

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

STATE OF FLORIDA



EXECUTIVE DIRECTOR  
BRAULIO L. BAEZ  
(850) 413-6463

# Public Service Commission

January 18, 2022

Representative Anna Eskamani  
1402 Capitol  
402 South Monroe Street  
Tallahassee, FL 32399

Representative Carlos Guillermo Smith  
1402 Capitol  
402 South Monroe Street  
Tallahassee, FL 32399

Representative Angela "Angie" Nixon  
1301 Capitol  
402 South Monroe Street  
Tallahassee, FL 32399

Representative Travaris L. "Tray" McCurdy  
1302 Capitol  
402 South Monroe Street  
Tallahassee, FL 32399

Dear Representatives Eskamani, Smith, Nixon, and McCurdy:

Thank you for your letter to Chairman Andrew Giles Fay, dated January 10, 2022. The Chairman has asked me to lend further clarity to the Public Service Commission's (PSC or Commission) process as it relates to various concerns you have expressed regarding the Commission's consideration of Florida Power & Light's (FPL) most recent rate case. In his initial response to you and your colleagues, dated January 6, 2022, Chairman Fay emphasized the seriousness with which the Commission undertakes its work on behalf of the ratepayers and the public interest. I would agree, and hereby reiterate all the assurances he offered to you and your colleagues.

Your most recent letter poses many questions focused on alleged political activity undertaken by FPL in recent years. In addition, your letter either directly or indirectly poses additional questions regarding the PSC's rate case process, specifically the manner and scope of the PSC's review of utility records in the context of a rate case. It is these latter questions that I will focus on, in the hopes that once our review process is better clarified, it will better explain why the answers to the former are not to be found within the PSC's process, or its jurisdiction.

Simply put, the PSC is charged with ensuring that the rates charged to customers by a utility are fair, just, and reasonable, and that those rates are set at levels sufficient to recover only the prudently incurred costs to provide service. Every cost or expense for which a utility seeks recovery must first be deemed prudent by the Commission. The notion of prudence is closely associated to the question of whether an expense is related to the provision of service. If an expense cannot be proven to be related to the provision of service, it cannot be deemed prudent for recovery through rates charged to customers. There are many examples of costs which the Commission has found to have insufficient or no relation to the provision of service. A common example are costs for advertising intended only to burnish the image or reputation of a utility. Another example are costs for lobbying and other political activities. These types of costs are borne by a utility's shareholders. The question of how utilities use shareholder funds is not within the PSC's jurisdiction.

In order to ensure that utilities' rates are not based upon prohibited costs, the PSC's audit staff will review the records and books of a utility during the pendency of a rate case. The purpose of an audit is to determine that financial information presented by a utility is in compliance with PSC rules, prior orders of the Commission, and policies. Procedures for audits of this nature are designed to provide reasonable assurance to the Commission that a utility's financial information is accurate and representative of operations expected to occur during the first year that new rates are in effect. The accounting rules which the utilities are required to follow are promulgated by the Federal Energy Regulatory Commission and the PSC. These rules require that charitable, social and community donations, and expenditures for certain civic, political, and related activities be recorded in accounts that are not included in the expenses which are recovered from ratepayers.

Your letter dated January 10, 2022 included reference to payments to politically active trade associations for which FPL sought recovery through rates. These industry association dues were included in their filings, along with supporting documentation in response to specific staff inquiries, and are specifically listed in Schedule C-15, which is a publicly available document. The amounts sought by the utility are net of amounts for lobbying and related political activity, in compliance with the PSC's long-standing prohibition against their inclusion for recovery through rates. Our review of these amounts, supporting documents and applicable adjustments found no exceptions, ultimately concluding that rates are not based upon costs for such prohibited purposes.

Your letter further referenced by name certain entities that engaged in political activity on behalf of FPL. Notably, these specific entities do not appear on Schedule C-15; this further supports the conclusion that rates, as approved by the Commission, recover only prudently incurred costs and are not based upon costs for prohibited purposes.

A brief word on the PSC's use of sampling in our review process is also in order. The use of sampling is common in all disciplines that deal with large volumes of data subject to time constraints – whether it be accounting, political polling, or even health-related studies—and the PSC's use of sampling in its review is no different. Our use of sampling is done in accordance with relevant auditing principles, and is aimed at detecting anomalies in spending which can lead to the need for further investigation. Within the limits of the Commission's review of FPL's

Representative Anna Eskamani

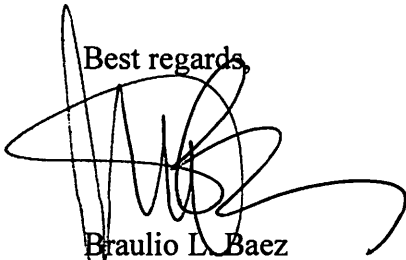
Page 3

January 18, 2022

books and records in the utility's most recent rate case, and the PSC's jurisdiction, we found no such anomalies which warranted further investigation. I would reiterate that the PSC does not have jurisdiction to review how a utility uses shareholder funds.

I hope I have helped to allay your concerns, at least insofar as the PSC's assurances that no ratepayer funds, as approved by the Commission, are being used improperly.

Best regards,

A handwritten signature in black ink, appearing to read 'B. Baez', with a large, sweeping flourish extending to the right.

Braulio L. Baez  
Executive Director

BLB/klh

cc: Chairman Andrew Giles Fay  
Commissioner Art Graham  
Commissioner Gary F. Clark  
Commissioner Mike La Rosa  
Commissioner Gabriella Passidomo  
Keith Hetrick, General Counsel