

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Florida Power & Light Company for Base Rate Increase

DOCKET NO. 20210015-EI

DATED: MAY 4, 2021

**MOTION TO INTERVENE OF
FLORIDIANS AGAINST INCREASED RATES, INC.**

Floridians Against Increased Rates, Inc. (“FAIR”), pursuant to Chapters 120 and 366, Florida Statutes,¹ and Rules 28-106.204 and 28-106.205, Florida Administrative Code (“F.A.C.”), hereby moves for leave to intervene in the above-styled docket. FAIR is a Florida not for profit corporation organized to advocate on behalf of Florida consumers for lower electric rates in Florida. FAIR’s membership is growing; at present, the substantial majority of FAIR’s members are retail customers of Florida Power & Light Company (“FPL”), the petitioner (“Petitioner”) in this docket (the “FPL 2021 Rate Case Docket”).

FAIR respectfully moves to intervene in this FPL 2021 Rate Case Docket to protect its members’ interests in having the Commission determine the fair, just, and reasonable rates to be charged by FPL, and in having the Commission take such other action to protect the interests of FAIR’s members, and of all customers served by FPL, as the Commission may deem appropriate. The interests of FAIR’s members who are FPL customers will be directly affected by the Commission’s decisions in this case, and accordingly, FAIR is entitled to intervene to protect its members’ substantial interests. In further support of its Motion to Intervene, FAIR states as follows.

¹ All references herein to the Florida Statutes are to the 2020 edition thereof.

1. The name, address, and telephone number of FAIR is as follows:

Floridians Against Increased Rates, Inc.
301 Pine Street, Suite 1400
Orlando, Florida 32801.

Floridians Against Increased Rates, Inc. is a Florida not for profit corporation whose members are retail customers of Florida investor-owned utilities, including FPL. A substantial number of FAIR's members are retail electric customers of FPL.

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

Robert Scheffel Wright
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Tallahassee, Florida 32308
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3. The agency affected by this Motion to Intervene is the Florida Public Service Commission ("Commission"). The Commission's address is:

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

4. The Petitioner and affected utility in this docket is Florida Power & Light Company.

5. Statement of Affected Interests. In this FPL Rate Case Docket, the Commission will consider FPL's request to increase the rates to be paid by FPL's customers, including FAIR's members who are FPL customers. Specifically, in the

“Petition by Florida Power & Light Company for Base Rate Increase and Rate Unification” (the “Petition”), FPL is seeking approval of a “four-year rate plan” that includes multiple proposed rate increases from 2022 to 2025 consisting of: (i) an increase in rates and charges sufficient to generate additional total annual revenues of \$1.108 billion to be effective January 1, 2022; (ii) a subsequent year increase of \$607 million to be effective January 1, 2023; (iii) a Solar Base Rate Adjustment mechanism that authorizes FPL to recover costs associated with the installation and operation of up to an aggregate of 1,788 megawatts (“MW”) of allegedly cost-effective solar generation in 2024 and 2025; (iv) a mechanism to address the possibility that changes to corporate tax laws might be enacted under the new presidential administration; (v) the approval of a reserve surplus amortization mechanism (“RSAM”); (vi) the continuation of the storm cost recovery mechanism approved as part of FPL’s 2016 rate settlement; and (vii) the authority to accelerate amortization of unprotected excess accumulated deferred income taxes resulting from the 2017 Tax Cuts and Jobs Act. FPL is also seeking approval of a transition rider and credit as a mechanism to unify the rates of Gulf Power’s former customers with the remainder of FPL’s customers. (The foregoing requests for rate increases, accounting mechanisms and treatment, and rate transition for former Gulf Power customers are collectively referred to herein as “FPL’s Requested Relief”.) As the representative of its members who are retail customers of FPL, the substantial interests of FAIR and its members will be affected by any action that the Commission takes in this FPL 2021 Rate Case Docket.

6. FAIR's substantial interests are of sufficient immediacy to entitle FAIR to participate in the proceeding and are the type of interests that the proceeding is designed to protect. To participate as a party in this proceeding, an intervenor must demonstrate that its substantial interests will be affected by the proceeding. Specifically, the intervenor must demonstrate that it will suffer a sufficiently immediate injury in fact that is of the type the proceeding is designed to protect. Ameristeel Corp. v. Clark, 691 So. 2d 473 (Fla. 1997); Agrico Chemical Co. v. Dep't of Environmental Regulation, 406 So. 2d 478 (Fla. 2d DCA 1981), rev. denied, 415 So. 2d 1359 (Fla. 1982). Here, FAIR is the representative of its members who are retail electric customers FPL, and these members' substantial interests will be directly affected by the Commission's decisions regarding FPL's Requested Relief. Stated bluntly, Commission approval of any rate increase will adversely affect FAIR's members who are FPL customers. Thus, the interests that FAIR seeks to protect are of sufficient immediacy to warrant intervention, and the nature of its members' interests in having the Commission set rates for FPL that are fair, just, and reasonable is exactly the type of interest that this proceeding is designed to protect. FAIR simply and properly seeks to protect its members' substantial interests as they will be affected by the Commission's decisions in this FPL 2021 Rate Case Docket.

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

- a. that a substantial number of its members, although not necessarily a majority, are substantially affected by the agency's decisions;

- b. that the intervention by the association is within the association's general scope of interest and activity; and
- c. that the relief requested is of a type appropriate for an association to obtain on behalf of its members.

Florida Home Builders Ass'n v. Dep't of Labor and Employment Security, 412 So. 2d 351, 353-54 (Fla. 1982). FAIR satisfies all of these "associational standing" requirements. A substantial number of FAIR's members receive their electric service from FPL, for which they are charged the applicable retail rates. FAIR's corporate purpose, as stated in its Articles of Incorporation is:

to advance the welfare of the State of Florida, residential, business, institutional, and governmental customers served by investor-owned electric utilities whose rates are set by the Florida Public Service Commission, and of all Florida citizens, businesses, institutional and governmental entities generally, by advocating for and providing analyses to the general public concerning State of Florida governmental policies and regulatory or administrative actions that will lead to retail electric rates that are as low as possible while ensuring safe and reliable electric service. Similarly, such purposes include advancing the welfare of the State of Florida, residential, business, institutional and governmental customers served by investor-owned electric utilities, and of all Florida citizens, businesses, institutional and governmental entities generally by opposing and advocating against, and providing analyses to the general public concerning State of Florida governmental policies and regulatory administrative actions that the corporation determines will adversely impact the economy of the State of Florida, the customers of investor-owned electric utilities and Florida's citizens, businesses, institutional and governmental entities generally, because such policies and actions are likely to result in electric rates being greater than necessary to ensure the provision of safe and reliable electric service.

Finally, the relief requested -- intervention and approval of the lowest rates consistent with the Commission's governing law -- is across-the-board relief that will apply to all of

FAIR's members in the same way, according to FPL's applicable tariffs; therefore, the requested relief is of the type that is appropriate for an association to obtain on behalf of its members.

8. Disputed Issues of Material Fact. Disputed issues of material fact include, but are not limited to, the following:

- a. Whether the increased base rates for which FPL seeks cost recovery are fair, just, and reasonable;
- b. Whether the FPL's proposed rate base amounts upon which its rate increased requests are based are reasonable and prudent;
- c. Whether FPL's proposed operating and maintenance expenses are reasonable and prudent;
- d. Whether the proposed return on equity and capital structure (equity ratio) of FPL are fair, just, and reasonable; and
- e. Whether FPL's Requested Relief will result in rates that are fair, just, and reasonable.

FAIR reserves all rights to raise additional issues in this FPL 2021 Rate Case Docket in accordance with the Commission's applicable rules and the Order Establishing Procedure to be issued in this docket.

9. Statement of Ultimate Facts Alleged – FAIR's Standing. A substantial number of FAIR's members are FPL customers, and their substantial interests are subject to determination in and will be directly affected by the Commission's decisions in this

FPL 2021 Rate Case Docket. Accordingly, as the representative association of its members who are FPL customers, FAIR is entitled to intervene in this proceeding.

10. Statement of Ultimate Facts Alleged – Substantive. It is FPL’s burden to prove that the FPL’s Requested Relief (including the base rate increases, ROE, and equity ratio) must be fair, just, and reasonable. FAIR does not believe that FPL has met or can meet the requisite burden to justify FPL’s Requested Relief.

11. Statutes and Rules That Entitle FAIR to Relief. The applicable statutes and rules that entitle FAIR to relief include, but are not limited to, Sections 120.57(1), 366.04(1), 366.05(1), 366.06(1), 366.07, and 366.93, Florida Statutes, and Rules 28-106.204 and 28-106.205, Florida Administrative Code. Sections 120.57, Florida Statutes, and Rules 28-106.204 and 28-106.205, F.A.C., provide that persons whose substantial interests are subject to determination in, or may be affected through, an agency proceeding are entitled to intervene in such proceeding. A substantial number of FAIR’s members are retail customers of FPL, and accordingly, their substantial interests are subject to determination in and will be affected by the Commission’s decisions in this FPL 2021 Rate Case Docket. Accordingly, as the representative association of its members who are customers of FPL, FAIR is entitled to intervene herein. The above-cited sections of Chapter 366 relate to the Commission’s jurisdiction over utility rates and the Commission’s statutory mandate to ensure that the rates of public utilities, such as FPL, are fair, just, and reasonable. The facts alleged here by FAIR demonstrate (a) that the Commission’s decisions herein will have a significant impact on FAIR’s rates and charges, (b) that a substantial number of FAIR’s members will be directly impacted by

the Commission's decisions in this FPL 2021 Rate Case Docket, and (c) accordingly, that these statutes provide the basis for the relief requested by FAIR in this Motion to Intervene.

12. Statement of Conferral. Pursuant to Rules 28-106.204(3) and 28-106.205(2)(e), F.A.C., counsel for FAIR conferred with the other parties in this case regarding this Motion to Intervene. FAIR can represent that the Florida Retail Federation, Southern Alliance for Clean Energy, Daniel and Alexandria Larson, and the Federal Executive Agencies do not oppose FAIR's motion to intervene. The League of United Latin American Citizens of Florida, the Environmental Confederation of Southwest Florida, Inc., Florida Rising, Inc., the Office of Public Counsel, and the Florida Industrial Power Users Group take no position on FAIR's motion. Florida Power & Light Company takes no position pending review of the petition.

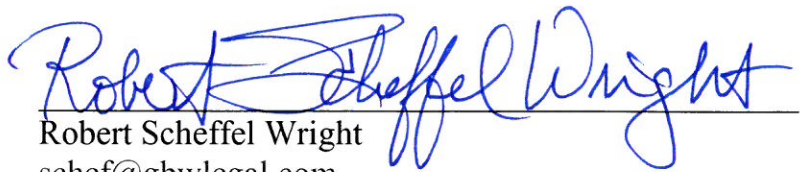
CONCLUSION AND RELIEF REQUESTED

13. Floridians Against Increased Rates, Inc., seeks to intervene in this FPL 2021 Rate Case Docket to protect its members' substantial interests in having the Commission set rates for FPL that are fair, just, and reasonable. The interests of FAIR's members that FAIR seeks to protect via its intervention and participation in this case are immediate and of the type to be protected by the Commission through this proceeding.

RELIEF REQUESTED

WHEREFORE, Floridians Against Increased Rates, Inc. respectfully requests the Florida Public Service Commission to enter its order GRANTING this Motion to Intervene and requiring that all parties to this proceeding serve copies of all pleadings, notices, and other documents on FAIR's representatives indicated in paragraph 2 above.

Respectfully submitted this 4th day of May, 2021.



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Attorneys for Floridians Against Increased Rates, Inc.

CERTIFICATE OF SERVICE

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

by electronic mail on this 4th day of May, 2021, to the following:

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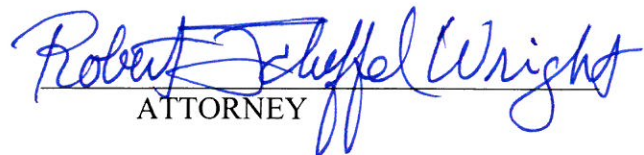
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