

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 20250011-EI
ORDER NO. PSC-2025-0345-PCO-EI
ISSUED: September 12, 2025

ORDER DISMISSING CUSTOMER MAJORITY PARTIES' JOINT
MOTION TO APPROVE STIPULATION AND SETTLEMENT
AGREEMENT, DENYING MOTION FOR SCHEDULING
ORDER AS MOOT, AND ESTABLISHING MAJOR ELEMENTS

Case Background

This proceeding was set for final hearing on August 11-22, 2025, by Order No. PSC-2025-0075-PCO-EI, issued March 14, 2025. On August 8, 2025, Florida Power & Light Company (FPL) filed a Notice of Settlement in Principle and Joint Motion to Suspend Schedule and Amend Procedural Order. The Florida Industrial Power Users Group, Florida Retail Federation, Florida Energy for Innovation Association, Walmart Inc., EVgo Services, Americans for Affordable Clean Energy, Circle K, RaceTrac, Wawa, Electrify America, Federal Executive Agencies, Armstrong World Industries, and the Southern Alliance for Clean Energy (collectively FPL Signatories) joined in the Joint Motion to Suspend. On August 11, 2025, the Office of Public Counsel (OPC), Florida Rising, League of United Latin American Citizens Florida, Environmental Confederation of Southwest Florida, and Floridians Against Increased Rates (collectively FPL Non-Signatories) filed a Joint Response in Opposition to the Joint Motion to Suspend. After hearing argument from the parties, the Commission voted to grant the Joint Motion and suspend the schedule in order to allow the parties time to finalize the settlement. On August 12, 2025, Order No. PSC-2025-0304-PCO-EI memorializing this vote was issued in the docket.

On August 20, 2025, FPL and the FPL Signatories filed a Joint Motion for Approval of 2025 Stipulation and Settlement Agreement. The FPL Non-Signatories did not sign or otherwise join in the 2025 Stipulation and Settlement Agreement (2025 SSA). Because the 2025 SSA is not unanimous, further proceedings under Section 120.57(1), Florida Statutes, are necessary to address the disputed issues of material fact. Accordingly, on August 22, 2025, the undersigned Prehearing Officer issued a First Order Revising Order Establishing Procedure,¹ and therein set this matter for a two-week hearing to commence October 6, 2025.

1. Joint Motion to Approve Stipulation and Settlement Agreement

On August 26, 2025, the FPL Non-Signatories filed a Joint Motion to Approve Stipulation and Settlement Agreement (Settlement Motion), along with an attached Stipulation and Settlement Agreement (Alternate SSA) signed by the FPL Non-Signatories. The Alternate SSA is not signed by any other Intervenor or FPL. The Alternate SSA "is submitted as a counter

¹ Order No. PSC-2025-0323-PCO-EI.

proposal,” proposes terms that materially differ from those in the 2025 SSA on issues such as return on equity, and includes terms not found in the 2025 SSA (*e.g.*, Alternate SSA ¶¶ 29 & 30). Settlement Motion at 4. The FPL Non-Signatories assert that the Alternate SSA “more closely represents the facts in the record and the controlling legal authority, [and] produce[s] rates that are nondiscriminatory, fair, just, and reasonable for the general body of ratepayers.” *Id.* As the ultimate prayer for relief on the Alternate SSA, the FPL Non-Signatories request that the Commission “approv[e] the Majority Settlement Agreement and direct[] that FPL file tariffs implementing it.” *Id.* at 23.

On August 29, 2025, FPL filed its Response in Opposition to the Settlement Motion. FPL contends that because it initiated this request for rate relief under Chapter 366, F.S., and invoked the jurisdiction of the Commission over public utilities, the utility itself is an indispensable party to any agreement to settle this docket. FPL also notes the procedural problems that may arise if there are multiple settlements in complex litigation involving numerous parties, and the potential issues of enforcement of the settlement terms in the future.

2. Motion for Scheduling Order

On September 3, 2025, the FPL Non-Signatories filed a Motion for Scheduling Order (Scheduling Motion). The Scheduling Motion seeks to add the dates set forth in **bold** below for purposes of allowing the FPL Non-Signatories to file testimony in support of the Alternate SSA (09/10), the FPL Signatories to file testimony in opposition, and the FPL Non-Signatories to file rebuttal to the FPL Signatories’ opposition testimony (10/01).

Testimony and exhibits (<i>FPL & Signatories</i>)	September 3, 2025
Testimony and exhibits (Non-Signatories)	September 10, 2025
Testimony and exhibits (<i>Non-Signatories</i>)	September 17, 2025
Testimony and exhibits (Signatories)	September 24, 2025
Provision of Exhibits	September 29, 2025
Rebuttal testimony (<i>FPL & Signatories</i>)	October 1, 2025
Rebuttal Testimony (Non-Signatories)	October 1, 2025
Discovery actions completed	October 3, 2025

Final Hearing

October 6-10, 2025

October 13-17, 2025

Post-Hearing Briefs

November 7, 2025

On September 9, 2025, FPL filed its Response in Opposition to the Scheduling Motion.² In this Response, FPL argues that the Scheduling Motion “is incorrectly premised on the legally indefensible and unsustainable claim that Movants can unilaterally resolve the above-captioned petition for a general base rate by settling with themselves and without the petitioner, FPL.” Response at 1. FPL notes that even in the absence of the Alternate SSA, the FPL Non-Signatories:

...already have the full opportunity to include their stipulated positions as part of the non-signatory testimony and exhibits that are due to be filed on September 17, 2025, under the First Revised OEP. Likewise, the Movants will have the opportunity to cross-examine witnesses at the hearing, as well as brief their respective positions, stipulated or otherwise, on whether the FPL Settlement Agreement is in the public interest and should be approved.

Response at 11.

3. Major Elements

The Florida Supreme Court has directed that “while the Commission need not “resolve every issue independently in its final order when it is reviewing a settlement agreement, it must nonetheless discuss[] the major elements of the settlement agreement and explain[] why it [is] in the public interest.”³ Accordingly, Commission staff noticed an informal meeting of the parties for August 28, 2025, the purposes of which were to identify major elements of the 2025 SSA and to discuss prehearing and hearing procedure. Commission staff distributed to the parties prior to that informal meeting a list of the twenty-nine proposed major elements it had identified in the 2025 SSA. These major elements are as follows:

1. Term: 1/1/26-12/31/29, unless extended per RSM
2. Cost of Capital: ROE 10.95; Capital Structure 59.6% equity ratio
3. 2026 Base Rate Adjustment \$945M
4. 2027 Base Rate Adjustment \$705M
5. Revenue Requirement Allocation
6. Commercial/Industrial Load Control and Demand Reduction Credits
7. Large Load Contract Service
8. CIAC Tariff

² FPL styled its Response “Florida Power & Light Company’s Response in Opposition to the Joint Motion of OPC, FEL, and FAIR Requesting Additional Rounds of Testimony.”

³ *Floridians Against Increased Rates, Inc. v. Clark*, 371 So. 3d 905, 912 (Fla. 2023) (internal quotations and citations omitted) (hereinafter “FAIR”).

9. Electric Vehicle Charging Programs
10. Cost Allocation Methodology for Cost Recovery Clause Factors
11. Storm Cost Recovery Mechanism
12. SoBRA Base Rate Adjustments 2027, 2028, 2029
13. Federal or State Tax Law Changes
14. Capital Recovery Schedules
15. Depreciation and Dismantlement
16. Sale of Excess ITCs and PTCs
17. Rate Stabilization Mechanism
18. Asset Optimization Program
19. Long Duration Battery Storage Pilot
20. Land for Solar Facilities and Sale of Property Held for Future Use
21. Vandolah
22. Natural Gas Hedging
23. Disconnection Policy
24. Payment Assistance Contribution
25. Support Proposal for Large Customer Opt-out of ECCR
29. Minimum Bill (Exhibits B and C)⁴

No party expressed any objection to these twenty-nine elements at the Prehearing Conference conducted September 5, 2025. While OPC expressed no objection to the above list of twenty-nine elements, it requested that the following eight elements be added to the list:

1. Standalone TAM issue
2. Incentive Compensation
3. Stochastic Loss of Load Probability Analysis
4. Prudence of 2025-2027 Battery Storage Additions
5. Bill Impacts Among the Petition and Proposed Stipulation and Settlement Agreements
6. Validity of the Proposed Stipulation and Settlement Agreements
7. Who the Parties Represent
 - a. What interest do you represent?
 - b. Number of customers?
 - c. Revenue Requirement burden of who you represent?
 - d. Which customer classes do you represent?
8. Forecasting

The remaining FPL Non-Signatories orally joined this request. As to proposed elements one through four and eight, OPC argues that these matters have been the subject of substantial discovery and are major elements in the 2025 SSA. As to proposed elements five through seven, OPC asserts that these are considerations for the Commission in determining whether the 2025 SSA is in the public interest and results in rates that are fair, just, and reasonable.

⁴ This list may be found on page 2 of Document No. 09065-2025 in this Docket.

FPL presented its argument in opposition to all eight additional elements proposed by OPC. FPL asserts that proposed elements one through four are subsumed in the twenty-nine major elements that have been previously identified. FPL argues that proposed element five is a fall-out or ultimate issue, and that proposed elements seven and eight are arguments, and not major elements, and may be presented by the FPL Non-Signatories in their post-hearing briefs. Finally, as to proposed issue six, FPL argues that the validity of the Alternate SSA will be decided on the FPL Non-Signatories Motion and FPL's Response, and the legal validity of non-unanimous agreements such as the 2025 SSA was previously affirmed by the Florida Supreme Court.

The FPL Non-Signatories offered additional elements that either fall under or are subsumed by one of the twenty-nine major elements and, thus, will be subject to cross-examination at the hearing. The others are entirely new or purely legal issues. I will address each proposed element below, but will state generally that if a proposed element falls under one of the twenty-nine major elements it is appropriate to address with testimony and evidence. For the purely legal or new issues, the parties are not precluded from addressing those in their post-hearing briefs.

Discussion and Decision

1. Settlement Motion

All parties readily acknowledge that the Florida Public Service Commission has never before considered a settlement agreement filed in a rate case that does not include as a party the utility that has requested the rate increase. The FPL Non-Signatories assert that this historical absence leaves the door open for the Commission to consider the Alternate Settlement because “[n]o Court has ruled that the public interest standard requires the utility to be a party to a non-unanimous rate case settlement agreement.” Settlement Motion at 4, n. 5. At the Prehearing Conference conducted September 8, 2025, the FPL Non-Signatories further argued that because entities other than a public utility can file a request with the Commission to establish rates for that utility, the utility is not an indispensable party to a settlement agreement in a rate case. Neither argument is persuasive.

In limited circumstances, another entity or the Commission may seek to institute rate proceedings.⁵ Where the Commission proceeds on its own motion, the Commission Clerk's Office opens a new docket to address the specific issues raised.⁶ Likewise, the Clerk's Office opens a new docket, as in this instance, where a utility files a rate request. The purpose of either docket is for the Commission to address the petition or request that caused the docket to be opened, and for the Commission to grant, deny, or grant with modifications the requested relief. Other parties may intervene to support or oppose the request, but the subject of the proceeding remains the requested relief. The process allows the parties that are supporting or opposing the

⁵ Section 366.06(2), F.S., which governs the procedures for fixing and charging rates, provides that the Commission may determine just and reasonable rates “upon request made *or its own motion*”

⁶ See Order No. 8610, issued December 21, 1978, in Docket No. 780793-EU, *In re: Show Cause Order to Electric Utilities Concerning Peak Load Pricing for General Service Customers*.

request to offer testimony and evidence on their positions, subject to rebuttal of the petitioning utility. Moreover, a full evidentiary hearing is held where the parties can participate and meaningfully vet the request.

Short of a full hearing on disputed factual and legal issues, the parties to an administrative proceeding may enter into a settlement.⁷ In its most basic terms, a “settlement” is “[a]n agreement ending a dispute or lawsuit.”⁸ By extension, a settlement of a proceeding must be an agreement that ends that proceeding. As evidenced by the record activity in this docket, an agreement among parties that does not include the party that commenced the proceeding with a request for affirmative relief will not end that proceeding. Such a settlement, as the Alternate SSA in this proceeding, constitutes a new and different request for affirmative relief, which is not agreed to by the party who has requested relief. Therefore, by definition, such a proposal is not a settlement.

Additionally, a docket before the Florida Public Service Commission is opened to address an affirmative claim for relief. Any settlement of a docket – a “proceeding,” under Chapter 120, F.S. – must dispose of the original claim for relief. The party who made this original claim is an indispensable party to any settlement of that claim.⁹ In this docket, FPL is an indispensable party to any settlement. For this additional reason, the document submitted by the FPL Non-Signatories is not a settlement.

While not properly presented to the Commission as a settlement agreement, the Alternate SSA functions essentially as a position paper. Nothing precludes intervenors from presenting a stipulation for the Commission's consideration. In fact, FPL has expressed its general agreement with the FPL Non-Signatories including their stipulated positions as part of the testimony and exhibits currently due to be filed on September 17, 2025. *See* Response in Opposition to Scheduling Motion at 11.

Based on the above, the Joint Motion for Approval of Stipulation and Settlement Agreement filed by the Non-Signatories is dismissed. This dismissal is without prejudice to the FPL Non-Signatories submitting the terms contained in the Alternate SSA as a proposed stipulation, joint position statement, or similar document for Commission consideration, rather than as a motion seeking affirmative relief. The FPL Non-Signatories may present support for those positions as part of the testimony and exhibits currently due to be filed on September 17, 2025.

⁷ *See* Section 120.57(4), F.S. (“Unless precluded by law, informal disposition may be made of any proceeding by stipulation, agreed settlement, or consent order.”).

⁸ *Black’s Law Dictionary*, (12th ed. 2024), online version last visited 09/10/25.

⁹ FPL correctly asserts that non-signatories are not bound by the terms of settlement agreements. *See* Response in Opposition to the Joint Motion of OPC, FEL, and FAIR Requesting Additional Rounds of Testimony at 6, n. 10. However, utilities are bound by the terms of this Commission’s orders, including orders approving settlement agreements.

2. Scheduling Motion

Because I have dismissed the Settlement Motion, the Scheduling Motion is moot and is denied as such. The schedule set forth in First Order Revising Order Establishing Procedure shall continue to govern the key dates in this proceeding. As noted above, the FPL Non-Signatories may refile the Alternate Settlement as a proposed stipulation or statement of position, and may submit testimony in support of its terms as part of their prefiled testimony on September 17, 2025. FPL may file rebuttal testimony on October 1, 2025. No further prefiled responsive or rebuttal testimony will be accepted.

3. Major Elements

No party expressed objection to the original twenty-nine major elements proposed by staff. I find that these elements are appropriate for Commission consideration in this proceeding. The only remaining question is whether to include the eight additional elements proposed by OPC.

Several of the eight additional elements proposed by OPC fall squarely within one or more major elements. Proposed element one (Standalone TAM) by OPC's own admission is subsumed in major element seventeen (Rate Stabilization Mechanism). All arguments regarding the TAM can be made under element seventeen. Proposed elements two (Incentive Compensation) and four (Prudence of 2025-2027 Battery Storage Additions) are subsumed in major elements three (2026 Base Rate Adjustment \$945M) and four (2027 Base Rate Adjustment \$705M). Because proposed elements one, two, and four are subsumed in other issues, they will not be added to the list of major elements.

Based on my review of the parties' positions as set forth in the Prehearing Order, it appears that proposed element three (Stochastic Loss of Load Probability Analysis) has been the subject of significant attention in this docket. However, the analysis does not lend itself to treatment in isolation as a major element. The analysis was used to support certain resource additions in the as-filed case, and may remain relevant to certain major elements, including three (2026 Base Rate Adjustment \$945M), four (2027 Base Rate Adjustment \$705M), and twelve (SoBRA Base Rate Adjustments 2027, 2028, 2029). Making the analysis its own major element could lead to confusion regarding whether it is interwoven with other issues for Commission determination, or an independent matter to be considered on its own. Accordingly, proposed element three will not be added to the list as a separate major element, and the parties may address the analysis under any major element(s) to which it is relevant.

Proposed element five (Bill Impacts Among the Petition and Proposed Stipulation and Settlement Agreements) is not an element, but a calculation or fall-out issue from the positions taken by a party with respect to all of the other issues. Accordingly, proposed element five will not be added to the list as a separate major element.

Proposed element six is actually a purely legal issue regarding the validity of the (1) 2025 SSA and (2) Alternate SSA. This Order addresses the legal validity of the Alternate SSA. The

Florida Supreme Court has confirmed the legal validity of a non-unanimous settlement agreement, such as the 2025 SSA, that does not include OPC.¹⁰ Accordingly, proposed element six will not be added to the list as a separate major element. This purely legal issue may be addressed in the post-hearing briefs.

OPC's proposed element seven (Who the Parties Represent) is, in the most general sense, an unnecessary restatement of the requirement that the parties demonstrate standing. OPC's argument at the September 8, 2025 Prehearing Conference was that this information is also relevant to an ultimate determination to be made by the Commission regarding the nature of the parties that entered the 2025 SSA. OPC's assertion, joined by FEL and FAIR, is that the Commission needs to identify this issue because the Commission has made findings relating to the parties to settlement agreements in recent rate cases, such as the following made in the Supplemental Final Order in FPL's 2021 rate case:

Based on the host of compromises, the 2021 Settlement was signed by most of the parties to this docket. These parties represent a broad cross-section of ratepayers and interests. Those Intervenor who chose to not sign the 2021 Settlement Agreement were provided a full and fair opportunity to contest that proposed resolution consistent with the requirements of due process.¹¹

The statement about a "broad cross-section of ratepayers"¹² is nestled in a discussion of the public interest. The statement accurately characterized that record and the Commission's view of who signed the agreement and who did not. This statement and others like it do not create a new major element for consideration in every rate case, and certainly do not make a comparison of the specific number of customers represented by each party and the sum of those customers' contributions to the revenue requirement a criteria for determining the public interest. OPC's proposed element seven will not be added to the list as a major element.

OPC proposed element eight (Forecasting) is not a major element of the settlement agreement, and is not even mentioned in the agreement. Like the Stochastic Loss of Load Probability Analysis discussed above, forecasting is an analysis that may be relevant to one or more major elements, but is not itself a stand-alone major element. Accordingly, proposed element eight will not be added to the list as a separate major element.

Based on the foregoing, the twenty-nine major elements listed above shall govern the hearing and post-hearing events scheduled in this docket. The parties can address the subsumed or fall-out issues under the major elements as explained above. OPC's request to add eight major elements is denied, as set forth above.

¹⁰ *Citizens v. Florida Public Serv. Comm.*, 146 So. 3d 1143 (Fla. 2014).

¹¹ Order No. PSC-2024-0078-FOF-EI at p. 36.

¹² The same Order also references "a broad spectrum of ratepayers and interests." *Id.* at 31.

Therefore, it is

ORDERED by Chairman Mike La Rosa, as Prehearing Officer, that the Customer Majority Parties' Joint Motion to Approve Stipulation and Settlement Agreement is dismissed without prejudice to refile, as set forth in the body of this Order. It is further,

ORDERED that the Motion for Scheduling Order is denied as moot. It is further

ORDERED that the list of twenty-nine major elements is established, as set forth in the body of this Order. It is further

ORDERED that the request by the Office of Public Counsel to add eight new major elements is denied, as set forth in the body of this Order.

By ORDER of Chairman Mike La Rosa, as Prehearing Officer, this 12th day of September, 2025.



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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

SPS

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.