged, not delayed by regulatory uncertainty surrounding some future
2 rulemaking proceedings. This policy is most recently illustrated by the Florida
3 legislature’s passage of tax bill HB 7031, extending a sales tax exemption for large
4 data centers for another 10 years. Governor DeSantis signed that bill into law on
5 June 30, 2025. The Commission has all of the tools necessary to implement the
6 will of the legislature in this rate case.

7
8 Furthermore, Mr. Pollock’s suggestion that the Commission use rulemaking to
9 establish “standardized policies” for data centers “in lieu of vetting the LLCS rate
10 schedules” in this rate case implies a one-size-fits-all approach that does not work
11 for electric utility cost-of-service ratemaking. Cost-of-service ratemaking
12 recognizes that different utilities will have different costs based on their own
13 operations, infrastructure, unique service territories, customer base, and
14 demographics (residential density, industrial load, etc.). Rulemaking, on the other
15 hand, is designed to develop policies of general applicability—policies that govern
16 utility behavior across multiple service territories or affect broad classes of
17 customers across the spectrum. The LLCS Tariff is neither. It is a utility-specific
18 rate designed to apply only to new specific large-load customers served by FPL. It
19 does not, and should not, establish any precedent for other utilities. FPL’s proposed
20 LLCS Tariff, like other large-load rates, is customized to FPL and contingent on its
21 own costs and system capabilities. Recognizing the utility-specific nature of the
22 LLCS rates, there is no legal or policy basis for applying a one-size-fits-all
23 rulemaking framework to FPL’s proposed LLCS Tariff.

1 Finally, and most importantly, deferring consideration of FPL’s LLCS Tariff to a
2 future rulemaking or a “spin-off” limited proceeding will substantially delay a final
3 decision of the LLCS rates and service conditions for several years if not far longer.
4 This prolonged period of regulatory uncertainty will stifle the development of data
5 centers in the state.

6
7 **Q. WHY IS TIMING SO CRITICAL TO LLCS IMPLEMENTATION?**

8 **A.** Developing large load data centers within FPL’s territory requires: entering into
9 long-term, multi-billion-dollar electricity service agreements; upfront funding of
10 substantial Contribution in Aid of Construction (“CIAC”) obligations; posting
11 performance security; and ordering hundreds of millions of dollars of long-lead
12 team capital equipment—all within FPL’s stringent timelines.

13
14 Until clear and stable tariff terms are established, hyperscale customers, including
15 data centers, AI developers, and advanced computer operators cannot proceed with
16 these necessary development steps. Further, the data center and AI sectors are
17 undergoing rapid growth, creating industry-wide urgency to secure long-term,
18 large-scale capital and commercial commitments in the states and communities
19 where they operate. This heightens the risk that delays from rulemaking or future
20 limited proceedings could drive these transformative economic opportunities to
21 other states or jurisdictions in this highly competitive industry.

1 **Q. WOULD LARGE LOAD CUSTOMERS BE WILLING TO ENTER INTO**
2 **LLCS CONTRACTS UNDER THESE CONDITIONS?**

3 **A.** No. Any signal of an extended period of regulatory uncertainty, such as rulemaking
4 or re-litigation, would prevent these large load customers from moving forward in
5 FPL's service territory and drive them to other jurisdictions and states.

6
7 **Q. WHAT ARE THE ECONOMIC CONSEQUENCES OF DELAY?**

8 **A.** FPL has confirmed that it can serve up to 3,000 MW of load under LLCS-1. As
9 highlighted in FEIA Witness Fletcher Mangum's Direct Testimony, this represents
10 an enormous economic opportunity for the state and its communities,
11 encompassing billions in capital investment, thousands of indirect jobs, and
12 significant growth in the tax base.

13
14 **Q. DO OTHER STATES USE RULEMAKING TO APPROVE LARGE-LOAD**
15 **RATES?**

16 **A.** Not to my knowledge. Other jurisdictions who have been successful in attracting
17 data center development, including Texas, Virginia, Georgia, and South Carolina,
18 have implemented large-load tariffs through individual dockets or utility-specific
19 filings. For example:

- 20 • Dominion Energy Virginia received approval for large-load data center rates
21 through targeted petitions before the State Corporation Commission—not
22 rulemaking.
- 23 • Georgia Power implemented its real-time pricing and data center development
24 tariffs through Georgia Public Service Commission dockets.

- Santee Cooper, a public power and water utility in South Carolina, adopted its economic development rates for 50+ MW customers directly by its board.

Q. CAN THE COMMISSION ADDRESS LLCS DESIGN CONCERNS WITHIN THIS DOCKET?

A. Yes. This docket provides the Commission with full authority to review, amend, and finalize the LLCS Tariff. The Commission may set eligibility thresholds, adjust pricing structures, and impose reporting requirements. There is no statutory or procedural necessity to delay this decision by rulemaking or opening a limited proceeding in 2027.

Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

A. Yes.

1 BY MR. MAY:

2 Q Dr. Loomis, have you attached any exhibits to
3 your rebuttal testimony?

4 A No.

5 Q Have you prepared a brief summary of your
6 prefiled direct and rebuttal testimony?

7 A Yes.

8 Q Could you please provide the Commission with a
9 very brief summary at that time -- at this time?

10 A Yes.

11 Q Thank you.

12 A Good afternoon, Chairman La Rosa and
13 Commissioners.

14 My testimony analyzes the new LLCS tariff that
15 FPL proposed in this case and identifies those
16 provisions that, in my professional opinion, are
17 objectionable. In summary, I take issue with FPL's
18 proposal to close the GSLD rate to data centers with a
19 load of 25 megawatts or more, and to reclassify those
20 types of customers under an LLCS rate structure with
21 novel rates that are 69 percent higher than current GSLD
22 rates.

23 I also take issue with the onerous contract
24 terms and conditions that the LLCS tariff would impose
25 on data centers, including a 20-year contract term, the

1 minimum take-or-pay requirements of 90 percent of the
2 customer's contract demand, excessive collateral
3 requirements, and an unrealistically abbreviated period
4 within which the data center customer must execute the
5 LLCS service agreement and accept an engineering study.

6 That concludes my summary.

7 MR. MAY: Mr. Chairman, FEIA would tender the
8 witness for cross-examination.

9 CHAIRMAN LA ROSA: Thank you.

10 OPC, you are recognized.

11 MR. PONCE: Thank you.

12 EXAMINATION

13 BY MR. PONCE:

14 Q Good afternoon, Dr. Loomis.

15 A Good afternoon.

16 Q Before we get into your testimony, I just had
17 some background questions for you.

18 A Sure.

19 Q You have testified in front of other PSCs,
20 right?

21 A Yes.

22 Q When you have done so, you have typically
23 testified on behalf of energy projects, right?

24 A Typically, yes, but not exclusively.

25 Q When you say not exclusively, you have never

1 testified on behalf of an Office of Public Counsel like
2 the one I work for, right?

3 A No.

4 Q You have also never testified on behalf of any
5 consumer groups?

6 A No.

7 Q Isn't this -- and this is your first time
8 testifying in a general rate case, right?

9 A Correct.

10 Q You -- let's move on to your testimony.
11 You mentioned right now that one of your
12 criticisms is that FPL is closing the GSLD-3 tariff to
13 customers that the LLCS tariffs would apply for, is that
14 right?

15 A Yes.

16 Q And just to be clear what we are talking
17 about, we are talking about customers with a load of
18 25 megawatts or more, and a load factor of 85 percent or
19 more?

20 A Yes.

21 Q One of the differences between the GSLD-3 rate
22 and the LLCS rates is that the LLCS rates have an
23 incremental generation charge, right?

24 A Correct.

25 Q The GSLD-3 tariffs don't have at that, right?

1 A Correct.

2 Q Isn't it fair to say, then, that if a customer
3 who would otherwise have the LLCS tariff apply to them,
4 if they were to take uprates under the GSLD-3 tariff,
5 they won't be responsible for any incremental
6 generation?

7 A They would not be responsible for an
8 incremental generation charge because that doesn't exist
9 under the GSLD tariff.

10 Q Doesn't that mean, then, that the general body
11 of ratepayers would be giving these customers a subsidy
12 in that case?

13 A That would go to the costs, underlying costs
14 of servicing those customers, which I, in my original
15 direct testimony had asked for a cost of service study
16 model so that we understood what those costs were.

17 Q Again, I am not -- because I am not sure you
18 answered the question, my question was: If a LLCS
19 customer were to take uprates under the GSLD-3 tariff,
20 wouldn't the general body of ratepayers be subsidizing
21 them?

22 A No. It will depend on what the cost to
23 service those customers are.

24 Q You agree, though, that FPL would incur a
25 significant cost to develop the incremental generation

1 **that these large load customers need, right?**

2 A I think that's at issue, is how much
3 incremental generation they would need to develop, and
4 what that cost would be.

5 Q **So when FPL Witness Cohen states that LLCs**
6 **customers require significant investments in new**
7 **incremental generation capacity, you don't think -- you**
8 **disagree with her?**

9 A In my direct testimony, I did not see anything
10 that justified or provided support to that statement.

11 Q **Assuming that the statement is true, shouldn't**
12 **FPL be able to get the cost of incremental generation**
13 **needed in order to supply electricity to these**
14 **customers?**

15 A If there is additional incremental generation,
16 and if that is sufficiently large, as Witness Cohen had
17 said, then, yes, there should be -- those costs should
18 be recovered from those customers that cause that new
19 generation to be built.

20 Q **Do you agree or disagree that this is in line**
21 **with the principles of cost causation?**

22 A Generally, yes, I agree that it follows that
23 principle.

24 Q **Now, you briefly mentioned in a previous**
25 **answer that FPL did not perform a cost of service study.**

1 **My question is: FPL does not anticipate any of these**
2 **customers for its two test years, right?**

3 A Yes.

4 Q **And they are not serving any right now?**

5 A Correct.

6 Q **In that case, how would FPL go about**
7 **performing a cost of service then, in this situation?**

8 A Yeah, after my filed direct testimony, I was
9 provided with, I believe it was called an incremental
10 revenue requirements model, and I was present here for
11 Witness Cohen's testimony reviewing that, and that went
12 a long way to satisfying my concerns that there wasn't a
13 cost of service study for this new class and new tariff
14 that was being proposed.

15 Q **You mentioned that you have -- that since your**
16 **direct, you have gotten more information. Originally --**
17 **well, let me ask this: I mean, FPL bears the burden of**
18 **proofing all the asks for in this case, right?**

19 A Yes.

20 Q **With the new information that you have**
21 **received, do you feel that FPL has met that burden?**

22 MR. MAY: Objection. He is asking for a legal
23 conclusion as to whether a company, or an entity
24 satisfied a legal burden of proof. That's asking
25 for a legal conclusion. We object.

1 CHAIRMAN LA ROSA: OPC?

2 MR. PONCE: Well, the witness discusses the
3 issue that the FPL bears the burden of proof in his
4 testimony specifically at page 12, line seven.

5 CHAIRMAN LA ROSA: Let's go to that before the
6 witness answers the question.

7 MR. MAY: I think the question was had FPL met
8 its burden of proof. That was the concern that I
9 am raising.

10 CHAIRMAN LA ROSA: Can you restate the
11 question for the witness?

12 MR. PONCE: Sure, if I can just have one
13 moment?

14 CHAIRMAN LA ROSA: Sure.

15 BY MR. PONCE:

16 Q Now, you mention at line 12 on this page, a
17 proper approach would be to present a detailed cost
18 projection, based on the new information --

19 A I am sorry, what page are we on?

20 Q Oh, I apologize. That should be page 12.

21 CHAIRMAN LA ROSA: It should be on the screen
22 in front of you as well.

23 BY MR. PONCE:

24 Q Yes.

25 A Page 12, line 12?

1 Q Correct. The sentence that begins at the end
2 there.

3 A Okay. I am there.

4 Q Has the data that you have received since your
5 direct testimony satisfied your concern about a lack of
6 concrete costs data?

7 A I wouldn't say it's totally satisfied me, but
8 it has gone a long way. The additional evidence has
9 gone a long way to my understanding of how the tariff
10 was developed and what the underlying costs would be to
11 FPL.

12 Q Fair enough. Thank you.

13 At the time of your testimony, the -- FPL's
14 minimum demand charge was 90 percent, right?

15 A The take-or-pay provision?

16 Q Correct.

17 A Yes.

18 Q This take-or-pay provision is meant to protect
19 customers in the event that a LLCs customer's load does
20 not materialize, right?

21 A Yes.

22 Q Isn't it fair to say, then, that a take-or-pay
23 requirement of 90 percent -- let me rephrase this.

24 Isn't it fair to say that a take-or-pay
25 requirement of 90 percent protects customers, then, in

1 the event that LLCs loads don't materialize?

2 A Could you rephrase -- or restate the question?

3 Q Sure.

4 FPL's -- isn't it fair to say that FPL's
5 take-or-pay requirement of 90 percent is a strong
6 protection for its general body of ratepayers?

7 A Yes.

8 Q Another -- you also criticize the collateral
9 requirements of LLCs customers as they existed at that
10 time, right?

11 A Yes.

12 Q Specifically, you felt that requiring
13 customers to post 100 percent collateral for the
14 incremental generation charge over a 20-year contract
15 was excessive?

16 MR. MAY: Mr. Ponce, could you point him to
17 the area of his testimony that you are referring
18 to?

19 MR. PONCE: I believe -- give me one moment,
20 it is at C, as in Charlie, 35-4304, which is
21 specifically page 16, line 19.

22 CHAIRMAN LA ROSA: Do you want to restate the
23 question?

24 MR. PONCE: Sure.

25 BY MR. PONCE:

1 Q At the time of your direct testimony, you
2 criticized the 20-year contract requirement as being
3 excessive, right?

4 A Yes.

5 Q And you also felt it was duplicative of the
6 incremental generation charge?

7 A Yes. And again, this was in addition to the
8 incremental generation charge, I was also looking at the
9 20-year contract term. Those work in cooperation with
10 one another, so you can't just take the 90-percent in
11 isolation. It's looking at the interplay between the
12 length of the contract as well as the take-or-pay
13 provision percentage.

14 Q And you use here as an example a 1,000
15 megawatt data center, right?

16 A Yes.

17 Q Isn't it fair to say that a entity hoping to
18 operate a 1,000 megawatt data center has the capital
19 required to meet these -- to meet the proposed
20 collateral requirement?

21 A I don't know.

22 Q Is that your complete answer?

23 A Yeah.

24 Q Okay. I have nothing else. Thank you very
25 much, Doctor.

1 **CHAIRMAN LA ROSA: FEL?**

2 MR. LUEBKEMANN: Thank you, Mr. Chairman.

3 EXAMINATION

4 BY MR. LUEBKEMANN:

5 **Q Good afternoon, Dr. Loomis.**

6 A Good afternoon.

7 **Q Did you review -- as a part of your**
8 **preparation in this case, did you review the testimony**
9 **of Mr. De Varona, that was later adopted by Mr. Jarro?**

10 A I don't believe so.

11 **Q I can't -- I assume that you did review the**
12 **testimony of Witness Cohen?**

13 A Yes.

14 **Q I can't remember if this particular fact was**
15 **in hers as well, but it was in Mr. De Varona's testimony**
16 **that 15-megawatt incremental load is roughly equivalent**
17 **to 10,000 residential homes. Have you seen that in this**
18 **case?**

19 A I think I may have heard that during
20 testimony.

21 **Q And do you have any reason to think that is**
22 **not accurate?**

23 A No.

24 **Q Would you accept my math scaling up that a one**
25 **gigawatt data center would be roughly the same**

1 incremental load as 60 -- 666,000 residential customers?

2 A Subject to check.

3 Q Fair to say that that would be a significant
4 impact to the existing grid if, you know, more than half
5 a million customers just showed up one day?

6 A Yes.

7 Q Fair to say it would also be a pretty big
8 impact if they showed up, additional generation and
9 transmission facilities were built to serve those
10 customers, and then they packed up and left?

11 A We are talking about housing, these 600,000
12 homes?

13 Q Yeah. I am turning your one gigawatt data
14 center into it's equivalent to residential customers.

15 A Yeah, I think it's difficult to make that
16 analogy that the, you know, the infrastructure and
17 things are difficult to equate. That's where I am
18 having the problem.

19 Q That's fair. Probably also difficult to -- I
20 guess let me put it this way: Talking about more than
21 half a million customers just up and leaving the system
22 overnight also probably is difficult to imagine?

23 A Yes.

24 Q But for a data center that would be operated
25 by one entity, it actually would be quite possible?

1 A Of this scale and of this magnitude, it would,
2 I think, be unusual for that data center to not be
3 operated by someone.

4 Q By that, you mean if the entity that built
5 that data center were to leave, you think someone else
6 would take it over?

7 A Yes.

8 Q But you couldn't know that for sure?

9 A There would be no guarantees, but I would
10 think that someone would find that very attractive.

11 Q Would you agree that once a data center is
12 operational, its largest ongoing cost is the cost of
13 electricity?

14 A I don't know that for sure, but it seems
15 reasonable that that's a high cost.

16 Q Are there any other cost sources that you
17 think would be close?

18 A Yeah, I just haven't studied data centers
19 enough to be confident of their underlying costs, you
20 know.

21 Q If a data center were operational in Florida
22 and then found rates that were, electricity rates that
23 were much cheaper, maybe a much more attractive tariff
24 outside of Florida, can you envision a scenario in which
25 that data center might make the decision to leave for

1 **that reason?**

2 A Again, I am having problems with separating
3 out the data center as a physical structure, as a
4 building as opposed to who is owning, a company that is
5 operating and doing their operations within the data
6 center. So when you say that data center up and moves,
7 it is a physical building and a physical space, it can't
8 gets up and leave the state.

9 And my point was that if, you know, if a
10 particular company who owns that building it has
11 operated and finds a more attractive place to do
12 business for their operations, then I still think that
13 that data center, as a physical building and user of
14 electricity for those purposes, would be attractive to
15 someone.

16 **Q Thank you. That's all my questions.**

17 **CHAIRMAN LA ROSA: FAIR?**

18 MR. SCHEF WRIGHT: No questions. Thank you,
19 Mr. Chairman.

20 CHAIRMAN LA ROSA: Walmart?

21 MS. EATON: No questions.

22 CHAIRMAN LA ROSA: FRF?

23 MR. BREW: No questions.

24 CHAIRMAN LA ROSA: FIPUG?

25 MR. MOYLE: No questions.

1 CHAIRMAN LA ROSA: FPL?

2 MR. BURNETT: No questions.

3 CHAIRMAN LA ROSA: Staff?

4 MR. STILLER: None from staff.

5 CHAIRMAN LA ROSA: Commissioners, do we have
6 any questions?

7 Seeing none, back to FEIA for redirect.

8 MR. MAY: No redirect, Mr. Chairman.

9 CHAIRMAN LA ROSA: Okay. Do you want to move
10 something into the record?

11 MR. MAY: Yes. We would move CEL Nos, Exhibit
12 Nos. 25 through -- excuse me, 225 through 230.

13 CHAIRMAN LA ROSA: Seeing no objections, so
14 moved.

15 (Whereupon, Exhibit Nos. 225-230 were received
16 into evidence.)

17 CHAIRMAN LA ROSA: Is there anything else that
18 needs to be moved into the record? OPC, anything?
19 Nothing?

20 Okay. I will go ahead and excuse the witness.
21 Thank you, Dr. Loomis.

22 THE WITNESS: Thank you.

23 (Witness excused.)

24 MR. MAY: Thank you all.

25 CHAIRMAN LA ROSA: There is not another

1 witness for FEIA?

2 MR. MAY: We do have one more witness.

3 CHAIRMAN LA ROSA: Okay.

4 MR. MAY: My colleague, Kevin Cox, will
5 introduce him.

6 CHAIRMAN LA ROSA: Oh, excellent. Great.

7 MR. KEVIN COX: FEIA will call Fletcher
8 Mangum.

9 CHAIRMAN LA ROSA: Mr. Mangum, do you mind
10 standing?

11 Whereupon,

12 FLETCHER MANGUM

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: I do.

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

19 Feel free to get settled in there, and Mr. Cox
20 will start once you are ready.

21 EXAMINATION

22 BY MR. KEVIN COX:

23 **Q Dr. Mangum, can you state your name and your**
24 **business address for the record?**

25 A My full legal name is Alan Fletcher Mangum,

1 M-A-N-G-U-M. Our business address is 4510 Cox Road,
2 Glen Allen, Virginia.

3 Q And by whom are you employed and what
4 capacity?

5 A I am the founder and CEO of Mangum Economics.

6 Q Did you cause to be filed on June 9th, 2025,
7 13 pages of direct testimony in this proceeding?

8 A I did.

9 Q Do you have any changes or corrections to your
10 prefiled testimony?

11 A I do not.

12 Q If I were to ask you the same questions today
13 as contained in your prefiled direct testimony as filed
14 on June 9th, 2025, would your answers be the same today?

15 A I would -- or they would.

16 MR. KEVIN COX: Mr. Chairman, FEIA requests
17 that Dr. Mangum's direct testimony filed on June
18 9th, 2025, be inserted into the record as though
19 read.

20 CHAIRMAN LA ROSA: So moved.

21 (Whereupon, prefiled direct testimony of
22 Fletcher Mangum was inserted.)

23

24

25

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

FLETCHER MANGUM

on behalf of Intervenor,

Florida Energy for Innovation Association, Inc.

1 **Q. PLEASE STATE YOUR FULL NAME.**

2 A. Fletcher Mangum.

3 **Q. BY WHOM ARE YOU EMPLOYED?**

4 A. I am the Founder and CEO of Mangum Economics, an economic consulting
5 firm.

6 **Q. WHAT IS YOUR EDUCATIONAL AND EMPLOYMENT**
7 **BACKGROUND?**

8 A. I earned a Ph.D. in Economics from George Mason University in 1995, where
9 I studied under Nobel Prize-winning economist James Buchanan and
10 concentrated on the fields of industrial organization (studying how businesses
11 and industries develop) and public choice (relating to how incentives affect
12 government policies). I worked as a professional economist for 12 years for
13 both federal and state government organizations. I founded Mangum
14 Economics in 2003 in Richmond, Virginia and have spent the last 22 years
15 successfully growing the firm into a national economic consulting business.
16 My curriculum vitae is attached as Exhibit FM-1.

17 **Q. ON WHOSE BEHALF ARE YOU SUBMITTING TESTIMONY**
18 **TODAY?**

19 A. I am testifying on behalf of the Florida Energy for Innovation Association
20 (FEIA), a coalition of entities planning data center developments in FPL
21 territory and their affiliates advancing Florida's competitiveness in
22 technology infrastructure, clean energy investment, and digital innovation.

23 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

24 A. My testimony addresses the serious economic consequences if the Florida

1 Public Service Commission (“Commission”) approves the proposed LLCS
2 rate structure submitted by Florida Power & Light (“FPL”). This includes the
3 significant economic risk of failing to bring the emerging data center and AI
4 infrastructure industry to Florida at a time when multiple peer states are
5 actively cultivating the sector through supportive utility pricing. In particular,
6 I focus on the initial 3,000 MW tranche of potential power demand referenced
7 by FPL in this proceeding, which represents only the beginning of potential
8 long-term industry growth in Florida.

9 **Q. WHAT IS MANGUM ECONOMICS’ EXPERIENCE WITH DATA**
10 **CENTER RESEARCH?**

11 A. Our goal is to provide a respected, persuasive, defensible, third-party analysis.
12 Since 2015, Mangum Economics has produced several reports on the impact
13 of the data center industry at the state level in Arizona, Georgia, Illinois,
14 Maryland, Texas, Virginia, and Wisconsin. We have estimated the economic
15 and fiscal impact of potential data center projects in many localities across the
16 nation, from California to Maryland and Florida to Wisconsin, plus a project
17 in Mexico.

18 Our estimates of the investment by data centers are based on our proprietary
19 modeling developed through extensive research and experience with the
20 industry. Our model is updated annually to reflect the latest industry
21 developments and industry cost structures. We work to provide realistic
22 estimates of likely outcomes, and we choose to err on the side of making
23 lower estimates where there is uncertainty. Our model has been validated with
24 feedback from local government officials and industry experts. We have

1 worked for industry developers seeking approval for hyperscale and
2 colocation projects as well as for local governments looking to verify
3 industry-provided impact estimates. Our reports provide reliable and unbiased
4 estimates.

5 **Q. HOW DID YOU DEVELOP THE ECONOMIC IMPACT ESTIMATES**
6 **REFERENCED IN YOUR TESTIMONY?**

7 A. The estimates are based on economic impact studies conducted for hyperscale
8 data center projects currently in the planning phase within FPL territory.
9 While the development teams provided general parameters such as location,
10 scale, and target MW capacity, they did not provide detailed construction
11 budgets or labor estimates. As such, the analysis was developed
12 independently using current research and Mangum Economics' prior
13 experience with similar hyperscale data center and large technology
14 infrastructure projects across the United States.

15 **Q. WHAT DATA SOURCES AND ASSUMPTIONS INFORMED THE**
16 **ANALYSIS?**

17 A. The model drew upon investment and labor benchmarks from previous data
18 center projects analyzed by Mangum Economics, combined with our current
19 research into established industry norms for hyperscale developments. These
20 inputs included capital expenditures per MW and per square foot, staffing
21 ratios, industry spending patterns, reinvestment cycles, and non-labor
22 operating expense ratios. The report also incorporated Florida-specific tax
23 structures, wage data, and regional economic multipliers from sources such
24 as IMPLAN, the U.S. Bureau of Economic Analysis, and the U.S. Census

1 Bureau. The method follows widely accepted standards for regional economic
2 impact modeling using input-output analysis and was carefully calibrated to
3 reflect Florida's fiscal and labor conditions.

4 **Q. CAN YOU PROVIDE AN EXAMPLE OF A PROJECT INCLUDED IN**
5 **YOUR ANALYSIS?**

6 A. Yes. One of the projects modeled in the analysis is a 1,000 MW hyperscale
7 data center campus currently in the planning stage in St. Lucie County. This
8 project, as evaluated in a study conducted by Mangum Economics in 2025,
9 provides a concrete, Florida-specific illustration of the scale and economic
10 benefits of hyperscale data center development to Florida.

11 The study found that, once it is fully occupied and operational, this single
12 campus (comprised of 10 data centers totaling 3.4 million square feet) would
13 deliver:

- 14 ▪ \$13.5 billion in total private capital investment over course of
15 development
- 16 ▪ \$1.2 billion per year in sustained statewide economic output
- 17 ▪ 370 direct long-term jobs in St. Lucie County and 2,370 total
18 supported jobs across the state of Florida
- 19 ▪ \$20.0 million per year in new state gross receipts tax revenue on
20 electricity (assumes that the Data Center Sales Tax Exemption is
21 renewed)
- 22 ▪ \$113.9 million per year in St. Lucie County tax revenue
- 23 ▪ \$63.0 million per year in dedicated property tax revenue for St.
24 Lucie Public Schools

1 **Q. IS IT REASONABLE TO MODEL A PROJECT OF THIS SCALE FOR**
2 **ECONOMIC IMPACT PURPOSES?**

3 A. Yes. FPL itself has acknowledged in this proceeding that it has sufficient
4 capacity to support at least 3,000 MW of data center development. A 1,000
5 MW project is well within that range and represents a common size for data
6 center developments that are currently in the planning stage at locations
7 across the country.

8 **Q. WHY IS THIS APPROACH CREDIBLE FOR ESTIMATING**
9 **BROADER STATEWIDE IMPACT?**

10 A. This approach is credible because it is grounded in the past experience of
11 Mangum Economics analyzing similar developments across the United States
12 and Mexico. Our estimates have been vetted by state and local government
13 officials and independent academic researchers.
14 Our model reflects actual planning-stage proposals, and it uses standard
15 modeling practices validated across multiple jurisdictions. The projections are
16 not speculative—they are based on known investment patterns, adjusted for
17 Florida’s specific tax and labor environment. This method has been used by
18 states and localities across the country to inform tax policy decisions and
19 economic development initiatives related to technology infrastructure.

20 **Q. WHAT IS THE 3,000 MW FIGURE REFERENCED IN THIS**
21 **PROCEEDING?**

22 A. The 3,000 MW identified in FPL's filings is not a single project or a hard limit
23 on load demand. Rather, it is the initial tranche of load demand associated
24 with data center developers actively pursuing Florida for hyperscale

1 infrastructure. These users represent a sector where long-term expansion is
2 driven by clustering effects, co-location of AI and cloud services, and follow-
3 on network investment. This 3,000 MW is the gateway to a new industry and
4 is vital for market formation.

5 **Q. IS 3,000 MW OF NEW DATA CENTER DEVELOPMENT**
6 **CONSISTENT WITH OTHER MARKETS?**

7 A. Yes. Virginia's data center economy began with several hundred megawatts
8 of anchor tenants, and now supports thousands of MW, more than any other
9 state. Texas, Georgia, Arizona, and Ohio are currently adding multiple
10 gigawatts each over the next few years, backed by coordinated policy, utility
11 alignment, and competitive pricing.

12 According to the data center research company, datacenterHawk,
13 <https://datacenterhawk.com/>, nationally, there are multiple hyperscale
14 campuses at or above this size that are currently under development,
15 including:

- 16 ■ Amazon's 1,400 MWc campus south of Atlanta, Georgia
- 17 ■ Amazon's 1,000 MWc campus east of Atlanta, Georgia
- 18 ■ Amazon's 2,500 MWc of development north of Jackson, Mississippi
- 19 ■ Google's 1,400 MWc campus in Arkansas, west of Memphis,
20 Tennessee
- 21 ■ Google's 1,400 MWc expansion of its existing footprint northeast
22 of Charleston, South Carolina
- 23 ■ Meta's 1,500 MWc campus in northeast Louisiana

1 ▪ Microsoft’s 3,300 MWc expansion of its existing campus in
2 southern Virginia

3 ▪ Microsoft’s 1,700 MWc campus in northern North Carolina

4 Additionally, there are multiple colocation campuses at or above this size that
5 are currently under development, including:

6 ▪ PowerHouse Data Centers’ 1,200 MWc campus southwest of
7 Dallas, Texas

8 ▪ STACK Infrastructure’s 1,100 MWc campus north of
9 Fredericksburg, Virginia

10 ▪ Tract’s 2,400 MWc campus north of Richmond, Virginia

11 To be clear, I use MW throughout my testimony to refer to the total amount
12 of power load delivered by a utility to operate a data center development.

13 Note that the foregoing references to these data center developments use
14 MWc (megawatts of critical capacity) – the amount of power available for
15 use by the computer equipment. It is the common metric used to describe the
16 size of a data center development. It does not include the power needed to run
17 the cooling and other infrastructure that supports the computer equipment. So,
18 as I have used the terms here, MW is always higher than MWc, usually by a
19 factor of 1.3 to 1.5.

20 **Q. YOU PREVIOUSLY STATED THAT YOU MODELED A 1,000 MW**
21 **HYPERSCALE DATA CENTER CAMPUS IN FLORIDA. IS THAT**
22 **SPECULATIVE?**

23 A. No. Modeling a 1,000 MW campus in Florida is not speculative; it reflects
24 actual planning-stage proposals already underway in FPL territory and aligns

1 with standard development scales used by global operators. Total
2 development in the range of 3,000 MW is entirely reasonable. These projects
3 serve as the economic backbone for digital infrastructure ecosystems and are
4 entirely realistic in Florida if utility rates are competitive.

5 **Q. HOW DID YOU EXTRAPOLATE THE RESULTS OF YOUR**
6 **RESEARCH TO THE FULL 3,000 MW REFERENCED BY FPL?**

7 A. After completing the two project-level studies, we scaled the results
8 proportionally to align with the 3,000 MW tranche of demand identified in
9 FPL's filings. This was done using a per-MW extrapolation method that
10 preserved the structure of the original modeling, while reflecting a diversified
11 buildout across multiple sites and operators. The result is a reasonable and
12 conservative projection of what Florida could expect if the initial 3,000 MW
13 of hyperscale load is realized over time.

14 **Q. WHAT WOULD BE THE ESTIMATED ECONOMIC IMPACT OF**
15 **3,000 MW OF DATA CENTER CAPACITY IN FLORIDA?**

16 A. Taking our 1,000 MW report and linearly extrapolating it to 3,000 MW of
17 data center development would yield:

- 18 ▪ \$40.5 billion in total private capital investment over course of
19 development
- 20 ▪ \$3.6 billion per year in sustained statewide economic output
- 21 ▪ 1,110 direct long-term jobs and 7,110 total supported long-term jobs
22 across the state of Florida

- 1 ▪ \$60.0 million per year in new state gross receipts tax revenue on
- 2 electricity (assuming that the Data Center Sales Tax Exemption is
- 3 renewed)
- 4 ▪ \$341.7 million per year in county tax revenue (assuming that St.
- 5 Lucie County is representative of Florida counties where data center
- 6 development would occur)
- 7 ▪ \$189.0 million per year in dedicated property tax revenue for Florida
- 8 public schools (assuming that St. Lucie County School taxes are
- 9 representative of Florida school taxes where data center
- 10 development would occur)

11 **Q. HOW DOES DATA CENTER DEVELOPMENT AFFECT FLORIDA**
 12 **BUSINESSES BEYOND THE TECH SECTOR?**

13 A. Beyond the direct impacts of the data centers themselves on the Florida
 14 economy, there are direct impacts for construction companies during the
 15 construction phase of development. The report estimated that construction of
 16 just one 100 MW data center would create \$94.6 million of business for
 17 construction companies in St. Lucie County over a two-year period.

18 There are also indirect and induced effects on the Florida economy during
 19 both the construction phase and the operations phase.

20 During construction, the indirect effects are for local building materials
 21 companies that are suppliers to the construction companies. Other
 22 beneficiaries include the trucking companies needed to move equipment and
 23 materials to and around the job sites. Fuel companies and mechanics in the
 24 local area would be called on to keep the vehicles and equipment running.

1 Equipment rental companies, electrical contractors, pipefitters, and metal-
2 working companies are often beneficiaries of development. The induced
3 effects come from the money spent by the workers. During the construction
4 phase, some workers may travel for the job. These visitors spend money in
5 local hotels and apartments, restaurants, grocery stores, and gas stations.
6 Additionally, there would be induced impacts as the local workers spend their
7 additional earnings on housing, food, transportation, utilities, education, and
8 recreation.

9 During the operations phase, the indirect effects would be primarily on
10 business services companies that are locally located or that would be attracted
11 to the local area to serve the new development. For all developments, the
12 range of business services includes attorneys, banking, insurance,
13 maintenance, accounting, and office supplies. The induced effects come from
14 the money spent by the workers. During the operation phase, there may be
15 some workers who travel to the local area on temporary assignment. These
16 visitors would spend money in local hotels and apartments, restaurants,
17 grocery stores, and gas stations. Also, there would be induced impacts as the
18 local workers spend their additional earnings on housing, food, transportation,
19 utilities, education, and recreation.

20 **Q. WHY IS THERE AN URGENCY TO ATTRACT DATA CENTER**
21 **INVESTMENT NOW?**

22 A. Florida enacted a data center tax incentive in 2017 and extended the program
23 in 2021 in an attempt to attract data center development to the state, Ch. 2017-
24 036, Laws of Fla. §26; HB 7109 (2017). To date, Florida has not been

1 successful at attracting any major data center development. The next few
2 years will be the best time for Florida and competitor states to try to attract
3 this important industry.

4 Right now and over the next few years, hyperscale data center operators are
5 investing heavily in the development of large data center campuses. Much of
6 this investment is driven by investments in AI-specific infrastructure and
7 cloud computing infrastructure that will be needed to support the software
8 development that will take advantage of AI advances. AI and technology
9 analysts liken the phenomenon to a gold rush or an arms race. Now is a critical
10 moment to take advantage of available capital for hyperscale data center
11 campuses as the industry experiences a robust AI-driven investment surge.
12 Later, as the industry enters a consolidation phase, where a greater emphasis
13 is placed on efficiency and return on investment, there will be less capital
14 available for such large investments and the pace of data center development
15 will slow. The slowdown in new investment will be most pronounced in those
16 places that have not secured hyperscale data center development by that time.

17 **Q. WHAT HAPPENS IF FLORIDA FAILS TO LAND THE INITIAL 3,000**
18 **MW?**

19 A. The economic impact is not limited to the immediate loss of construction or
20 power sales. Without a viable foundation, the industry is unlikely to cluster in
21 Florida, and follow-on growth will migrate to states offering lower power
22 rates. This would chase away:

- 23 ■ Tens of billions in long-term tax base expansion;
- 24 ■ Thousands of durable, high-wage jobs; and

- 1 ▪ Florida's ability to compete in national security-related AI, cloud
2 services, and digital infrastructure.

3 More generally, it means that Florida would cede the economic backbone of
4 the 21st century to competitor states, fail to attract a rapidly expanding
5 industry that provides substantial tax revenue (while placing negligible
6 burdens on public services), and capture less funding for public schools,
7 investment in public infrastructure, and other necessary public services than
8 otherwise would have been the case.

9 **Q. WHY IS ELECTRICITY COST A PRIMARY DRIVER IN DATA**
10 **CENTER SITE SELECTION?**

11 A. Electricity represents about 60% of any data center's total non-labor operating
12 costs. For a large hyperscale data center development, that translates into
13 hundreds of millions of dollars annually. According to CBRE, major data
14 center markets in competitor states such as Georgia, North Carolina, and
15 Virginia offer total effective rates of 5.5 to 7.5 cents/kWh, Market Profiles,
16 CBRE, [https://www.cbre.com/insights/local-response/north-america-data-](https://www.cbre.com/insights/local-response/north-america-data-center-trends-h2-2024-market-profiles)
17 [center-trends-h2-2024-market-profiles](https://www.cbre.com/insights/local-response/north-america-data-center-trends-h2-2024-market-profiles). FPL's proposed LLCS rate of over 10
18 cents/kWh places Florida at a major cost disadvantage. A difference of 2.5
19 cents/kWh in the utility rate means a cost increase of \$394.2 million per year
20 to operate 3,000 MW of typical data center development – resulting in a
21 disadvantage of locating in Florida of almost \$7.9 billion over 20 years
22 [\$394.2 million per year = 3,000MW * 1,000kWh per MW * 24 hours of
23 operation per day * 365 days of operation per year * 60% data center
24 utilization operation factor * \$0.025/kWh difference in price.]

1 **Q. WHAT QUESTIONS SHOULD THE COMMISSION ASK AS IT**
2 **REVIEWS FPL'S PROPOSAL?**

3 A. When reviewing FPL's rate proposal, the Commission should consider the
4 following:

- 5 ▪ What is the opportunity cost of rejecting 3,000 MW of data center
6 development? That is, what benefits will Florida miss out on if the
7 3,000 MW of data center development that could have happened in
8 Florida instead happens in Texas, Georgia, South Carolina,
9 Louisiana, Mississippi, or Alabama?
- 10 ▪ How many school districts, counties, local taxpayers, and general
11 ratepayers stand to benefit from an expanded property tax base?
- 12 ▪ How are utility providers in neighboring states structuring their rates
13 to support this industry?
- 14 ▪ Will this rate enable data center development, or discourage it at the
15 very time that Florida is most likely to be able to attract it?

16 **Q. WHAT IS YOUR RECOMMENDATION TO THE COMMISSION?**

17 A. The Commission should set a rate for data centers that is competitive with
18 surrounding states.

19 The 3,000 MW currently in view is not a limit—it is an inflection point. What
20 follows depends on the signal this Commission sends. Either Florida shares
21 in the development of this trillion-dollar industry —or lets it go elsewhere.

22 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

23 A. Yes. Thank you.

1 BY MR. KEVIN COX:

2 Q Dr. Mangum, did you also prepare Exhibit FM-1
3 attached to your prefiled direct testimony, which is
4 your CV?

5 A I did.

6 MR. KEVIN COX: And, Mr. Chairman, I will note
7 for the record that Exhibit FM-1 is identified as
8 No. 231 on the Comprehensive Exhibit List.

9 CHAIRMAN LA ROSA: Okay.

10 BY MR. KEVIN COX:

11 Q Dr. Mangum, do you have any changes or
12 corrections to Exhibit FM-1?

13 A I do not.

14 Q Dr. Mangum, will you briefly summarize your
15 testimony for the Commissioners?

16 A Certainly.

17 Good afternoon, Mr. Chairman and
18 Commissioners. The purpose of my testimony is to
19 demonstrate the economic and fiscal benefits to the
20 state of Florida generally, and St. Lucie County
21 specifically, from data center development, and
22 conversely, the opportunity costs associated with
23 conditions such as increasing electricity rates for data
24 centers beyond those of other data center markets that
25 would inhibit or preclude data center development in

1 Florida and St. Lucie County.

2 To accomplish this task, I and my team
3 performed an economic and fiscal impact assessment on a
4 hypothetical one gigawatt data center campus that would
5 be located in St. Lucie County. The assumptions that
6 undergirded that assessment in terms of investment,
7 operating employment, server refresh rates and other key
8 inputs to the analysis were taken from our firm's
9 experience in Florida and multiple other states.

10 These assumptions were then inputted into the
11 IMPLAN model, the most commonly used economic software
12 model in the U.S., to drive estimates of the economic
13 impact. Fiscal impacts estimates were construction were
14 also produced using the IMPLAN model, while physical
15 impact assessments for ongoing operations were
16 determined through our own analysis, and based on
17 Florida and St. Lucie's current tax regime for the data
18 center industry.

19 What that analysis showed was that the
20 potential economic and fiscal impact from data center
21 development would be substantial, and conversely, that
22 the economic and fiscal opportunity costs associated
23 with impeding data center development could also be
24 substantial.

25 In particular, a one gigawatt hyperscale

1 campus in St. Lucie County, comprised of 10 data centers
2 totaling 3.4 million square feet, would derive or
3 involve a 13.5 billion in total private capital
4 investment, and, of course -- and over the course of
5 development, 1.2 billion per year in sustained economic
6 output, 370 long-term direct jobs in St. Lucie County,
7 and a total of 3,370 supported jobs across the state of
8 Florida, 20 million per year in new state gross receipts
9 tax, 114 million annually in St. Lucie County tax
10 revenue after full build out, and 63 million per year in
11 dedicated property tax revenue for St. Lucie public
12 schools.

13 **Q Does that conclude your summary, Dr. Mangum?**

14 A It does.

15 **Q Thank you.**

16 MR. KEVIN COX: Mr. Chair, FEIA tenders Dr.
17 Mangum for cross-examination.

18 CHAIRMAN LA ROSA: Thank you.

19 OPC?

20 MR. PONCE: Thank you.

21 EXAMINATION

22 BY MR. PONCE:

23 **Q Good afternoon, Doctor.**

24 A Good afternoon.

25 **Q Just a few background questions first.**

1 **Your firm works with data centers, right?**

2 A It does.

3 **Q Doesn't about a third of your firm's work go**
4 **towards data centers?**

5 A I am sorry, could you repeat the question?

6 **Q Yes.**

7 **Doesn't about a third of your firm's work go**
8 **towards data centers?**

9 A Approximately.

10 **Q You have testified in front of other PSCs,**
11 **right?**

12 A I have testified before utility commissions,
13 siting commissions and other state commissions, yes.

14 **Q But you have never testified for an Office of**
15 **Public Counsel, like the one that I work for?**

16 A I have not.

17 **Q Or on behalf of any consumer groups?**

18 A I have not.

19 **Q And this is your first time testifying in**
20 **front of the Florida PSC?**

21 A It is.

22 **Q You have testified on behalf of the data**
23 **center coalition before, right?**

24 A That is correct.

25 **Q Who are they?**

1 A Data center coalition is a coalition of major
2 data center companies, both enterprise companies and
3 co-location firms based in Washington, DC.

4 Q You are not aware that they have intervened in
5 this case, right?

6 A I am not aware.

7 Q Other than Mr. Provine, you haven't had any
8 direct contact with any FEIA members, right?

9 A No, I have not.

10 Q I guess turning to your testimony.

11 Your testimony relies on an economic impact
12 assessment that demonstrates the potential of benefits
13 of data center growth in Florida, right?

14 A Correct.

15 Q And part of what informed your -- the model
16 that you used to develop this was your experience in
17 Florida?

18 A Partially, yes.

19 Q In Florida, isn't it true that there are no
20 data centers currently exceeding 25 megawatts load?

21 A I do not know the answer to that question.

22 Q Okay. In your involvement in data center
23 projects in Florida, were any of those projects 25
24 megawatts or higher?

25 A In our involvement -- the data center projects

1 that we have worked on specifically in the state of
2 Florida are covered by a nondisclosure agreement.

3 **Q And it would violate that agreement just to**
4 **reveal, in general, if you have ever worked on a**
5 **25-megawatt or higher project in Florida?**

6 A I do not really know the answer to that
7 question. Generically, I suppose not. I think the
8 projects -- we have worked on two or three projects
9 currently in Florida. Those that are at initial of
10 development, and I believe those projects were above
11 25 megawatts.

12 **Q And you mentioned that they were in the**
13 **initial stages of development. Have any of the projects**
14 **you have worked on in Florida gone through all the way**
15 **to completion and operation?**

16 A Not to my knowledge.

17 **Q And your model is proprietary, right?**

18 A There are two models that we use for the
19 economic impact assessment. The first model is a
20 proprietary model based on our own research. We used
21 that basically to fill in gaps in terms of data that
22 would be provided by a client. It is based on our
23 research, our familiarity with the industry. What that
24 model does is allow us to estimate certain metrics, like
25 capital investment per megawatt, the labor ratio per

1 megawatt, refresh rates, the operating costs for
2 operating costs per megawatt, which allows us to fill in
3 gaps in terms of data that might not be available from
4 clients to estimate the economic impact of proposed data
5 center projects.

6 The second model we use is the IMPLAN model
7 which again, is one of the most commonly used economic
8 simulation models in the United States. The outputs
9 from that first model are inputs into the IMPLAN's
10 analysis. And those outputs, or assumptions, are
11 clearly stated very transparently in our reports.

12 **Q When it comes to your first model, because it**
13 **is proprietary, understandably, that means that the**
14 **Commission could not look under its hood to replicate**
15 **its results?**

16 A They would not be able to look under the hood
17 in terms of the Excel spreadsheets that we use for that,
18 evaluate our model's method or the research that was
19 done to come up with those estimates.

20 On the other hand, the outputs from that model
21 are, again, very transparently stated in our reports,
22 and those outputs could be compared to analyses that
23 have been done by competitors. Those outputs have been
24 used in the state of Virginia, the state of Maryland,
25 Georgia, Illinois, Arizona on -- as part of that

1 analysis that was used in those states by government
2 agencies, government authorities for decision-making
3 purposes. So they have been evaluated and vetted in
4 terms of the outputs that it produces.

5 **Q Well, you just mentioned validation. That**
6 **doesn't mean validation, like, in the form of a formal**
7 **audit, right?**

8 A No, not a formal audit. But again, looking at
9 the outputs from that assessment or from -- in terms of
10 the inputs that are used in the analysis, and comparing
11 those against a reality test.

12 **Q And that's validation based on clients**
13 **reviewing your work?**

14 A Clients reviewing our work, associations
15 reviewing our work. Again, it was used for
16 decision-making purposes in multiple states, so
17 presumably those assessments were viewed by government
18 entities with legislative and executive branch within
19 those states.

20 **Q But when it comes to resources that data**
21 **centers need, your model assumes those resources would**
22 **come from somewhere, right?**

23 A The IMPLAN model is an input/output model, so,
24 yes, it does assume that those resources will come from
25 somewhere.

1 **Q It's fair to say that the growth of data**
2 **centers has been exponential, right?**

3 A Through the inception of the industry, the
4 growth of data centers has been exponential.

5 **Q As a result, haven't searching areas ended up**
6 **with capacity restraints?**

7 A There are no linear curves out in nature, so
8 eventually, yes, they end up with capacity constraints.

9 **Q And in that event, this becomes a concern for**
10 **the locality the data center is located in, right?**

11 A In that event, if there are resource
12 constraints, typically the locality deals with that by
13 putting in place regulations or other stipulations that
14 would limit the growth of data centers.

15 **Q An example of those -- of that type of**
16 **limitation -- well, let me ask -- let me rephrase and**
17 **ask you this: Were you aware of HB6 which recently**
18 **passed in Texas?**

19 A I am aware of it in the context that you
20 brought it up during the deposition, but outside of
21 that, no.

22 **Q So sorry, outside of that, you don't have any**
23 **context or awareness for it?**

24 A No.

25 **Q You estimate that the economic impact of a**

1 **3,000-megawatt data center includes 1,110 long-term**
2 **jobs?**

3 A That was a linear extrapolation from our
4 estimate for a 1,000-megawatt data center. If that's
5 what you have, I will go with your math for the moment.
6 I believe those numbers were referenced in the
7 testimony.

8 **Q Isn't it true that once in operation, data**
9 **centers directly employ few people?**

10 A They directly employ few people, but data
11 centers are somewhat unique, in that they have a very
12 high employment multiplier. What that means is that
13 data centers are somewhat unique in the fact that they
14 use a lot of contract labor in terms of HVAC
15 maintenance, security, a whole host of other things,
16 much more so than other industries. So they have a very
17 large indirect job multiplier.

18 **Q You just mentioned the multiplier. That is**
19 **the assumption that is made by the IMPLAN model, right?**

20 A That is an assumption made by the IMPLAN
21 model, but it is also informed by our experience with
22 the industry and data that we have in that regard.

23 **Q It's fair to say that much of the potential**
24 **data center investment is driven by improvements in AI**
25 **specific infrastructure?**

1 A In recent years, much of the growth in the
2 industry has been driven by AI, yes.

3 **Q Are you aware of speculation in the financial**
4 **press that the AI industry is in a speculative bubble?**

5 A No, I am not. Although, I would posit, again,
6 that the past is always the best predictor of the
7 future, and that industry has, since its inception,
8 since its beginning, seen exponential growth in terms of
9 capacity.

10 My understanding is the self-driving car
11 requires one terabyte of data a day. We are moving to
12 autonomous vehicles, not only in cars, but in airplanes,
13 you will have a autonomous taxi, air taxi. Warfare is
14 moving to autonomous vehicles. So if it's not AI, it
15 will be something else.

16 **Q Let me try asking like this, then. If we**
17 **could go to page 11, line eight of your testimony? This**
18 **is C, as in Charlie, 36-4349.**

19 A I am sorry, the line number again?

20 **Q Line eight.**

21 A Yes.

22 **Q You mention here that AI technology and**
23 **analysts liken the phenomenon to a gold rush?**

24 A Yes.

25 **Q You mentioned history is the best predictor**

1 of the future. Eventually the gold rush ends, right?

2 A I am not sure that that's analogous in this
3 situation.

4 Q Fair enough.

5 It's the Commission's job to set rates that
6 are fair, just and reasonable, right?

7 A I would assume so. Yes.

8 Q If the Commission sets rates that are fair,
9 just and reasonable, but those rates are not attractive
10 to the data center industry, hasn't the Commission still
11 done its job?

12 A I am sure that the Commission's decision in
13 that basis are on -- responsive to multiple criteria.

14 Q Give me one moment, please.

15 Thank you very much, Doctor. Nothing further.

16 CHAIRMAN LA ROSA: FEL?

17 MR. LUEBKEMANN: Thank you, Mr. Chair.

18 EXAMINATION

19 BY MR. LUEBKEMANN:

20 Q Good afternoon, Dr. Mangum.

21 A Good afternoon.

22 Q Just a couple of questions for you.

23 In your conversation with Mr. Ponce, you were
24 discussing the economic report that you did?

25 A Yes.

1 **Q** And I believe you mentioned that you have
2 worked on reports that are in development -- or for
3 projects that are in development or that are
4 anticipated?

5 **A** In St. Lucie County, I suppose is your
6 question. And the answer would be yes.

7 **Q** I am sorry, let me -- I guess let me pull back
8 from that.

9 You have done a series of these economic
10 analysis reports for different possible data centers in
11 different geographies, right?

12 **A** We have done, at this point, data center
13 analyses across 18 states, in Mexico, I think the total
14 megawatt capacity for those projects at this point is 45
15 gigawatts.

16 **Q** And all of those reports have been
17 forward-looking?

18 **A** All of those reports have been
19 forward-looking.

20 **Q** And I think we spoke about this a couple
21 months ago, but you, at the time, reported that you have
22 never done a retroactive analysis to look back at a
23 study and see how it compared to what resulted once a
24 facility was finally built?

25 **A** We have not done an ex post analysis, no.

1 **Q And that remains true?**

2 A And that remains true.

3 **Q The 370 long-term jobs at that are supported**
4 **by a 1,000-megawatt data center campus in your study,**
5 **that is extrapolating from 37 long-term jobs per 100**
6 **megawatts?**

7 A That is correct.

8 **Q And that's an input that you have put into the**
9 **IMPLAN model?**

10 A That is based -- that employment number is
11 based on our experience within the industry. The IMPLAN
12 model will produce that, use the baseline output per
13 worker, but particularly in the data industry, data
14 centers are -- the North American Industry Code that's
15 used for data centers would underlie most of these data
16 based by the Bureau of Labor and Statistics and the
17 Bureau of Economic Analysis for data centers includes
18 other industries. So quite often, we have to tighten up
19 based on our -- or tighten those assumptions up based on
20 other data from other sources.

21 Did that answer your question?

22 **Q Yeah, I think so.**

23 **But again, you have never looked back once a**
24 **project had completed and seen, or tried to evaluate**
25 **what the actual economic impact had been, or the actual**

1 **number of long-term jobs were supported by that**
2 **facility?**

3 A Well, again, those direct jobs would come from
4 our own experience with actual data center developments.
5 So I think that that is the validation that you are
6 looking for.

7 In terms of that economic multiplier, yes,
8 that is basically out of the IMPLAN model. And again,
9 it's based on Bureau of Economic Analysis data that
10 looks at output per worker. It evaluates the
11 expenditures that the data center would make in terms of
12 operating expenditures, and then applies that output per
13 worker to those total expenditures to come up with an
14 employment number. And that employment number would be
15 the second wave, or the indirect and induced jobs that
16 would be supported.

17 So it's based very concretely on Bureau of
18 Economic analysis data. So it's not a projection. It
19 really is an estimate based on historical data.

20 **Q But you have never gone back to do a rearward**
21 **looking study that tries to assign how much -- what the**
22 **real impact of a new data center has been in a**
23 **community?**

24 A No, we have not.

25 **Q That's all my questions. Thank you.**

1 **CHAIRMAN LA ROSA: FAIR?**

2 MR. SCHEF WRIGHT: No questions. Thank you,
3 Mr. Chairman.

4 CHAIRMAN LA ROSA: Great. Thank you.
5 Walmart?

6 MS. EATON: No questions.

7 CHAIRMAN LA ROSA: FRF?

8 MR. BREW: No thank you.

9 CHAIRMAN LA ROSA: FIPUG?

10 MR. MOYLE: No questions.

11 CHAIRMAN LA ROSA: FPL?

12 MR. BURNETT: No questions.

13 CHAIRMAN LA ROSA: Staff?

14 MR. STILLER: No questions.

15 CHAIRMAN LA ROSA: Commissioners, are there
16 any questions?

17 Seeing none, back to FEIA for redirect.

18 MR. KEVIN COX: We have no redirect.

19 CHAIRMAN LA ROSA: Okay.

20 MR. KEVIN COX: We do have the one exhibit,
21 CEL 231, that we would ask to be entered into the
22 record, and that the witness be excused.

23 CHAIRMAN LA ROSA: All right. If there is no
24 objections, so moved.

25 (Whereupon, Exhibit No. 231 was received into

1 evidence.)

2 CHAIRMAN LA ROSA: You may be excused. Thank
3 you very much for your testimony.

4 THE WITNESS: Thank you, sir.

5 (Witness excused.)

6 CHAIRMAN LA ROSA: Okay. Let me -- that is
7 our list for -- of witnesses for today, but I do
8 want to consult with my staff real quickly, maybe
9 let's take a five-minute break, then we will come
10 back. Thanks.

11 (Brief recess.)

12 CHAIRMAN LA ROSA: All right. If we can go
13 ahead and please have our seats, take our seats,
14 and just kind of do some housekeeping in
15 preparation for the coming days, and just kind of
16 where we are at for today.

17 So as far as convenience of the witnesses, I
18 think we are done with questioning today. I
19 apologize, Mr. Coyne. I know you are ready to go.
20 We are going to hold you off to tomorrow, if that's
21 okay. I know you are disappointed. And then, of
22 course, we have got a list of other scheduled
23 witnesses for tomorrow. I think we will certainly
24 have a full day tomorrow. I think we can hopefully
25 get through tomorrow with Phase I. If we have to

1 stay a little bit late tomorrow to do so, we will.
2 Ideally that would leave us Wednesday, Thursday,
3 Friday for Phase II.

4 So for Phase II, what I want to do is, for
5 opening statements, that will stay as originally,
6 you know, initiated when we started. FPL has
7 reserved all 20 minutes, OPC, FEL, FAIR, five
8 minutes -- I am just kind of rounding up from where
9 we were -- FIPUG, 10 minutes, then the other
10 parties I believe were all still five minutes, if I
11 am not mistaken. I will verify that with my staff
12 if that's incorrect, but I believe it is.

13 For the witnesses. I will like to panel the
14 witnesses in this direction. FPL's direct panel,
15 Oliver, Coyne, Bores and Cohen. OPC/FEL/FAIR's
16 direct panel is Schultz, Wilson, Rábago, Marcelin
17 and Smith. And then rebuttal back to Oliver,
18 Coyne, Bores and Cohen.

19 Question?

20 MR. SCHEF WRIGHT: Just so I am clear. You
21 want a panel of all three of ours OPC's, FEL's and
22 Ms. Smith as a panel?

23 CHAIRMAN LA ROSA: Yes.

24 MR. SCHEF WRIGHT: Yes, sir. You are the
25 Chairman. Thank you.

1 MS. CHRISTENSEN: Commissioner, Chair, OPC
2 strenuously objects to taking, especially FPL's
3 witnesses as a panel, and particularly our
4 witnesses and presenting them in that way. We had
5 not intended, nor have we prepared to do these
6 witnesses as a panel, nor was it ever discussed
7 that there was a possibility that these witnesses
8 could be presented as a panel. They cover
9 desperate subjects.

10 Generally speaking, when a panel has been used
11 in the past, they tend to cover similar subjects.
12 I mean, these -- you know, you have Mr. Bores does
13 the overall subject matter, Mr. Coyne only
14 addresses ROE, Mr. Oliver addresses the plant, and
15 Cohen, Ms. Cohen addresses tariffs. I mean, this
16 is just patently unfair to do this to us on day six
17 of this hearing.

18 CHAIRMAN LA ROSA: Anybody else? Then I am
19 going to address that.

20 FEL.

21 MR. MARSHALL: We would also want to make sure
22 that we would have the ability to switch out
23 attorneys for different topics --

24 CHAIRMAN LA ROSA: Or course.

25 MR. MARSHALL: -- because we would have --

1 CHAIRMAN LA ROSA: Of course.

2 MR. MARSHALL: Thank you.

3 CHAIRMAN LA ROSA: Sure.

4 MR. BURNETT: Mr. Chairman, FPL supports that
5 idea certainly for efficiencies, and I mean, as to
6 the fairness issue, it seems like you have got
7 witnesses sitting here, you could, say, ask
8 questions for one witness, and if they say that's a
9 better question, let's say, for example, for
10 Mr. Bores, well, he is right there. We don't have
11 to go through that lag. So it makes perfect sense
12 for FPL. And I struggle where the prejudice is if
13 you are prepared for all these witnesses now, it
14 shouldn't be a struggle.

15 CHAIRMAN LA ROSA: Any other party? Okay.
16 So -- I am sorry, FRF.

17 MR. BREW: Mr. Chair, my only concern with the
18 panel is that if I direct a question to one witness
19 for what's in his testimony, I really don't want to
20 see the question get passed up and down the line.

21 CHAIRMAN LA ROSA: So my anticipation is this,
22 is when you ask a question, you ask a question of
23 the witness. That witness, of course, would be
24 there at the stand. And what I -- what I
25 witnessed, and I this I many of us here today, is

1 that there is a lot of passing of this is better
2 for this witness to answer. If all of the
3 witnesses are there in a panel, I think it's much
4 harder for them to point to each other. And if
5 they do, that witness is right there to answer the
6 question.

7 As far as substituting counsel, perfectly
8 fine. It makes perfect sense from an organized
9 operational perspective. The reason I am talking
10 about this, Monday, is to hopefully give you the
11 opportunity and give you the time to ultimately
12 prepare to do so.

13 We have utilized this on other settlements, I
14 understand, what we chose for Phase I, the last few
15 settlements that we have heard as a commission we
16 have done, we have utilized the panel. I believe
17 it's been very efficient, and I don't see why we
18 couldn't ultimately utilize and do that today.

19 MS. CHRISTENSEN: Commissioner, just may I be
20 heard briefly?

21 I think in the past, when the panel has been
22 utilized, they are uncontested settlements. This
23 is a highly contested settlement. I mean,
24 obviously we have had six days of testimony just on
25 the as-filed case. There will be contested

1 questions on the settlement phase of this. So I
2 think it's not exactly equivalent to an uncontested
3 settlement.

4 And while we appreciate that the witnesses
5 have passed questions, I think that could be
6 addressed by the order of witnesses more so than
7 necessarily having a panel. And again, we note our
8 objection for the record, and doing it at this late
9 date in the proceeding are proceeding.

10 CHAIRMAN LA ROSA: FAIR?

11 MR. SCHEF WRIGHT: Thank you, Mr. Chairman.
12 Two quick things.

13 I want to echo my colleague, Mr. Brew's
14 concern about being able to ask a witness a
15 question about his or her testimony and getting
16 that witness to answer, rather than, I think that's
17 a better question for so and so.

18 If the witness -- if the witness' testimony
19 addresses the subject about which I would ask, I
20 expect that witness to answer. If he or she then
21 says I think you might get more information from so
22 and so, that's okay. But I think I am entitled to
23 ask a question as to that witness' testimony and
24 get the answer. That's -- and I think that's what
25 Mr. Brew was trying to say as well.

1 CHAIRMAN LA ROSA: And I don't disagree with
2 you, and I believe that is fair.

3 MR. SCHEF WRIGHT: And separately, this is
4 strictly procedural. I didn't hear you say, but
5 you also intend to have a panel for FPL's rebuttal
6 witnesses?

7 CHAIRMAN LA ROSA: Yes. Correct.

8 MR. SCHEF WRIGHT: Thank you.

9 MR. BREW: I mostly agree with Mr. Wright. My
10 only concern is that if you ask a witness a
11 question, you know, what you said on page 17, and
12 then somebody else who is not testifying on that
13 same thing decides to chime in.

14 CHAIRMAN LA ROSA: I will provide specific
15 instructions to the witnesses that when a question
16 is directed to them, that they are the only witness
17 to respond.

18 MR. BREW: Thank you very much.

19 CHAIRMAN LA ROSA: Excellent. Okay. Seeing
20 no further business before us today, I am going to
21 go ahead and call today's meeting to rest and pick
22 up tomorrow morning with the list of witnesses.
23 9:00 a.m. tomorrow, and again, just be prepared to
24 stay late if we need to. I have a good feeling
25 that maybe we don't have to, just looking at the

1 schedule, but just be prepared.

2 Yes, Jon, FIPUG?

3 MR. MOYLE: Yeah, I think we have worked this
4 out amongst counsel and staff that we are doing
5 cost of service in the morning, FIPUG's witness,
6 Mr. Pollock has some restrictions. He is here in
7 town, but needs to be back out of town by noon, so
8 I think everybody has agreed he will go first in
9 the morning.

10 CHAIRMAN LA ROSA: Sure, if that's what's
11 agreed to, that's fine.

12 MR. MOYLE: Okay.

13 CHAIRMAN LA ROSA: Excellent. Great. Thank
14 you. See you guys tomorrow.

15 (Transcript continues in sequence in Volume
16 16.)

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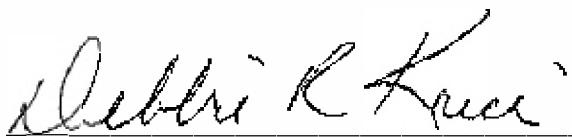
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