

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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

VOLUME 22
PAGES 4959 - 5144

PROCEEDINGS: HEARING

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

DATE: Wednesday, October 15, 2025

TIME: Commenced: 9:00 a.m.
Concluded: 6:50 p.m.

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

REPORTED BY: DEBRA R. KRICK
Court Reporter

APPEARANCES: (As heretofore noted.)

PREMIER REPORTING
TALLAHASSEE, FLORIDA
(850) 894-0828

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1

EXHIBITS

2

NUMBER:

ID

ADMITTED

3

1294-1298

As identified in the CEL

5138

4

1310-1317

As identified in the CEL

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5

1318-1321

As identified in the CEL

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As identified in the CEL

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

2 (Transcript follows in sequence from Volume
3 21.)

4 CHAIRMAN LA ROSA: All right. Let's do this,
5 let's move to the non-signatories' panel. So is it
6 fair, so I can give you a little bit of time to
7 obviously call your witness and we can start to
8 move them into order.

9 MS. HARPER: While they are getting settled,
10 Mr. Chair, just give us one minute to get settled
11 over here, please.

12 CHAIRMAN LA ROSA: Yeah.

13 MS. HARPER: One minute. Thank you.

14 CHAIRMAN LA ROSA: Yep.

15 MS. HARPER: We are good now. Thank you.

16 MR. MARSHALL: We have one witness who hasn't
17 been sworn.

18 CHAIRMAN LA ROSA: Okay. If I have not been
19 sworn in, do you mind standing and raising your
20 right hand?

21 (Whereupon, Chairman La Rosa administered the
22 oath to Zayne Smith.)

23 THE WITNESS: I do.

24 CHAIRMAN LA ROSA: Great. Thank you.

25 Bradley, you guys are recognized to introduce

1 your witness.

2 MS. WESSLING: Good morning -- wow, good
3 evening.

4 CHAIRMAN LA ROSA: We are all in the same
5 place.

6 MS. WESSLING: I don't know where I am and
7 what time it is.

8 All right. I think we decided that we will
9 start with OPC, and then sort of go down the line
10 with introducing our witnesses --

11 CHAIRMAN LA ROSA: That works fine. Yes.

12 MS. WESSLING: -- and do the summaries in that
13 order as well.

14 Whereupon,

15 HELMUTH W. SCHULTZ
16 MACKENZIE MARCELIN
 KARL R. RÁBAGO
 ZAYNE SMITH

17 were recalled as a witness, having been previously duly
18 sworn to speak the truth, the whole truth, and nothing
19 but the truth, were examined and testified as follows:

20 EXAMINATION

21 BY MS. WESSLING:

22 **Q Good evening, Mr. Schultz.**

23 A Good evening.

24 **Q All right. Could you please say your full**
25 **name and spell your last name?**

1 A My name is Helmuth W. Schultz, III.
2 S-C-H-U-L-T-Z.

3 Q All right. And I believe you were previously
4 sworn, so for the settlement portion of this case, did
5 you cause to be filed prefiled direct expert testimony
6 in this docket on September 19th of 2025?

7 A I did.

8 Q And do you have any corrections to that
9 prefiled testimony?

10 A I do not.

11 Q If I were to ask you the same questions today,
12 would your answers be the same?

13 A Yes, they would.

14 MS. WESSLING: Mr. Chair, I would ask that Mr.
15 Schultz's settlement testimony be entered into the
16 record as though read.

17 CHAIRMAN LA ROSA: So moved.

18 MS. WESSLING: Thank you.

19 (Whereupon, prefiled direct testimony of
20 Helmuth W. Schultz was inserted.)

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: September 19, 2025

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

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EXHIBITS

HWS-8	Revenue Requirement Comparison of FPL’s Original Request, the SIPP, OPC’s June 9, 2025, Recommendations, and the CMPP Counter Proposal for the Years 2026 and 2027
HWS-9	Revenue Requirement Comparison on an “All Other Things Being Equal” Basis of the Initial FPL Petition and the SIPP, with the Only Change Being ROE
HWS-10	OPC’s Adjustments as Recommended in the Direct Testimony Filed on June 9, 2025, with the Only Change Being the CMPP-proposed ROE of 10.6%
HWS-11	Customer Majority Parties’ Stipulation and Settlement Agreement Proposal ¹
HWS-12	Composite Discovery Responses

¹ Signature page of motion is corrected to account for technical or scrivener’s error; otherwise, there is no difference from the original filing.

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

I. STATEMENT OF QUALIFICATIONS

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

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

Q. PLEASE DESCRIBE THE FIRM LARKIN & ASSOCIATES, PLLC.

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

1 **Q. ARE YOU THE SAME HELMUTH SCHULTZ, III WHO FILED DIRECT**
2 **TESTIMONY IN THIS DOCKET ON JUNE 9, 2025?**

3 **A. Yes.**
4

5 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

6 **A.**I am providing a response to the August 20, 2025, Joint Motion for Approval of
7 Settlement Agreement between Florida Power & Light Company (“FPL”) and Florida
8 Industrial Power Users Group (“FIPUG”), Florida Retail Federation (“FRF”), Florida
9 Energy for Innovation Association, Inc., Walmart Inc., EVgo Services, LLC,
10 Americans for Affordable Clean Energy, Inc., Circle K Stores, Inc., RaceTrac Inc.,
11 Wawa, Inc., Electrify America, LLC, Federal Executive Agencies, Armstrong World
12 Industries, Inc., and Southern Alliance for Clean Energy (“SACE”). I will refer to the
13 signatories of this proposal as the “Special Interest Parties” or “SIPs,” and I will refer
14 to this document as the “SIPP.”
15

16 Additionally, I am providing an opinion on the August 26, 2025, Joint Motion to
17 Approve Customer Majority Parties’ Stipulation and Settlement Agreement proposal
18 (“CMPP”) on behalf of the Citizens of the State of Florida, by and through the Florida
19 Office of Public Counsel (“OPC”), Florida Rising, Inc., LULAC Florida, Inc., better
20 known as the League of United Latin American Citizens of Florida, Environmental
21 Confederation of Southwest Florida, Inc., and Floridians Against Increased Rates, Inc.
22 (“FAIR”), (collectively the “Customer Majority Parties” or “CMPs”). The CMPP was
23 only entered into and submitted because of, and in response to, the SIPP.

1 Additionally, I will provide a limited comparison of the two proposals with the filing
2 made by FPL on February 28, 2025.

3
4 **II. BACKGROUND**

5 **Q. WHAT IS YOUR UNDERSTANDING OF THE FILINGS BY THE VARIOUS**
6 **PARTIES IN DOCKET NO. 20250011-EI?**

7 **A.** The initial petition in Docket No. 20250011-EI filed by FPL contained a proposal for
8 setting rates based on two projected test years beginning on January 1, 2026, through
9 the last billing cycle of December 2027, consisting of, in part: (a) an increase in base
10 rates of \$1.545 billion beginning on January 1, 2026, and an additional increase of
11 \$927.354 million beginning on January 1, 2027; (b) an 11.9% mid-point return on
12 common equity (“ROE”) and an equity ratio of 50.07% (59.6% of all investor sources)
13 for 2026 and 50.12% (59.6% of all investor sources) for 2027, respectively, on a
14 regulatory-based capitalization; (c) a Solar and Battery Base Rate Adjustment
15 (“SoBRA”) mechanism for solar additions in 2028 and 2029; (d) a continuation of the
16 Storm Damage Reserve provision that included a requested increase of \$80 million to
17 the reserve from the current projected level; and (e) a Tax Adjustment Mechanism
18 (“TAM”).

19
20 On June 9, 2025, various intervenors submitted testimony in response to FPL’s petition.
21 The OPC response included testimony by seven expert witnesses, including myself.
22 The OPC findings showed a revenue sufficiency of \$620,492,000 in 2026 based on a
23 recommended ROE of 9.2%, thereby eliminating a need for revenue increase. The OPC

1 recommended that the Company's mechanism requests for a SoBRA, a TAM, and the
2 \$80 million increase to the Storm Damage Reserve be denied.

3

4 The filings were scheduled for hearing, and on August 8, the last business day before
5 the hearings were to begin, a motion was filed by FPL to suspend the hearings. This
6 was followed up by the joint motion by FPL and the SIPs to approve the SIPP.

7

8 **Q. WHAT WERE YOUR THOUGHTS ABOUT THIS LAST-MINUTE FILING?**

9 **A.** In my 45-plus years of experience in regulatory proceedings, I found it to be highly
10 unusual that a so-called settlement was entered into that excluded the majority of FPL's
11 customers, particularly the residential customers, and the entity entrusted by the
12 regulatory law in Florida, based on my lay understanding of it, to represent the
13 customers of FPL, namely the OPC.

14

15 **Q. DO YOU HAVE ANY OTHER OBSERVATIONS ABOUT THE SIPP AND ITS**
16 **SIGNATORIES BASED ON YOUR EXPERIENCE?**

17 **A.** Based on my experience and on my review of the SIPP, it is clear that, with respect to
18 the revenue requirement, there was little if any interest adverse to FPL involved in
19 designing the proposal. FPL witness Bores testified in his September 5, 2025,
20 deposition that FPL represented the residential customers at the negotiating table. This
21 claim was repeated in FPL's response to FEL's 16th Set of Interrogatories, No. 196.² In
22 addition, I note that in the 13 depositions of the corporate representatives of the SIPPs,

² See Exhibit HWS-12.

1 it was painfully obvious that they had little, if any, knowledge or interest in the proposal
2 terms that impact revenue requirements. Further, I noted that no one, except FPL, stated
3 that they represented residential customers. This is not my understanding of how
4 ratemaking is supposed to happen in Florida or anywhere else in the country.

5
6 **Q. WAS THE LAST-MINUTE FILING THE REASON THAT THE CUSTOMER**
7 **MAJORITY PARTIES' SUBSEQUENT FILING WAS MADE?**

8 **A.** It is my understanding that the Customer Majority Parties determined that, because the
9 majority of FPL's customers were not represented in the SIPP, they required protection
10 from the biased proposal and that a counter proposal was required.

11
12 **Q. WOULD YOU EXPLAIN YOUR UNDERSTANDING OF THE MORE**
13 **SIGNIFICANT ELEMENTS OF THE SIPP?**

14 **A.** While not all inclusive, the following are some of the SIPP elements:
15 a) FPL would be allowed to increase base rates by \$945,000,000, effective January 1,
16 2026, a reduction of \$599,780,000 from FPL's as-filed request of \$1,544,780,000.
17 Effective January 1, 2027, FPL would be allowed to increase base rates by
18 \$705,000,000, a reduction of \$222,354,000 from FPL's as-filed request of
19 \$927,354,000. These SIPP proposals were based on FPL's authorized regulatory
20 ROE increasing to 10.95% for all purposes, with an authorized ROE range of 9.95%
21 to 11.95%, while FPL's authorized regulatory capital structure would continue to
22 include a 59.6% (investor sources) equity ratio;

- 1 b) FPL would be allowed to build solar generation projects in 2027, 2028, and 2029,
2 and battery storage projects in 2028 and 2029, and recover their costs through a
3 SoBRA mechanism;
- 4 c) FPL would be authorized to implement its Long Duration Battery Storage Pilot that
5 would be limited to two long-duration battery storage systems, each capable of
6 dispatching up to 10 MW of power and storing a total of 100 megawatt-hours of
7 energy;
- 8 d) FPL would be permitted to implement what it characterizes as a non-cash
9 accounting Rate Stabilization Mechanism (“RSM”), purportedly to respond to
10 changes in its underlying revenues and expenses to avoid additional general base
11 rate increases and maintain its ROE within the authorized range during the four-
12 year rate period. The proposed RSM would include a TAM that would allow FPL
13 to access up to \$1.155 billion of deferred tax liabilities paid in by FPL’s customers.
14 FPL would be permitted to use the RSM flexibly at its discretion from 2026 through
15 2029;
- 16 e) FPL would recognize in base rates the customers’ share of the gains generated
17 through the Commission-approved (in 2021) Asset Optimization Program in the
18 month in which they are generated, and (as designated in the SIPP) 100% of any
19 annual gains in excess of \$150 million would go to customers and be recognized in
20 the Fuel Cost Recovery Clause;
- 21 f) The SIPP provides that the continuation of FPL’s Storm Cost Recovery mechanism
22 would be approved with an \$80 million increase from the current projected reserve
23 level of \$220 million to \$300 million;

- 1 g) Under the SIPP, if any new permanent change in federal or state tax law or tax
2 regulations become effective during the four-year term 2026 through 2029, FPL
3 would submit, within 60 days of the effective date of the change in law, a petition
4 to open a separate docket for the purpose and limited scope of addressing the base
5 revenue requirement impact of the new tax law. FPL would be authorized to adjust
6 base rates upon confirmation by the Commission that FPL appropriately calculated
7 the impacts associated with the tax changes;
- 8 h) FPL's proposal to sell excess Investment and Production Tax Credits to third parties
9 at a discount to mitigate the tax credit carryforward for 2026 and 2027 would be
10 approved. Selling the excess credits is proposed as providing a net benefit to
11 customers on a cumulative basis over 2026 and 2027 by offsetting the impact of
12 FPL's deferred tax asset balance; and
- 13 i) Also included was a provision that FPL would not be permitted to purchase any
14 new land used exclusively for solar during the Minimum Term, with the exception
15 of the property identified as the "Duda" property, and that FPL would also commit
16 to best commercial efforts to sell \$200 million of property reflected in Plant Held
17 for Future Use ("PHFU"). The sales of said property held for future use by FPL
18 would have to be at fair market value, with gains or losses treated in accordance
19 with Commission policy.

20
21 I should note that the SIPP calls for establishing specific rates based on a proposal with
22 the SIPs while excluding any involvement by the majority of customers. This part of

1 the proposal is totally contrary to the regulatory requirement for establishing rates that
2 are fair, just, and reasonable.

3

4 **Q. ARE THERE SOME ELEMENTS OF THE REVENUE REQUIREMENT,**
5 **OTHER THAN THE CHANGE IN ROE, THAT ARE DIFFERENT FROM**
6 **FPL'S INITIAL PETITION?**

7 **A.** Yes. Some of the differences include but are not limited to item b) above where FPL is
8 proposing a mechanism where the Company would be able to build solar generation
9 projects in 2027, 2028, and 2029, and battery storage projects in 2028 and 2029, and
10 recover their costs through SoBRA mechanisms. This is a change, as identified by
11 Company witness Bores on page 10, lines 13-15, of his settlement testimony, since the
12 initial filing requested base rate recovery for plant that would be built in 2026 and 2027
13 and a SoBRA mechanism for plant built in 2028 and 2029.

14

15 Item d) would permit FPL to implement what it characterizes as a non-cash accounting
16 RSM to allegedly respond to changes in its underlying revenues and expenses to avoid
17 additional general base rate increases and maintain its ROE within the authorized range
18 during the four-year rate period. This is a somewhat different mechanism from FPL's
19 initial request for a TAM only.

20

21 Item e) above is where FPL would recognize in base rates a different proportion of the
22 customers' sharing of the gains generated through the Commission-approved Asset
23 Optimization Program.

1 The changes, and the resulting excessive levels of rates and revenues, being made
2 without allowing for input by the majority of customers clearly provided the
3 opportunity for preferential treatment to the SIPs and bias against the majority. I note
4 this in passing because it is fairly evident on the face of it that there were special interest
5 benefits that the non-FPL SIPs received for themselves in exchange for FPL receiving
6 the excessive revenue requirement embodied in the SIPP.

7
8 **Q. WHAT WOULD THE PROPOSED CMPP PROVIDE FOR?**

9 **A.** The main points of the CMPP upon which I have focused (as well as how they compare
10 to the SIPP) are as follows:

- 11 • FPL would be authorized to increase base rates by \$867 million effective on the
12 first day of the first billing cycle of January 2026 and by \$403 million, effective
13 the first day of the first billing cycle of January 2027. The increases reflect a CMPP
14 that establishes a midpoint ROE of 10.60% with a range from 9.60% to 11.6%.
- 15 • Base rates and charges (and credits) established pursuant to the CMPP would be
16 frozen during the initial two-year term. FPL would not be allowed to circumvent
17 the base rate freeze by deferring costs incurred during the term of the CMPP and
18 recovering them later.
- 19 • During the period of January 1, 2027, through December 31, 2029, FPL would be
20 able to, for one time only, file for limited rate relief. Under this proposal, FPL
21 would have the option to extend the minimum term and increase base rates in 2028
22 and 2029 by adding resources with a demonstrated need. A consolidated
23 Generation Base Rate Adjustment (“GBRA”) could consist of, up to and including,

1 the solar and battery resources contained in its Initial Rate Case Filing for the years
2 2028 and 2029, the calendar year revenue requirement of which (including the
3 impacts of 2027 SoBRA additions) are estimated to be \$195 million in 2028, and
4 \$174 million in 2029 – calculated using a 10.6% midpoint ROE. This proposed
5 GBRA filing option could include the addition of the net revenue requirement
6 (including the net impact of any battery storage resources that are avoided),
7 associated with the Vandolah Generating Facility (at approximately 660 MW)
8 including the required, directly associated transmission facilities calculated on an
9 annual revenue requirement limit through December 31, 2029, using a 10.6%
10 midpoint ROE.

- 11 • The CMPP reflects adoption of the storm cost recovery mechanism proposed in
12 FPL’s Initial Rate Case Filing. The Storm Damage Reserve target would increase
13 to \$300 million.
- 14 • The CMPP proposes that the Commission could approve, within the umbrella of
15 the consolidated GBRA filing, the SoBRA provisions as filed with the
16 Commission and modified by the CMPP, with certain modifications in the public
17 interest. The CMPs’ proposal would add additional guardrails in the form of
18 including the 2027 batteries, which would be subject to review, as necessary, to
19 provide reliable generation capacity.
- 20 • The CMPP would include standard income tax change language not inconsistent
21 with the language included in the FPL 2021 settlement agreement even though the
22 Company did not propose a corporate income tax change provision in its Initial
23 Rate Case Filing.

- 1 • The CMPP contains language that would accept the depreciation and
2 dismantlement parameters, rates, and accruals supported in the Company's
3 testimony to be used by the company during its term.
- 4 • The CMPs would agree that FPL's decision to pursue the Long Duration Battery
5 Storage Pilot is prudent and would waive any right to challenge this Pilot, other
6 than the reasonableness of amounts actually expended, in any proceeding
7 addressing the recoverability of the Long Duration Battery Storage Pilot costs.
- 8 • Any land or land rights acquired by FPL during the term would need to be included
9 below-the-line for accounting purposes and could not be included in rate base until
10 a final prudence determination has been made in a future base rate proceeding.
11 Upon approval of this CMPP, FPL would be required to utilize best commercial
12 efforts to sell the long-held properties, which have been held but not placed into
13 service for an average of 22 years. All sales of property held for future use by FPL
14 would have to be at fair market value. Gains or losses would be treated in
15 accordance with Commission policy. This would be a critically important
16 condition since in the September 10, 2025, deposition of FPL witness Tim Oliver,
17 he stated that the long-held properties in Exhibit HWS-4 are not in the planned
18 divestiture contemplated by the SIPP. This is significant because if the parcel
19 would not be placed into service by the end of the SIPP, FPL would have charged
20 customers a return on at least two properties listed in Exhibit HWS-4 for over half
21 a century without them ever entering service for the benefit of FPL's customers.
- 22 • The CMPP would prevent FPL from using the TAM proposed in the SIPP.

1 I have attached the CMPP to my testimony as Exhibit HWS-11. I was made aware late
2 in the preparation of my testimony that the Commission issued Order No. PSC-2025-
3 0345-PCO-EI (“Order”) on September 12, 2025, “dismissing” the CMPP. I am
4 attaching the CMPP for the Commission’s consideration of this proposal in contrast to
5 the SIPP. This process was acknowledged by FPL in its August 29, 2025, response to
6 the CMP’s motion to approve the CMPP.³ I have been informed by OPC that they
7 intend to seek reconsideration of the Order. I should reinforce that I stand by my June
8 9, 2025, testimony, and it is my understanding that the OPC believes that this case
9 should be determined based on the merits of FPL’s petition and not on competing non-
10 unanimous proposals.

11
12 **Q. WHAT WAS YOUR PARTICIPATION IN DEVELOPING THE CMPS’**
13 **COUNTER PROPOSAL?**

14 **A.** I had absolutely no input or participation whatsoever in the development of the CMPS’
15 counter proposal. I only became aware of it after it was filed on August 26, 2025.

16
17 **Q. ARE YOU TESTIFYING IN SUPPORT OF THE CMPP?**

18 **A.** No. In this case, my expert opinion remains based on the revenue requirement
19 testimony and other opinions contained in the June 9, 2025, testimony. I do have an
20 opinion that the SIPP is not in the public interest as far as the revenue requirements and
21 level of rates for all customers. I do not express an opinion about issues of rate design,
22 revenue allocation, or individual rate class impacts. My opinion regarding the CMPP

³ Document No. 08523-2025, Docket No. 20250011-EI, p. 10, *In re: Petition for rate increase by Florida Power & Light Company*.

1 is expressed in more detail below, but in summary, I can state that my expert opinion
2 based on my review of it compared to the original filing and the SIPP is that it is far
3 superior to either of those proposals and is closer to being in the public interest and
4 yielding rates that are fair, just and reasonable.

5
6 **Q. DID YOU NOTICE ANY SPECIAL QUALIFICATION OR CONDITIONS**
7 **ASSOCIATED WITH THE CMPP THAT YOU FEEL THE NEED TO**
8 **ADDRESS OR COMMENT UPON AS A PRELIMINARY MATTER?**

9 **A.** Yes. I thought it was worth noting that the CMPs' motion to approve the CMPP and
10 the CMPP itself contained the following statements:

11 Accordingly, the CMPs state that this stipulation and settlement
12 agreement is offered in compromise of the positions of the Customer
13 Majority Party signatories have taken in this docket. No position taken
14 in this agreement by any Customer Majority Party shall be considered a
15 waiver of any party's right to challenge FPL's Petition in a hearing and
16 on appeal regarding disputed facts and law in this docket pursuant to
17 Chapter 120 and Chapter 366, Florida Statutes and the Florida and
18 United States Constitutions. The Customer Majority Parties are filing
19 this in response to the Special Interest Parties' settlement agreement
20 filed on August 20, 2025.

21 (CMPP Motion at footnote 5.)

22
23 WHEREAS, as this Majority Settlement Agreement is offered in
24 compromise of the positions the Customer Majority Party signatories
25 have taken in this docket, and no position taken in this Majority
26 Settlement Agreement by any Customer Majority Party shall be
27 considered a waiver of any Customer Majority Party's right to challenge
28 FPL's Petition in a hearing and in any appeal regarding disputed issues
29 of fact and law in this docket pursuant to Chapters 120 and 366, Florida
30 Statutes and the Florida and United States Constitutions. The Customer
31 Majority Parties are filing this in response to the Special Interest Parties'
32 settlement agreement filed on August 20, 2025;

33
34 (CMPP at page 3.)

1 As I read these provisions, they do not indicate to me that the CMPs consider the CMPP
2 to be superior to the case that they have presented on the Company's initial filing. It
3 appears that the CMPs are making clear that the CMPP is filed only in response to the
4 SIPP.

5
6 **III. ORGANIZATION OF TESTIMONY**

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

8 **A.** In Section IV, I present a high-level assessment of the CMPP with a high-level
9 comparison to the various proposals in the filing and the recommendation by OPC in
10 its direct testimony responding to the initial request by FPL. In Section V, I provide my
11 observations and concerns related to aspects of various areas within the proposed SIPP
12 that in my opinion, are not in the best interests of customers, need further clarification
13 and/or may be misleading. In Section VI, I present a high-level assessment and my
14 opinion of the counter proposal in the CMPP.

15
16 **Q. WHAT EXHIBITS ARE YOU PROVIDING AS PART OF YOUR ANALYSIS**
17 **OF THE SIPP AND THE CMPP?**

18 **A.** There are five exhibits presented in my testimony.

- 19 • Exhibit HWS-8 is the revenue requirement comparison that shows the original
20 request as filed by FPL, the SIPP, the June 9, 2025, OPC recommendations, and
21 the CMPs' counter proposal for the years 2026 and 2027, respectively.
- 22 • Exhibit HWS-9 calculated the required revenues on an "all other things being
23 equal" basis on the initial FPL petition and the SIPP where I only changed the ROE.

- 1 • Exhibit HWS-10 is the OPC's filed schedule with all the adjustments as
- 2 recommended in the direct testimony filed on June 9, 2025, except the ROE was
- 3 changed to the CMPP-proposed ROE of 10.6%.
- 4 • Exhibit HWS-11 is the CMPP, which I have attached for reference and for the
- 5 Commission's consideration.
- 6 • Exhibit HWS-12 is a composite exhibit of select SIP discovery responses.
- 7

8 **IV. OVERALL FINANCIAL SUMMARY COMPARISON**

9 **Q. HOW DO THE FPL PROPOSAL (OR SIPP) AND THE CMPS' COUNTER**

10 **PROPOSAL COMPARE TO THE DECEMBER 31, 2026, AND DECEMBER 31,**

11 **2027, BASE RATE REVENUE REQUIREMENTS FOR FPL?**

12 **A.** On Exhibit HWS-8, I have reflected that FPL requested a revenue increase of

13 \$1,544,780,000 in 2026 and the OPC recommended a sufficiency of \$620,492,000,

14 which represents a very significant difference of \$2,165,272,000, as shown on line 11.

15 In column A, I reflect that as part of its proposed settlement with the SIPs, FPL appears

16 to reduce its request by \$599,780,000 to \$945,000,000. In column C, I show that as

17 part of its CMPP, the OPC agreed to move from a revenue sufficiency of \$620,492,000

18 to a revenue deficiency of \$867,000,000, a significant compromise of \$1,487,492,000.

19 The magnitude of these two changes in position are not even close. Take the ROE

20 component of this move as an example. The level of concession and compromise by

21 the OPC and CMPs is even more significant when one considers the 2024 average of

22 recently awarded ROEs around the country of 9.73%. The OPC/CMPs moved 140-

23 basis point from a recommended 9.2% ROE (53-basis points below the national

1 average) to a 10.6% ROE proposal that is 87-basis points above that average. In
2 contrast, the 95-basis point downward adjustment in the FPL profit number from an
3 absurd 11.9%, which was filed at 217 basis points above the national average, to the
4 only slightly less absurd 10.95% suggested by FPL and the other SIPs, which is still
5 122 basis points above the recent average. This is what I would call a “sleeves out of
6 the vest” move. An ROE award within those 95 basis points would not be achievable
7 in any of the lower 48 states. The OPC/CMPs move to 10.6% is still an overly generous
8 87-basis points above the average, in my opinion.

9

10 Similarly, FPL’s request for 2027 was reduced \$222,354,000, from \$927,354,000 to
11 \$705,000,000. The change of \$222,354,000 by FPL is approximately one half as much
12 as the OPC’s movement that went from essentially zero in 2027 to an increase of
13 \$403,000,000.

14

15 **Q. WHY DO YOU FOCUS ON THE SIGNIFICANT DIFFERENCES BETWEEN**
16 **FPL AND THE OPC IN EVALUATING THE INITIAL REQUESTS, OPC’S**
17 **DIRECT POSITION, AND THE RESPECTIVE PROPOSALS?**

18 **A.** The filing by FPL and the OPC’s response to it are the most all-inclusive analysis and
19 positions included in the docket. The significance of these two filings is evidenced by
20 the various intervenors’ positions identified in the Order No. PSC-2025-0298-PHO-EI
21 (“First Prehearing Order”) where FPL’s position on issues is contained and where
22 various intervenors state their agreement with the OPC positions.

1 **Q. PLEASE EXPLAIN WHY EXHIBIT HWS-8 SHOWS A JURSDICTIONAL**
2 **RATE BASE FOR THE PROPOSALS AS “UNKNOWN”?**

3 **A.** The information in the SIPP was provided without any specific supporting schedules
4 to identify what was rate base in the SIPP and what was the resulting projected Net
5 Operating Income. Attachment A to the CMPP has some high-level detail of how the
6 proposal amounts were determined. It was interesting to note that the CMPP actually
7 identified some of the operating costs/revenue requirement items listed in the First
8 Prehearing Order issues. In evaluating the SIPP with an “all other things being equal”
9 analysis, I noted that the change in the request from the initial filing to the SIPP was
10 predominately the change in the ROE, with a very minor revenue requirement reduction
11 not attributable to the cost associated with the reduction in the ROE. I prepared a
12 separate “all other things being equal” analysis where I determined that the change
13 OPC agreed to as part of the CMPP resulted in significant concessions on both the ROE
14 and other costs.

15

16 **Q. THE SIPP REFERENCES EXHIBIT LF-12 AND VARIOUS MFR**
17 **SCHEDULES. AREN'T THOSE SCHEDULES SUPPORT FOR THE SIPP**
18 **REVENUE REQUIREMENTS OF \$945,000,000 AND \$705,000,000?**

19 **A.** No. Staff's 25th Set of Interrogatories, No. 546⁴, requested an updated LF-12 that
20 reflected the proposed adjustments made within the SIPP, and the response was as
21 follows:

⁴ See Exhibit HWS-12.

1 The base rate revenue increases for 2026 of \$945 million and 2027 of
2 \$705 million reflected in Paragraphs 4(a) and 4(b), as well as all other
3 components identified in the Settlement Agreement, were each
4 separately negotiated components agreed to by the parties as part of a
5 comprehensive settlement agreement. Although the Settlement
6 Agreement identifies certain components which could be used to
7 calculate updates to the 2026 and 2027 Projected Test Year revenue
8 requirements reflected on Exhibit LF-12 in FPL witness Fuentes's
9 rebuttal testimony (e.g. ROE, equity ratio, etc.), the base rate revenue
10 increases in the Settlement Agreement are not based on a formulaic or
11 mathematical calculation that assumes a particular rate base, net
12 operating income, or weighted average cost of capital. Rather, it is the
13 result of the give-and-take that resulted in the collective terms that
14 comprise the proposed Settlement Agreement. Therefore, FPL is unable
15 to provide an updated Exhibit LF-12 based on the proposed adjustments
16 as reflected in the Settlement Agreement.
17

18 **Q. PLEASE EXPLAIN WHAT YOU MEAN BY AN “ALL OTHER THINGS**
19 **BEING EQUAL” ANALYSIS.**

20 **A.** An “all other things being equal” analysis is essentially a sensitivity analysis that
21 simply changes the ROE in the original revenue requirement calculations and provides
22 an indication of what amount of the revision to the requested amount is related to the
23 ROE. Based on FPL's initial filing, the change of \$599,780,000 in the 2026 requested
24 revenue requirement consists of \$483,837,000 attributable to the change in the ROE
25 and the balance of \$115,943,000 of that reduction relating to costs other than the change
26 in ROE. The OPC position as part of the CMPP consisted of \$694,383,000 attributable
27 to the change in ROE and another \$793,109,000 of other costs totaling to the change
28 of \$1,487,492,000.

1 **Q. HOW DID YOU DETERMINE WHAT AMOUNT OF THE SIPP REDUCTION**
2 **WAS RELATED TO THE ROE?**

3 **A.** Exhibit HWS-9 calculated an “all other things being equal” basis using the initial filing
4 and the SIPP where I only changed the ROE. On Exhibit HWS-10, I prepared a separate
5 “all other things being equal” analysis where, using my Exhibit HWS-2 filed with my
6 June 9, 2025, direct testimony, I changed only the ROE.

7
8 **Q. WHY WOULD THIS ANALYSIS HAVE ANY SIGNIFICANCE IN**
9 **EVALUATING A PROPOSAL?**

10 **A.** The ROE is the major component of the rate of return applied to the rate base in
11 determining a revenue requirement. In simple terms, the ROE drives a rate filing. The
12 Commission has a requirement for evaluating a rate request where the parties submit
13 their respective positions on the various elements of the rate filing. Settlement
14 agreements purportedly resolve all the issues put forth in a filing. Unlike most issues,
15 the ROE issue traditionally draws the lion’s share of responses by most intervenors
16 since the ROE has a material impact on the revenue requirement. The First Prehearing
17 Order identifies thirteen intervenors. Five of the intervenors, all SIPs, took no position
18 on the ROE, but the remaining eight recognized that the requested ROE by FPL was
19 excessive and took positions that the ROE should be below 10%, except FIPUG who
20 offered what appears to be a high-level range of 9.81% to 10.5%. That is clearly
21 evidence that FPL’s reduction from 11.9% was not a concession. Other than the five
22 niche intervenors that apparently were uninterested or unwilling to take a position on

1 such a major and important issue, the other intervenors appeared to be aware that FPL's
2 request was egregious when considering returns elsewhere and even within Florida.

3

4 **Q. HOW CAN YOU PROVIDE AN OPINION THAT FPL'S REQUESTED ROE**
5 **OF 11.9% BEING REDUCED WAS NOT A CONCESSION?**

6 **A.** I have been involved in regulatory proceedings since 1976 and found it common for a
7 utility to come in with a request that is well above what has been recently allowed in
8 other jurisdictions around the country. This egregious ask was actually noted by FIPUG
9 in their position on Issue 49 where they stated, "The national average of return on equity
10 for integrated electric companies from 2023, 2024, and through May of 2025 was
11 9.81%." FIPUG appeared to agree in the SIPP to an ROE 114 basis points or \$581.4
12 million ($1.14 * \$510 \text{ million} = \581.4 million) of additional annual revenue
13 requirements greater in settling with FPL, even though FIPUG recognized that that an
14 ROE over 9.81% was excessive.

15

16 **Q. IF THE ROE IS THE DRIVER OF A RATE REQUEST, WHAT IS THE**
17 **SIGNIFICANCE OF YOUR CONCERN WITH THE OTHER COSTS**
18 **IMPACTING THE SIPP?**

19 **A.** The other costs are significant because with rate base, the various components are what
20 the rate of return is applied to in order to determine the revenue requirement. If rate
21 base is overstated as it was in the Initial Rate Case Filing, the revenue requirement is
22 further overstated beyond any excessive ROE. Similarly, the other important factor is
23 the projected net income that is compared to the revenue requirement to determine

1 whether there is justification for a rate increase. The projected net income is understated
2 when revenue is understated and when expenses are overstated. Both of these
3 circumstances existed in the current filing. If a settlement has merit, there will be give-
4 and-take of significance in both the change in the return and the change in the net
5 income pieces. I observed that this process is clearly evident in the CMPP but not in
6 the SIPP.

7
8 **Q. PLEASE EXPLAIN EXHIBIT HWS-9.**

9 **A.** “All other things being equal,” based on the petition filing, Exhibit HWS-9 shows the
10 change in the requested revenue requirement that is associated with the change in the
11 ROE and the amount associated with other costs. The overall reduction in 2026 is
12 \$599,780,000 with only \$115,943,000 (representing only 7.5% of the Initial Rate Case
13 Filing request) of that reduction being costs other than the change in ROE. As discussed
14 later in my testimony, assuming that the RSM siphons off the \$90.5 million of the
15 revised asset optimization sharing, this revenue requirement concession is nearly wiped
16 out by the SIP “negotiators,” allowing FPL to take the money out of one pocket and
17 put it back into another. Under those circumstances, the non-ROE revenue requirement
18 reduction is only about \$25 million, or 2.4%.⁵ This is the real effect of what the SIPP
19 negotiators “accomplished” at the end of the day. Based on my experience, it was
20 entirely reasonable why the CMPs did not sign onto the SIPP after it was filed, as
21 allowed under paragraph 32 of the SIPP.

⁵ (\$25,000,000/\$1,060,943,000 = .024).

1 **Q. ON ITS FACE, THE REDUCTION REFLECTED IN THE SIPP SOUNDS**
2 **SIGNIFICANT, SO WHY IS THERE AN ISSUE WITH THE SIPP?**

3 **A.** All intervening parties recognized that the requested 11.9% ROE by FPL was grossly
4 excessive, and some provided testimony explaining how the unprecedented request was
5 improper. That is clearly evidence that FPL's 95-basis-point reduction was not a true
6 concession. It was more of a "sleeves-out-of-the-vest" concession as I mentioned
7 before. Based on my experience, there was zero chance that an ROE above 10.95%
8 with a 59.6% equity ratio would be granted. Clearly, the reduction in the request
9 appears from my outsider vantage point, and given my experience of 49 years, to have
10 been mainly associated with the artificially inflated ROE. The recalculated 2026
11 revenue requirement using the proposed (and still unreasonable) 10.95% ROE
12 midpoint is \$1,060,943,000. The SIPP request being \$945,000,000 means
13 \$115,943,000 represents costs other than a change in the ROE. This means that the
14 supposedly adverse (to FPL) special interest party "negotiators" effectively shaved off
15 less than 11% of the realistic petition ask, or only 2.4% once the AOM takeback is
16 considered. The OPC's direct testimonies identified issues with rate base totaling
17 \$1,907,813,000 (representing a revenue requirement of \$119,048,000) and issues with
18 forecasted revenue and expenses totaling an additional revenue requirement of
19 \$453,350,000. In essence, whoever was representing the customers at the table
20 completely ignored the fact that FPL's petition request failed to support and/or justify
21 a significant level of costs requested.

1 In his deposition on September 5, 2025, FPL witness Bores claimed that FPL was
2 representing the interests of residential customers at the negotiating table.⁶ It appears
3 that the parties at the table were not truly adverse, and that the henhouse was populated
4 entirely by foxes pursuing their own self-interests. Such a controlling, self-serving
5 effort to force an unfair, unjust, and unreasonable settlement through the Commission
6 process should be rejected on its face. Having some familiarity with how customers
7 respond to rate hikes, I am confident that the residential and small business customers
8 purportedly represented by FPL would have a different opinion as to how well their
9 interests were taken into consideration.

10

11 **Q. WHAT OPC ADJUSTMENT RECOMMENDATIONS WERE IGNORED BY**
12 **THE SPECIAL INTEREST PARTIES IN THE SIPP THAT WOULD IMPACT**
13 **THE RATE BASE SIGNIFICANTLY?**

14 **A.** The OPC recommended two alternative adjustments to plant. The primary adjustment
15 by OPC resource planning expert witness James Dauphinais recommended excluding
16 the forecasted solar additions for 2026 and 2027 of \$1,125,625,000 and \$2,302,079,000
17 on a jurisdictional basis, resulting in revenue requirement adjustments of \$70,239,000
18 and \$143,649,730, respectively, because the planning criteria showed that additions are
19 not required to meet customer demand. As an alternative, I recommended excluding
20 \$725,834,000 and \$2,106,984,000, resulting in revenue requirement adjustments of
21 \$45,292,042 and \$131,475,802, in 2026 and 2027, respectively, based on a fluctuating
22 three-year average of plant additions.

⁶ FPL repeated this claim in response to FEL's Sixteenth Set of Interrogatories, No. 196 (see Exhibit HWS-12).

1 Another OPC recommendation was to exclude \$931,860,000 and \$1,153,488,000, for
2 2026 and 2027, respectively, of PHFU resulting in revenue requirement adjustments of
3 \$58,148,064 and \$71,977,651, for 2026 and 2027, respectively, on a jurisdictional
4 basis. As explained in detail in my June 9, 2025, direct testimony, this consisted of
5 properties held for an excessive amount of time with no real in-service date, plant with
6 no designated in-service date, and forecasted future purchases for possible solar
7 expansion. This recommendation took into consideration that most of the properties
8 were not identified as needed in the FPL Ten Year Site Plan. I would note that the SIPP
9 includes a provision for FPL to make a best effort to dispose of \$200,000,000 of the
10 properties. This SIPP element, however, provides no guarantee that any such sale will
11 occur, nor does it provide any identification of what properties are to be sold. This is
12 significant because the discussion on the disposal is related to solar properties and that
13 ignores that the vast majority of properties that have been held for an average of over
14 20 years are for future transmission and distribution projects, not solar.

15

16 However, during FPL witness Tim Oliver's September 10, 2025, deposition, he
17 conceded that FPL would be able to purchase land for non-solar purposes during the
18 term of the SIPP, and then could later designate that land as viable solar land without
19 violating the terms of the SIPP. This potential loophole undermines the supposed
20 benefits claimed in FPL witness Oliver's settlement testimony when he said that this
21 portion of the SIPP "reflects FPL's commitment to a collaborative resolution and
22 disciplined resource management that directly benefits our customers" and
23 "demonstrate[s] our commitment to reasonable compromise with regards to the land

1 portfolio.”⁷ Mr. Oliver also admitted that none of the 40 long-held properties are being
2 considered for divestment to satisfy the \$200 million sales condition. Two of those
3 properties are expected by FPL to remain in PFHU throughout the term of the SIPP,
4 meaning that they will have been held for 50 years without being used to contribute
5 one electron to the grid on behalf of customers. This proposal also seemingly ignores
6 the OPC’s concern that customers have been paying a return on this long-held property
7 for a number of years. These rate base adjustments appear to have been ignored by the
8 special interest “negotiators” in achieving their hard-fought 2.4% non-ROE revenue
9 requirement reductions and thus would be shielded from review by the Commission at
10 hearing.

11
12 **Q. HOW ELSE HAS THE SIPP IGNORED ISSUES OPC HAS IDENTIFIED WITH**
13 **FORECASTED REVENUES AND EXPENSES?**

14 **A.** OPC provided expert testimony demonstrating the need for an increase of
15 \$133,032,000 (jurisdictional) to forecasted sales for underestimating sales and
16 customer growth based on historical trends. This understatement also ignores the
17 planned excessive spending in unjustified economic development, including data
18 centers, to the extent that they can realistically be considered such. This revenue
19 adjustment appears to have also been ignored by the special interest “negotiators” in
20 achieving their hard-fought 2.4% non-ROE reductions and thus would shield FPL’s
21 history of underforecasting revenues from review by the Commission at hearing.

⁷ Document No. 08981-2025, Docket No. 20250011-EI, p. 2-3, *In re: Petition for rate increase by Florida Power & Light Company*.

1 The SIPP further endorses FPL's attempt to include an increase of 315 employees over
2 the 2024 actual average employee complement for planned complements of 9,382 in
3 2026, and 9,427 in 2027, while failing to provide any justification for the new positions
4 in its direct and rebuttal testimony. The SIPP sweeps under the rug the fact that, as of
5 March 2025, the complement was already 46 positions lower than the 2024 average.
6 Another contributing factor to the Company's overstated payroll expense is that the
7 forecasted O&M percentage in 2026 and 2027 is 66.11% and 66.96%, respectively, as
8 shown on Exhibit HWS-2, Schedule C-4, compared to the 2024 O&M percentage of
9 56.57 and the historical average of 60.56%. This undercapitalization caused by a major
10 shift in payroll from capital to expense was not justified in FPL's direct testimony or
11 rebuttal. Any recognition of this failure by FPL to meet its burden of proof would
12 impact the settlement results significantly. My expert recommendation reduced
13 jurisdictional payroll expense in 2026 and 2027 by \$125,830,000 and \$139,589,000,
14 respectively.

15

16 Additionally, on top of the payroll issue, there remain serious concerns with the
17 identified excessive projected incentive plan expense of \$87,478,000 in 2026 and
18 \$93,063,000 in 2027 (on a jurisdictional basis) that was included in the Company's
19 request and left undisturbed by the tough "negotiators" among the SIPs (or by FPL
20 when it was purportedly representing all customers). The related concerns OPC
21 identified with the filed case are that the incentive plans lack a true incentive to produce
22 improved performance, and the Company could not explain how the incentive pool is
23 actually determined.

1 Furthermore, OPC witness William Dunkel provided expert testimony supporting a
2 reduction in depreciation rates and a reduction to dismantlement costs. The
3 recommended jurisdictional adjustments for depreciation were \$164,501,000 and
4 \$174,336,000, for 2026 and 2027, respectively, and that did not include the further-
5 required recommended depreciation cost adjustments associated with a disallowance
6 of plant. The recommended jurisdictional adjustments for dismantlement were
7 \$52,961,000 and \$52,974,000, for 2026 and 2027, respectively.

8
9 Another revenue requirement adjustment apparently overlooked by the hard-charging
10 “negotiators” among the special interests is for maintenance costs adjustments to
11 account for over-forecast expense in the petition compared to the documented historical
12 underspends. Despite the Company claiming that planning for the forecast years is the
13 same as for the historical years, it has essentially provided a proverbial “trust me” claim
14 that FPL will spend what is planned. If this argument had any merit, then the historical
15 spending levels would not have been less than the planned spending. I find it disturbing
16 that some of the SIPs initially objected to the level of costs requested and then
17 capitulated by simply agreeing to this SIPP based on what appears to be a special
18 interest benefit to them, to the detriment of the majority of customers who were
19 unrepresented at the table – except apparently by FPL. There were also issues with the
20 development of various insurance costs and the injuries and damages expenses. In any
21 event, these proper ratemaking adjustments appear to have also been ignored by the
22 special interest “negotiators” in achieving their hard-fought 2.4% non-ROE reductions
23 and thus would be shielded from review by the Commission in hearing.

1 **Q WHY DO YOU MAKE REFERENCE TO THE SPECIAL INTEREST**
2 **“NEGOTIATORS” IGNORING THE RATEMAKING ADJUSTMENTS?**

3 **A.** The First Prehearing Order lists the 130 issues to be decided in hearing. The ten non-
4 FPL special interest parties’ positions varied. Six of the ten took no position as if they
5 did not care whether costs were included or were reasonable. But FIPUG, FRF, SACE,
6 and Walmart either took a position or agreed or adopted the OPC position. Clearly,
7 those that could not take time to take a position at all or took a position that questioned
8 the FPL requested costs ignored the facts when they were presented with an outcome
9 apparently desirable to them in their circumstances, even though it would cause harm
10 to the unrepresented majority of FPL customers and even possibly to their own
11 customers.

12
13 **Q. WHAT IS THE PURPOSE OF EXHIBIT HWS-9?**

14 **A.** Exhibit HWS-9 calculated an “all other things being equal” revenue deficiency based
15 on FPL’s initial filing compared to the SIPP where the only change to the initial filing
16 is the impact associated with the ROE being reduced from 11.9% to 10.95%. The
17 recalculated 2026 revenue requirement using the proposed (and still unreasonable)
18 10.95% ROE midpoint is \$1,060,943,000, compared to the \$945,000,000 level in the
19 SIPP.

20
21 **Q. WHAT DOES EXHIBIT HWS-9 SHOW?**

22 **A.** When compared to the change in revenue requirement associated with the reduced ROE
23 on Exhibit HWS-8, it can be seen that the other cost impact of the overall reduction in

1 the request has been reduced. This further shows that the SIPP reduction is
2 overwhelmingly ROE-related without any apparent effort to recognize the Company's
3 failure to support the 2026 and 2027 forecasted revenue and expense. The
4 "negotiators'" assumption that FPL's forecasted revenue and expenses are accurate
5 ignores common sense and reality. Accepting this proposal would harm the majority of
6 FPL's customers and place an unjust, unconscionable cost burden on them for the
7 benefit of a select few commercial and industrial customers and shareholders. In my
8 opinion, this would not be in the public interest.

9

10 **Q. WHAT IS THE PURPOSE OF EXHIBIT HWS-10?**

11 **A.** Exhibit HWS-10 is the OPC's filed schedules with all the adjustments as recommended
12 in the OPC's direct testimony filed on June 9, 2025, except the ROE was changed from
13 9.2% to the CMP-proposed ROE of 10.6%. This supports a relatively minor deficiency
14 of \$73,981,000, just based on the use of a relatively generous 10.6% ROE, as shown
15 on page 2, line 8, column B of that exhibit.

16

17 **V. ELEMENTS OF THE SIPP**

18 **SOLAR GENERATION AND BATTERY PROJECTS**

19 **Q. DO YOU HAVE ANY CONCERNS ABOUT THE SOLAR GENERATION AND**
20 **BATTERY RESOURCE ELEMENT OF THE SIPP?**

21 **A.** Yes, I have many concerns. The petition request by FPL was for base rate cost recovery
22 of solar additions including battery storage for 2026 and 2027 and SoBRA recovery of
23 the same type assets for 2028 and 2029. The SIPP now provides for some base rate

1 cost recovery for solar generation in 2026 and for SoBRA recovery for 2027, 2028 and
2 2029 solar generation projects and 2028 and 2029 battery storage projects. This shift
3 means that when comparing the SIPP to the petition request, the amount reflected as
4 rate base in the revenue requirement calculation for 2027 must be adjusted to exclude
5 what was initially included for base rate recovery. Also, the SIPP SoBRA provision
6 states that “FPL projects” the Company will begin construction of 4,470 MW of solar
7 projects, broken down by 1,192 MW in 2027, 1,490 MW in 2028 and 1,788 MW in
8 2029. Also, 600 MW of battery storage additions are “projected.” It is not clear from
9 the “FPL projects” language that these MW amounts are limits. They appear to be
10 targets instead.

11

12 An additional concern is that the need for the solar generation and battery projects is to
13 be demonstrated when the project costs are trued-up only after they are built. This
14 appears to me to completely evade any oversight regulation by the Commission with
15 respect to the prudence and need for these resources. The SIPP also provides no
16 effective cap on costs. Any costs that exceed the initial projection at the time rates go
17 into effect would be reflected in the earnings surveillance report and the incremental
18 impact would be recovered when rates are next reset. Because of the RSM mechanism
19 included in the SIPP, the debit represented by any overspend would still be picked up
20 by future customers. This cap provides no meaningful protection for customers. The
21 SIP “negotiators” left the henhouse unattended on this issue.

1 A further issue that discloses the holes in the SIPP approach is that despite the provision
2 that FPL must demonstrate that the cost of components, engineering, and construction
3 are reasonable, the proposal does not provide a definition of what would be needed to
4 meet this requirement. It also appears that any justification for these costs, if it occurs
5 at all, would be from an after-the-fact review. In any event, in my opinion, an objective
6 cost standard is needed because despite not providing sufficient support for costs in the
7 petition filing, project documentation should be provided in a form that shows the
8 specific costs included in the forecast. The documentation should consist of quotes
9 and/or estimates from sources providing equipment or services. This documentation
10 would be required for the Commission to be able to determine that the projects were at
11 least constructed in a prudent manner. The information should also be provided on the
12 front-end and not retrospectively.

13

14 Together, the fact that the cumulative 4,470 MWs appear to merely be targets and the
15 statement in the SIPP that “FPL may build solar generation projects...,” create a great
16 amount of uncertainty for customers as to how much rates would increase at the
17 discretion of the Company. Regulation is supposed to provide a utility the ability to
18 earn a reasonable return. Customers’ rates should be reasonable. Customers should be
19 provided notice of what those rates would be. This proposal does not protect customers
20 and opens the door for the Company to expend funds that could be charged to
21 unrepresented customers resulting in even higher rates than those the SIPs and FPL
22 “negotiated” on their behalf.

1 **ROE CHANGE AND RATE STABILIZATION MECHANISM**

2 **Q. IS THE CHANGE IN THE ROE A SIGNIFICANT CONCESSION BY FPL?**

3 **A.** No. Intervenors testified or provided support for testimony addressing the
4 inappropriateness of FPL's excessive ROE as initially requested. The SIPP, despite
5 reducing the ROE midpoint from 11.9% to 10.95%, still allows for what is referred to
6 as a RSM, which FPL would be able to use "flexibly at its discretion from 2026 through
7 2029" to adjust its earnings. This allowance does not preclude FPL from adjusting its
8 earnings to 11.95% at the top of the range or above the midpoint. Essentially, this RSM
9 allows FPL to adjust its earnings for a favorable appearance for shareholders at a cost
10 to customers.

11

12 **Q. HOW WOULD THIS FLEXIBILITY COME AT A COST TO CUSTOMERS?**

13 **A.** The SIPP would require FPL to refrain from requesting a rate increase during the period
14 2026-2029 unless the return falls below the 9.95% low point of the range – which is
15 above the annual national average of awarded ROE midpoints! However, assuming
16 that FPL were to legitimately record an achieved operational earned return at or near
17 the midpoint in the normal course of business, and then decide to utilize the RSM to
18 artificially raise that return from the operationally-achieved midpoint up to the high
19 point of the range, FPL would be squandering a credit due to customers (in the case of
20 the AOM sharing benefits) or require them to be collected again from customers (in the
21 case of the DTLs). Clearly that needless shift of dollars to improve the return for
22 shareholders and enhancing stock value deprives customers of revenue requirement
23 reductions due them now and in the future.

1 **Q. WHAT OTHER OBSERVATIONS DO YOU WANT TO SHARE REGARDING**
2 **THE RSM?**

3 **A.** When I filed my June 9, 2025, direct testimony on the FPL filing, I reviewed the 2023
4 decision, Order No. PSC-2023-0177-FOF-GU (“FCG Order”), in the then FPL
5 subsidiary Florida City Gas rate case⁸ that was a miniaturized version of the 2021 FPL
6 rate case filing. I pointed to the decision in that case to refute the FPL effort to get the
7 Commission to approve a similar provision in the contested case. In the context of a
8 proposed settlement (if it is even valid), there is another provision of the FCG Order
9 that is relevant, and that is the ROE if an RSAM-type mechanism is approved. In that
10 case, the Staff recommended against the RSAM requested by the FPL affiliate. The
11 FPL subsidiary also requested an ROE of 10.75%. The Staff recommended that if the
12 Commission nevertheless granted the RSAM, they should adjust the authorized ROE
13 downward as discussed below:

14 In the event the Commission approves the RSAM, staff recommends the
15 Commission lower the allowed ROE by up to 50 basis points to
16 recognize the decrease in the variability of earnings, and therefore risk,
17 associated with the RSAM. As stated by FCG witness Nelson, “...
18 equity investors have a claim on cash flows only after debt holders are
19 paid, and the uncertainty (or risk) associated with those residual cash
20 flows determines the cost of equity.” TR (50) Additionally, FCG
21 witness Campbell stated, “Simply put, the RSAM will allow FCG to
22 absorb changes primarily in cash revenues and expenses while
23 maintaining a pre-established ROE within its authorized range without
24 an increase in customer rates.” TR (1065) In staff’s opinion, the
25 evidence clearly indicates the RSAM reduces earnings variability and
26 consequently the uncertainty (or risk) of FCG’s earnings and cash flows.
27 An allowed return on equity of 9.50 to 10.00 percent will still be above
28 the average authorized ROE for gas utilities in 2022 (approximately

⁸ 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.

1 9.38 percent) and FCG would have an RSAM and a 59.6 percent equity
2 ratio as a percent of investor capital as well. (TR 438)⁹
3

4 The Commission granted the RSAM and followed the Staff recommendation and
5 awarded an ROE of 9.50%. (FCG Order at 44.) The SIPP does not appear to make any
6 adjustment to the 10.95% ROE to account for the lower risk as a result of allowing FPL
7 to have an RSM. The “concession” of dropping the ROE from the requested 11.9% to
8 10.95% is not analogous. For one thing, the 11.9% is a laughable, unreasonable profit
9 level. Additionally, in the FCG Order, the 9.5% award measured against the requested
10 10.75% ROE represented a 125-basis point adjustment. Here, such an adjustment
11 would put the ROE at 10.65% – assuming the 11.9% was in any way an accurate
12 representation of FPL’s cost of equity – which it is not under any objective standard.
13 This is further evidence that the SIPP is not in the public interest.
14

15 **Q. COULD THE SIPP PROVIDE FOR AN RSM THAT WOULD PROTECT**
16 **CUSTOMERS AND STILL PROVIDE A REASONABLE RETURN TO**
17 **SHAREHOLDERS?**

18 **A.** Yes, even though I am not recommending extending this mechanism, in theory it could
19 be greatly improved. The RSM protects shareholders if it allows utilization to bring an
20 ROE up to (or perhaps somewhat above) the lower limit of the ROE range, and thus
21 allowing FPL to earn within the range determined by the Commission to be reasonable.
22 The purpose of a range is to set parameters as to what are reasonable and justified
23 earnings and accommodate the natural variability of operational conditions. Earning

⁹ Staff Recommendation Memorandum in Docket No. 20220069-GU, dated February 16, 2023 at page 120.
Document No.01163-2023, *In re: Petition for rate increase by Florida City Gas.*

1 above the Commission-established low point of the range is considered as reasonable
2 as earning at the high end. The midpoint is the rate-setting target return and the high
3 point is a protection for customers that is designed to prevent an overearnings by the
4 company – it is not intended to be used to effectively extend the profit level for the
5 shareholders by a half billion dollars annually.
6

7 **Q. ARE THERE OTHER CONCERNS WITH THE PROPOSED RSM?**

8 **A.** Yes. The SIPP refers to the mechanism as non-cash accounting which in effect is
9 misleading. While the RSM mechanism involves recording a journal entry adjustment
10 that would predominantly involve shifting a credit from the balance sheet to the income
11 statement to adjust earnings, there is a cash effect on customers at some point in time.
12 If the credit was not utilized to adjust earnings, at some point in time that credit would
13 impact (offset) expenses that would otherwise be borne by customers. Absent the
14 needless earnings enhancement diversion to shareholders through the RSM, these
15 credits would result in a cost savings to customers and reduce the cash requirement for
16 paying their utility bill.
17

18 Also, the reference to a sharing of the gains generated by the AOM to the extent it
19 exceeds \$150 million appears to harm customers. In the 2021 FPL settlement
20 agreement, which was apparently continued pursuant to Paragraph 21 of that
21 agreement, in general terms, and absent the RSM, customers would receive the first
22 \$42.5 million of identified gains, 40% of gains between \$42.5 million and \$100 million,
23 and 50% of the gains above \$100 million. Thus, for savings of \$150 million, customers

1 would normally receive \$90.5 million of the overall gains. The SIPP provision that
2 100% of the gains up to \$150 million would be available to top off earnings up to the
3 proposed upper limit of 11.95% ROE and thus essentially flow the \$90.5 million
4 customer share through to shareholders is problematic to say the least. All gains should
5 pass through to customers as provided in the approved AOM. If one assumes that the
6 annual amount of the \$90.5 million of the AOM is utilized in each of the 4 years
7 covered by the SIPP, then the \$115,943,000 non-ROE “concession” by FPL to the SIPs
8 all but evaporates.

9

10 **STORM DAMAGE RESERVE**

11 **Q. WHAT IS THE ISSUE WITH THE STORM DAMAGE RESERVE ELEMENT?**

12 **A.** The issue is that this is a mechanism that reduces risks for the Company. This reduction
13 of risk should be considered when evaluating the ROE and given the proposed ROE, it
14 is not clear that there is any recognition of the mechanism having an impact on the risk
15 assessment. Additionally, the Company did not provide any support in either its petition
16 filing or in its rebuttal to justify an increase of \$80 million. It is not appropriate that
17 increases in the Storm Damage Reserve be passed on to customers when the Company
18 has not provided any evidence to meet the burden of proof requirement. Accepting this
19 change would only further justify a lower ROE than the SIPP mid-point of 10.95%.

PLANT HELD FOR FUTURE USE

Q. WHAT HAVE YOU IDENTIFIED AS AN ISSUE WITH THE PLANT HELD FOR FUTURE USE ELEMENT OF THE SIPP?

A. FPL's Initial Rate Case Filing requested PHFU of \$1,475,168,000 in 2026 and \$1,533,409,000 in 2027 as part of rate base in total and on a jurisdictional basis of the request. OPC took issue with the growth of PHFU and the forecasted additions as speculative and inappropriate since customers would be paying a requested return of 7.63%, despite properties not having a known in-service date and the Company has had customers paying a return on 40 pieces of property that have an average holding period of 21.85 years. The 2026 average of the 40 pieces of long-held properties in rate base is \$92,300,167. Applying the Company's initial requested rate of return of 7.63% to that average, the annual cost to customers yields an estimated unnecessary revenue requirement of \$7,042,503. As I identified in my June 9, 2025, testimony, FPL witness Oliver stated in an earlier deposition that another property with a cost of approximately \$212 million was acquired because "[i]t was a large property that looked like it could be used for multiple solar facilities, and it came on the market, was available, and we put it through our screening process and determined that we could economically build multiple sites on that property to benefit our customers." This is clearly speculation. The SIPP in essence confirms that there is an issue with the accumulated properties since the Company has proposed that FPL would not be permitted to purchase any new land exclusively for solar and has committed to try to sell \$200 million of properties held in PHFU.

1 As discussed earlier, FPL witness Tim Oliver in his September 10, 2025, deposition
2 indicated that FPL would be able to purchase land for non-solar purposes during the
3 term of the SIPP and then later designate that land as viable solar land without violating
4 the terms of the SIPP. This potential loophole undermines the supposed benefits
5 claimed in FPL witness Oliver's settlement testimony when he said that this portion of
6 the SIPP "reflects FPL's commitment to a collaborative resolution and disciplined
7 resource management that directly benefits our customers" and "demonstrate[s] our
8 commitment to reasonable compromise with regards to the land portfolio."¹⁰ Mr.
9 Oliver also admitted that none of the 40 long-held properties are being considered for
10 divestment to satisfy the \$200 million sales condition. Two of those properties are
11 expected by FPL to remain in PFHU throughout the term of the SIPP, meaning that
12 they will have been held for 50 years without being used to contribute one electron to
13 the grid on behalf of customers. If, and until the land is sold, because of the RSM
14 mechanism, the debit represented by the carrying cost of any unsold surplus land would
15 still be picked up by future customers. Regardless, any scrutiny of FPL's real estate
16 stockpiling practices is effectively swept under the rug by the SIPP.

17
18 OPC recommended excluding \$973,972,000 (\$931,860,000 jurisdictional) in 2026 and
19 \$1,205,189,000 (\$1,153,488,000 jurisdictional) of PHFU in 2027. The proposed (and
20 speculative) reduction of \$200,000,000 through the sale of PHFU properties is clearly
21 insufficient given the lack of justification for holding the properties and charging
22 customers a return on properties that may someday be used in providing service to

¹⁰ Document No. 08981-2025, Docket No. 20250011-EI, p. 2-3, *In re: Petition for rate increase by Florida Power & Light Company*.

1 future customers. To the extent that the \$200 million in surplus land is included in base
2 rates per the provision of paragraph 2 and because of the SIPs' approval of MFR
3 Schedule B-2, recovery through a return on rate base on this land would still be included
4 in the rate levels set in the proposal. If the SIPP were to be approved, the Company
5 should be required to show that the \$200 million was removed in determining the
6 revenue requirement.

7

8 **VI. OPINION ON THE PROPOSED CMPP**

9 **Q. WHAT IS YOUR OPINION ON THE CMPP?**

10 **A.** With the caveat that my expert opinion remains based on, and in support of, the revenue
11 requirement testimony and other opinions contained in my June 9, 2025, testimony, I
12 can state that the CMPP in my opinion is, as a whole, much more reasonable than the
13 SIPP. I would emphasize that paragraph 33 of the CMPP qualifies that "[t]he provisions
14 of this [CMPP] are contingent on approval of this [CMPP] in its entirety by the
15 Commission without modification." While I agree that the CMPP is closer to being in
16 the public interest than the SIPP, I think it is important to state that the CMPP terms
17 cannot be viewed as "a la carte" stipulations on individual issues.

18

19 The CMPP concessions are very generous towards FPL. Reading it, one might even
20 think that the CMPs were undertaking to represent FPL at the negotiating table much
21 as FPL witness Scott Bores has testified that FPL was kind enough to do for the
22 residential and small business customers in the SIP negotiating sessions. The CMP
23 have made significant concessions on the ROE by offering a 10.6% ROE that greatly

1 exceeds the national average of ROEs. All committed intervenors recommended lower
2 ROEs by a full percentage point, except FIPUG who had an unexplained range position
3 of 9.81% to 10.5%.

4
5 The CMPP also concedes on a significant amount of other costs. In my opinion, the
6 OPC's original position that a revenue sufficiency exists is well supported, unlike
7 FPL's request and the SIPP. In fact, I believe that an even lower settlement than the
8 \$867,000,000 in 2026 and the added \$403,000,000 in 2027 would be justified. I would
9 also think that some other concessions made in the CMPP are more than generous.
10 While I may not agree with the extent of the concessions, in my expert opinion and
11 given the extent of my experience testifying across the country over nearly 50 years, it
12 is very obvious that the CMPP is more than adequate, especially in light of the
13 weaknesses in FPL's petition, to provide FPL an opportunity to achieve its midpoint
14 ROE and would yield rates that are much closer than those in the SIPP to being fair,
15 just, and reasonable and in the public interest.

16
17 **Q. WHAT OTHER CONCESSIONS IN THE CMPP DID YOU THINK WERE**
18 **SIGNIFICANT?**

19 **A.** The proposed CMPP has a GBRA that is similar to allowing for a SoBRA. The OPC
20 opposed the SoBRA in its direct testimony filed on June 9, 2025. This is a significant
21 allowance for providing FPL an opportunity to extend the rate plan from 2 years to 4
22 years, as well as reducing financial risk that should be factored in determining the ROE.

1 The CMPP allows for increasing the Storm Damage Reserve from \$220,000,000 to
2 \$300,000,000, which I was opposed to as discussed in my June 9, 2025, direct
3 testimony. This concession I feel is significant since it reduces risk and suggests the
4 10.6% ROE is even more generous than it would otherwise be on a stand-alone basis.
5 Allowing the SoBRA resources that were opposed by the OPC in conjunction with the
6 GBRA is clearly a significant concession in allowing recovery without a rate case as
7 well as reducing financial risk that should be factored in determining the ROE.

8

9 Acceptance of the Company depreciation study and dismantlement study is significant
10 considering the OPC's 2026 recommended adjustment for the FPL request was
11 \$164,501,000 and \$52,961,000, respectively, on a jurisdictional basis.

12

13 **Q. WHAT ELEMENTS IN THE CMPP REFLECT A REASONABLE**
14 **RECOGNITION OF ISSUES AS IDENTIFIED IN THE COMMISSION'S**
15 **FIRST PREHEARING ORDER?**

16 **A.** The CMPP factored in a reasonable amount of some of the OPC recommended payroll
17 adjustment. I continue to believe the full adjustment I recommended was justified since
18 the Company failed to provide evidence and/or support for the added positions
19 requested and the Company's overstatement of payroll expense of the forecasted O&M
20 percentage in 2026 and 2027 by applying 66.11% and 66.96%, respectively as shown
21 on Exhibit HWS-2, Schedule C-4 compared to the 2024 O&M percentage of 56.57 and
22 the historical average of 60.56%. This is further indication that the concessions and
23 compromises by the CMPs are very conservative in favor of FPL.

1 Another aspect of the CMPP that I highlight is that there is an adjustment for a portion
2 of my recommended incentive compensation adjustment. Based on past Commission
3 precedent in litigated cases, this takes into consideration that all of the incentive
4 compensation was excluded, while, in another case, a large adjustment was made to
5 exclude incentive compensation. This is further indication that the concessions and
6 compromise by the CMPP are very conservative in favor of FPL.

7
8 The CMPP excluded a portion of the OPC-recommended adjustments for maintenance
9 costs and PHFU, which is further evidence of the conservative approach the CMPs took
10 relative to FPL.

11
12 **Q. WHAT ARE SOME REVENUE AND EXPENSE ADJUSTMENTS IN OPC'S**
13 **DIRECT TESTIMONY THAT WERE NOT ADJUSTED BY THE CMPP?**

14 **A.** There was not an adjustment for the understatement of sales and customer growth. I do
15 not see adjustments for various benefits, even though those would be a flow through of
16 the payroll adjustment. There is no insurance adjustment, no injuries and damages
17 adjustment, no uncollectible adjustment, no dues adjustment, no economic
18 development adjustment, no depreciation rate adjustment, no dismantlement
19 adjustment, no depreciation adjustment on plant exclusions, no payroll tax adjustment,
20 and no property tax adjustment. Those adjustments conceded by the CMPs total to
21 over \$480,000,000 alone. That number would increase significantly by the portion of
22 expenses only partially recognized. Of course, it goes without saying that the 2.4%
23 from the original request that the SIP "negotiators" effectively shaved off the non-ROE

1 portion of the FPL ask in the SIPP does not even come close to compromising on that
2 level of costs.

3

4 **Q. WHY ARE YOU EMPHASIZING THE IMPORTANCE OF BOTH THE**
5 **CONCESSION IN THE ROE AND OTHER COSTS?**

6 **A.** In my decades of consulting in utility regulatory proceedings, settlements traditionally
7 require concessions on both the ROE and other costs by the utility and intervenors. A
8 common element in a settlement is to make reference to the settlement of all issues. In
9 this proceeding, six of the ten SIPs typically took no position on the cost issues, three
10 SIPs (FIPUG, Walmart, and FRF) either agreed with OPC or stated a position, and
11 SACE varied with “no position,” or stated a position, including agreeing with OPC’s
12 ROE recommendation. The SIPP claimed to settle all issues. This assertion is
13 confusing since most of the SIPs took no position or agreed with OPC. It is manifestly
14 unclear what interests were settled and by whom and under what representational
15 authority. I suspect this aspect of the SIPP will be addressed by attorneys, but in my
16 professional experience, I am unaware of circumstances where anyone can just walk in
17 off the street and settle a case for other parties they do not represent. Apparently, as
18 long as the special interest parties were given a rate to please them individually, the
19 impact on the majority of customers was of no concern. Despite the special interests’
20 bias reflected in the SIPP, the CMPs offered a proposal that was overly generous in my
21 opinion, but still one that is a vast improvement over the SIPP and one that would
22 benefit all intervenors, customers, and FPL.

1 **Q. IN SOME OF THE DEPOSITIONS OF THE SIP CORPORATE**
2 **REPRESENTATIVES THAT CONCLUDED ON SEPTEMBER 18, 2025, SOME**
3 **OF THEM EFFECTIVELY STATED THAT THE PUBLIC INTEREST IS**
4 **ADVANCED BY THE FACT THAT THE SIPP REVENUE REQUIREMENT IS**
5 **LOWER THAN THAT CONTAINED IN FPL’S INITIAL RATE CASE FILING.**
6 **ARE YOU AWARE OF SUCH CLAIMS, AND IF SO, WHAT IS YOUR**
7 **OPINION OF THAT ASSERTION?**

8
9 **A.** I have reviewed all of the transcripts that have been produced. Based on my extensive
10 experience and expertise, I can say that such a claim is nonsense. A simple reduction
11 in a revenue requirement ask is not evidence of the public interest being served. I have
12 demonstrated throughout my testimony that the Company’s Initial Rate Case Filing
13 was grossly overstated – especially as it relates to the 11.9% ROE – and that the SIP
14 “negotiators” achieved little or no substantive concessions from FPL. A public interest
15 standard that finds value in any reduction, no matter how small or immaterial, to the
16 Company’s ask would be no standard at all. I would strongly urge the Commission to
17 give zero weight to these assertions in their public interest determination.

18
19 **Q. DO YOU HAVE ANY OTHER OBSERVATIONS RELEVANT TO THE**
20 **CORPORATE REPRESENTATIVE DEPOSITIONS NOW THAT YOU HAVE**
21 **HAD A CHANCE TO REVIEW THE TRANSCRIPTS?**

22
23 **A.** I am shocked at the degree to which the SIPs, through their corporate representatives,
24 indicated their self-serving, narrow interest in their involvement in producing the SIPP.

1 Their appalling lack of understanding of the issues is evident from the depositions. As
2 I noted elsewhere in my testimony, these special interest parties only participated in the
3 SIPP on behalf of their special interests. Their efforts were not for the benefit of all
4 customers or the public interest. It is inconceivable that “negotiators” with such narrow
5 scopes of interest and an abject lack of understanding of the most basic elements of the
6 case and the SIPP could be enabled or authorized to compromise on behalf of all
7 customers and on all 130 issues of the case and create an agreement that is not even
8 remotely in the public interest.

9
10 **VII. SUMMARY**

11 **Q. WHAT IS YOUR CONCLUSION REGARDING THE SIPP?**

12 **A.** The OPC proposed appropriate adjustments in direct testimony in response to FPL’s
13 petition request resulting in a revenue sufficiency of at least \$620,492,000. When
14 compared to FPL’s December 31, 2026, projected test year requested revenue
15 requirement increase of \$1,544,780,000, there is a \$2,165,272,000 difference. The SIPP
16 only addressed approximately 25% of the difference and the vast majority of that
17 difference was achieved just by reducing an unrealistic half-billion dollar revenue
18 requirement level of requested ROE. The fact is that there is no supported cost of
19 service with documentation and/or testimony to justify costs underlying the SIPP (i.e.,
20 it is a “black box”) which is inconsistent with what regulatory requirements are – for
21 determining fair, just, and reasonable rates. The Commission should also factor into its
22 public interest determination whether a settlement with select customers that is
23 designed to benefit those few customers at the expense of the majority customers

1 should be approved. In my opinion and based on my experience, the SIPP lacks validity
2 and must be rejected.

3
4 The CMPP contains significant and extremely generous concessions, unlike the SIPP,
5 by offering an approximate 68.7% concession $((\$620,492,000 + \$867,000,000 =$
6 $\$1,487,492,000)/\$2,165,272,000)$. My opinion discounts the fact that the cost-of-
7 service filing was not supported with documentation and/or testimony to justify costs
8 underlying the CMPP (i.e., it is *mostly* a “black box”), which would ordinarily be
9 contrary to what regulatory requirements are – for determining fair, just, and reasonable
10 rates. Compared to the SIPP, however, the CMPP does implement some cost-based
11 adjustments and is thus further superior to the SIPP in this regard. The Commission
12 should factor into its decision that the SIPP, with select customers, is designed to benefit
13 those few customers at the expense of the majority customers, and the CMPP has a
14 lower revenue requirement, less of an excessive ROE, and contains no problematic
15 RSM. The CMPP is clearly superior and much closer to meeting the public interest
16 standard and yielding fair, just, and reasonable rates.

17
18 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY ON THIS PART OF**
19 **THE DOCKET?**

20 **A.** Yes, it does at this time. Please note that just because I have not provided a criticism
21 or mention of every single aspect of the SIPP, it should in no way be interpreted that
22 my silence means that I have expressed support for, or agreement with, such
23 provision(s).

1 BY MS. WESSLING:

2 Q Mr. Schultz, did you -- did your prefiled
3 testimony in this docket in this portion of the docket
4 also contain five exhibits labeled HWS-8 through HWS-12?

5 A I did.

6 MS. WESSLING: For the record, I believe those
7 are identified as CEL exhibits 1294 through 1298.

8 CHAIRMAN LA ROSA: Okay.

9 BY MS. WESSLING:

10 Q And, Mr. Schultz, do you have any corrections
11 to those exhibits?

12 A Say that again.

13 Q Do you have any corrections to any of those
14 exhibits?

15 A No.

16 Q And have you prepared a summary of your
17 settlement testimony?

18 A I have.

19 Q All right. You would please go ahead and
20 provide that?

21 A My testimony addresses the Joint Motion for
22 the Approval of Settlement Agreement between Florida
23 Power & Light and 13 signatories that I refer to as SIP.

24 Additionally, I provide an opinion on the
25 August 26th, 2025, motion filed by the majorities that

1 is in response to the SIP. The initial petition filed
2 by FPL was driven by a grossly excessive 11.9 percent
3 midpoint return on common equity and estimated O&M costs
4 and plant additions.

5 The SIP elements would allow FPL to increase
6 base rates by \$945,000 effective January 1, 2026, a
7 reduction of approximately 600 million from FPL's
8 as-filed request of 1.5 billion. The SIP reduced the
9 ROE midpoint 95 basis points to a still unreasonable
10 10.95 percent.

11 The 2026 reduction of approximately \$600
12 million appears to be significant, but when you consider
13 the reduction is primarily associated with the excessive
14 ROE, and basically ignores the initial filing costs
15 requested were not sufficiently supported, you realize
16 that the change is not a real concession on FPL's part.
17 And even more concerning is the change was made with
18 allowing -- without allowing for input by the majority
19 of customers.

20 In my decades of consulting in utility
21 regulatory proceedings, settlements traditionally
22 require concessions on both the ROE and other costs by
23 the utility and the intervenors. Settlements typically
24 reference that the settlement is of all issues.

25 It is troubling that six of the 10 SIPs took

1 no position on the cost issues. Three SIPs, FIPUG,
2 Walmart and FRF, either agreed with the OPC or stated a
3 position. SACE varied with no positions or stated
4 positions, including agreeing with OPC's ROE
5 recommendation. These are critical points.

6 In my opinion, the special interest parties
7 only participated in the SIP on behalf of their specific
8 interests. Their focus was not on the benefit for all
9 customers or the public interest. It is inconceivable
10 that negotiators with such a narrow scope could enable
11 or authorize a compromise on behalf of all customers and
12 on all 130 issues of the case, and create an agreement
13 that is not even remotely in the public interest.

14 In response, the majority parties would allow
15 FPL to increase base rates by 867 million effective on
16 the first day of January '26, and an additional
17 400 million in January '27. The increases reflect a
18 CMPD that establishes a midpoint of 10.6 percent, with a
19 range of 9.6 to 11.6. The CMPP includes major
20 concessions on the OPC's position in response to FPL's
21 initial request, including moving the ROE from 9.2
22 percent to 10.6 percent. The OPC agreed to a
23 significant compromise of \$1.5 billion. The CMPP at
24 least identified costs in their proposal that impacted
25 the recommendation, unlike the FPL and SIP proposal.

1 The level of concession and compromise in the
2 CMPP is even more significant when one considers the
3 10.6 percent is greater than the 2024 average of
4 recently awarded ROEs around the country was 9.73
5 percent.

6 I did not participate in the CMPP's
7 development, I did not have any knowledge of it, and I
8 figure that my opinion is more of an independent opinion
9 than could be offered otherwise. In my experience, I
10 find it highly unusual that a so-called settlement was
11 entered into that excluded the majority of FPL's us
12 customers, particularly the residential customers that
13 are and have been represented by the OPC.

14 In conclusion, the OPC proposed appropriate
15 adjustments in direct testimony in response to FPL's
16 petition request resulting in a revenue sufficiency of
17 at least \$620 million, and I initially recommended that,
18 and still believe it to be the more appropriate number.

19 The SIP was achieved by reducing an
20 unrealistic half-billion-dollar revenue requirement
21 level of requested ROE. I think these are important
22 points for the Commission to consider, and that the SIP
23 proposal should be rejected.

24 Thank you very much.

25 MS. WESSLING: And I assume you want to go

1 down the line with the summaries, and then we can
2 ten they are them all for cross?

3 CHAIRMAN LA ROSA: Yes, please.

4 MS. WESSLING: Okay.

5 EXAMINATION

6 BY MR. MARSHALL:

7 Q Mr. Marcelin, would you please state your name
8 and business address for the record?

9 A Hi. My name is MacKenzie Marcelin, and
10 business address is 10800 Biscayne Boulevard, Miami,
11 Florida.

12 Q And on whose behalf are you testifying?

13 A Florida Rising, LULAC and ECOSWF.

14 Q And, Mr. Marcelin on September 19th, 2025, did
15 you prepare and cause to be filed settlement testimony
16 and exhibits MM-6 through MM-7 regarding this rate case?

17 A Yes.

18 Q And just for the record, that would be
19 Exhibits 1310 and 1311 on the CEL?

20 A Yes.

21 Q Do you have that testimony and those exhibits
22 with you today?

23 A Yes.

24 Q If I asked you the same questions today, would
25 your answers be the same?

1 A Yes.

2 **Q Do you have any changes to your prefiled**
3 **testimony or exhibits?**

4 A I do not.

5 MR. MARSHALL: Mr. Chairman, at this point, we
6 would like to have Mr. Marcelin's prefiled
7 settlement testimony entered into the record as
8 though read.

9 CHAIRMAN LA ROSA: So moved.

10 (Whereupon, prefiled direct testimony of
11 MacKenzie Marcelin 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

**SETTLEMENT TESTIMONY OF
MACKENZIE MARCELIN**

**ON BEHALF OF
FLORIDA RISING,
LEAGUE OF UNITED LATIN AMERICAN CITIZENS,
AND
ENVIRONMENTAL CONFEDERATION
OF SOUTHWEST FLORIDA, INC.**

SEPTEMBER 19, 2025

1 **Q. Please state your name and business address.**

2 **A.**My name is MacKenzie Marcelin. My business address is 10800 Biscayne Blvd
3 Suite 1050, Miami, FL 33161.

4 **Q. Are you the same MacKenzie Marcelin who submitted intervenor testimony**
5 **in this proceeding on behalf of Florida Rising, LULAC, and ECOSWF on**
6 **June 9, 2025?**

7 **A.**Yes. I am also still the Deputy Campaigns Director for Florida Rising, and there
8 have been no other changes to my work experience and qualifications.

9 **Q. On whose behalf are you submitting this testimony?**

10 **A.**Florida Rising, the League of United Latin American Citizens of Florida
11 (“LULAC”), and the Environmental Confederation of Southwest Florida
12 (“ECOSWF”).

13 **Q. What is the purpose of your testimony?**

14 **A.**The purpose of my testimony is to discuss some of the major elements of the
15 agreement reached between FPL and the Special-Interest Parties (“SIP Proposal”)
16 filed on August 20, 2025, and why the SIP Proposal is so harmful to Florida Rising,
17 LULAC, and ECOSWF, and their members and the interests they represent. I also
18 discuss in my testimony the major elements of the Customer Majority Parties
19 Proposal (“CMP Proposal”) that was filed on August 26, 2025. It is my
20 understanding that the Commission has dismissed the CMP Proposal as a
21 settlement but has allowed it for inclusion in testimony. I include it to contrast it
22 with the SIP Proposal to show why the SIP Proposal is not in the public interest
23 and does not result in rates that are fair, just, and reasonable. It is my conclusion
24 that the major elements and the CMP Proposal as a whole, would result in fair, just,
25 and reasonable rates—in contrast to both FPL’s originally-filed petition to increase

1 base rates and the SIP Proposal. My testimony endorses the CMP Proposal due to:
2 1) its rational, record-supported approach to cost of service and rate class cost
3 allocation based on a 12 CP and 1/13th AD methodology; 2) its rejection of the
4 unlawful Tax Amortization Mechanism (“TAM”) (as included as a component of
5 the new “RSM”); and 3) its four-year amortization of investment tax credits
6 (“ITCs”) associated with battery additions which avoids revenue cliffs that would
7 unfairly punish future customers.
8

9 **I. THE SIP PROPOSAL IS NOT IN THE PUBLIC INTEREST AND DOES**
10 **NOT RESULT IN FAIR, JUST, AND REASONABLE RATES**

11 **Q. How does the SIP Proposal address the cost of service to different customer**
12 **classes?**

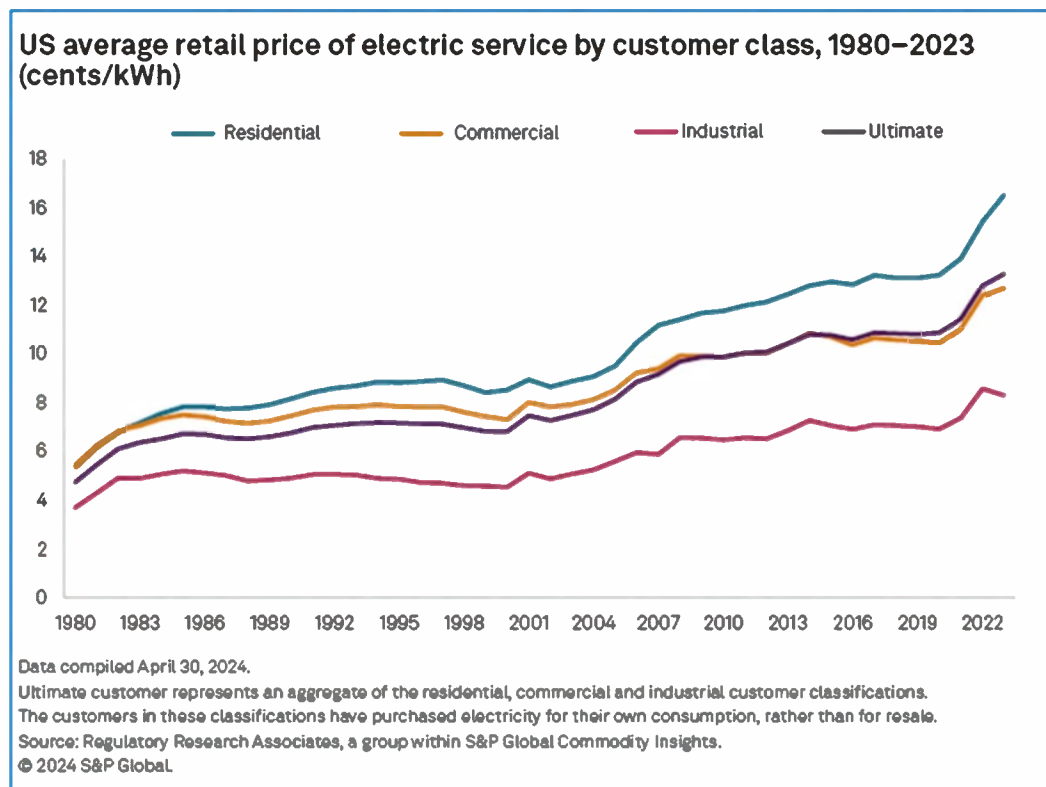
13 **A.** The SIP Proposal rejects using any kind of cost of service study and instead assigns
14 a flat increase to all classes. The residential class gets a 5% discount from the total
15 flat increase it would have received, with that 5% share of revenue being
16 redistributed to the other classes.

17 **Q. Doesn’t that discount mean that the SIP Proposal is more protective of**
18 **residential customers than other classes?**

19 **A.** Not at all. As Witness Rábago testifies in much more depth, while the SIP Proposal
20 reduces the total increase in revenue that FPL was originally seeking (almost
21 entirely due to the reduction in return on equity), the SIP Proposal
22 disproportionately applies the savings to other classes. Put differently, nearly
23 every class—other than residential customers and small businesses and certain
24 classes representing government accounts like the Miami metro and traffic lights—
25 got a much bigger discount from the SIP Proposal from what was in the original

case. *See* Settlement Testimony of Karl Rábago at Table-2. Also, because residential customers were already paying more than their fair share under any of the cost of service studies that were filed, a flat increase just pushes them farther away from a fair allocation.

Residential customers across the United States are already paying far too much for electricity in general compared to big commercial and industrial customers. Analysis by S&P Global shows just how bad this has gotten between 1980 and 2023:¹



The Commission must reject the SIP's attempt to worsen this trend by dumping even more costs on residential customers while giving big business

¹ Brian Collins, S&P Global, *US retail electric prices likely moderate in 2024, continuing 2023 trend* (June 27, 2024), <https://www.spglobal.com/market-intelligence/en/news-insights/research/us-retail-electric-prices-likely-moderate-in-2024-continuing-2023-trend>.

1 another break.

2 **Q. How does the SIP Proposal impact low-income households in particular?**

3 **A.** Over the next 4 years, the SIP Proposal would collect over \$1.6 billion dollars in
4 additional revenue from low-income households who are already struggling to
5 make ends meet. Although the SIP Proposal promises to allocate a small amount
6 of funding in bill assistance to those households, it is not nearly enough compared
7 to how much more FPL plans to charge low-income customers.

8 **Q. What do you mean by that?**

9 **A.** By low-income, I am referring to the widely used definition of ALICE households:
10 Asset Limited, Income Constrained, Employed. These are households “that earn
11 more than the Federal Poverty Level, but not enough to afford the basics where
12 they live.”² In Florida, 47% of all households meet the criteria for being at or
13 below the ALICE Threshold.³ FPL has indicated that it has no reason to believe
14 that the prevalence of ALICE threshold households is lower in FPL’s territory than
15 across the state,⁴ so I find that 47% of FPL’s residential customers would be ALICE
16 households, which seems about right given my experience working in the
17 community. The SIP proposal allocates 60% of the additional revenues to the
18 residential class, for a total of roughly \$3.54 billion total.⁵ Multiplying the
19 residential share by 47% results in \$1.66 billion more that ALICE households

² United for ALICE, *National Overview*, <https://www.unitedforalice.org/national-overview#3.75/36.35/-95.84> (accessed Sept. 19, 2025).

³ The 47% of households under the ALICE Threshold includes the 13% of FL households living in poverty plus the 34% of FL households meeting the ALICE definition. United for ALICE, United Way Florida, 2025 Update on Financial Hardship, at 3 (2025), attached as Exhibit MM-7.

⁴ Transcript of Sept. 5, 2025 Deposition of Scott Bores at 144–45; Transcript of Sept. 9, 2025 Deposition of Tiffany Cohen at 128.

⁵ See SIP Proposal, Exhibit A [MFR E-5] (566,221/945,000=59.92; \$6.9 billion increase*0.5992=\$3.535 billion).

1 would be charged over the next four years compared to current rates.

2 **Q. What does the SIP Proposal present for payment assistance and how does that**
3 **compare to the revenue sought from low-income customers?**

4 **A.** The SIP Proposal puts forward a proposal to create a one-time, \$15 million fund
5 for payment assistance for ALICE customer households. SIP Proposal at 27, ¶27.
6 That is less than 1% of the over \$1.6 billion in extra charges that the SIP Agreement
7 puts those same customers on the hook for. That simply isn't close to enough for
8 customers that already have high energy burdens from their FPL bills. If FPL
9 really wanted to help its low-income customers, it should have funded this
10 payment assistance program with significantly more money—and it should have
11 funded the program from its own profits instead of charging it to other (mostly
12 residential) customers.

13 **Q. What does the SIP Proposal do in terms of GS customers?**

14 **A.** GS customers will see their rates more than triple when compared to FPL's
15 originally filed rate increase.

16 **Q. Why does Florida Rising care about that?**

17 **A.** Florida Rising is itself a GS customer of FPL. Our electric bill is attached as
18 Exhibit MM-6 to my testimony (in the name of Florida Rising's prior name of New
19 Florida Majority). We do not want to see our rates increase by more than triple
20 that which FPL originally proposed. I have not heard a convincing reason from
21 any of the SIPs why such a rate increase is in the public interest or results in rates
22 that are fair, just, and reasonable. How is more than triple the increase, without
23 any supporting cost of service methodology, fair to the small business community
24 of Florida? More than just our own electric bill, which we certainly care about,
25 Florida Rising's members work for and own small businesses which are the

1 lifeblood of the Florida economy. The SIPs offer no rational reasons for shifting
2 this rate increase, which is the largest in United States history from what I've seen,
3 onto residential customers and small businesses and away from FPL's largest and
4 most profitable customers (in addition to the CDR/CILC credits that those
5 customers are receiving).

6 **Q. How does the SIP Proposal treat the CDR/CILC credits as compared to FPL's**
7 **original as-filed case?**

8 **A.** The SIP agreement vastly increases the CDR/CILC credits as compared to FPL's
9 original as-filed case. In FPL's original as-filed case, FPL proposed lowering the
10 credits, saving the general body of customers—especially residential and small
11 business customers, who are the primary funding source for the CDR/CILC
12 credits—by over \$22 million per year. That would have been savings of over \$88
13 million for the general body of customers from 2026-2029. In my direct testimony,
14 I mentioned that the credit levels proposed by FPL were still too high in their as-
15 filed case, given that interruptible customers are never interrupted on FPL's
16 system, and FPL has no plans to interrupt their interruptible customers. In a cruel
17 twist, instead of taking my recommendations and further lowering the credit levels
18 or eliminating the credits, FPL and the SIPs have gone the opposite direction and
19 are proposing to increase the credit levels even beyond that which is cost-effective
20 under the Rate Impact Measure ("RIM") test. This only furthers the financial
21 burden placed on residential and small business customers.

22 **Q. Please explain what you mean.**

23 **A.** In FPL's own data, the new credit levels under the SIP Proposal no longer pass the
24 RIM test, meaning that the net savings from the avoided cost of new generation
25 are less than the costs of the proposed payments to the SIPs that receive CDR/CILC

1 credits. In other words, it would be more cost-effective for FPL to simply build
2 the generation to replace the claimed capacity from interruptible customers, and
3 this generation could serve all of FPL's customers.

4 **Q. Are there any other benefits to building the generation?**

5 **A.** Yes. The built generation would be more reliable than relying on interruptible
6 customers. To be clear, FPL does not need the capacity provided by the
7 interruptible customers, but even if that capacity were needed, it would be more
8 reliable to come from generation resources because unlike interruptible resources,
9 generation resources can't simply walk away from FPL's system if they start
10 getting used. With the interruptible customers, if they actually started getting
11 interrupted and FPL's customers actually started seeing some value from that
12 program, those interruptible customers could simply walk away, leaving FPL
13 scrambling to build the replacement generation, which, thanks to the credit levels
14 in the SIP Proposal, is already more cost-effective, according to FPL's own
15 analysis, than the CDR/CILC credits.

16 **Q. Do the CDR/CILC Credits change even more during the term of the SIP**
17 **agreement?**

18 **A.** Yes. During the term of the SIP Proposal, the CDR/CILC credits increase with
19 each approval of the SoBRAs.

20 **Q. Does it make sense to increase the CDR/CILC credits with each approval of**
21 **the SoBRAs?**

22 **A.** No. In fact, the opposite is true. Any value of the CDR/CILC credits,
23 fundamentally, comes from the ability of FPL to interrupt those CDR/CILC
24 customers when there is a lack of sufficient generation resources to maintain
25 service to all firm-load. When additional generation is added to the system, as is

1 the case with the SoBRAs, which are mainly made-up of batteries providing firm-
2 capacity and also additional solar, the likelihood of FPL having a lack of sufficient
3 generating resources, of course, goes down. So too, would the value of the credits.
4 Paradoxically, however, the SIP Proposal increases the credits with each of the
5 SoBRAs.

6 **Q. How much does the SIP Proposal increase the credits?**

7 **A.** Starting in 2026, the SIP Proposal increases the credits from the present level to
8 \$9.75/kW. This comes at a cost to the general body of ratepayers of \$8.6 million
9 per year above current levels, and, importantly, \$30,620,646 more per year than
10 originally as proposed by FPL in this case, which, as should be noted, I testified
11 was still too high. Over the four-year term of the SIP Proposal, the SIP Proposal
12 is expected to cost the general body of customers (again, primarily residential and
13 small business customers) \$122,482,584 as compared to FPL's original as-filed
14 case, just in the cost of the CDR/CILC credits. That's before accounting for the
15 increases in the credits due to the SoBRAs, which is expected to add an additional
16 annual cost of over \$5 million by the end of the SIP Proposal once all of the
17 SoBRAs are in place (total annual cost of CDR/CILC credits of \$89,632,203 based
18 on FPL's estimates of the SoBRA increases).

19 **Q. Are the CDR/CILC credits helping ordinary Floridians?**

20 **A.** No. They are going to some of the largest and most wealthy customers in the State.
21 Residential customers and small businesses are not even eligible for the credits.
22 Instead, they are going to companies like Walmart. For example, the CILC-1T
23 class is made up of just 15 customers according to FPL. Those 15 customers,
24 between FPL's as-filed case, and the SIP Proposal, will be getting paid an
25 additional \$22,561,609 over the term of the SIP agreement, before accounting for

1 the additional increases due to the SoBRAs. That's more than \$1 million per
2 customer, paid for by the general body of customers, primarily composed of
3 residential and small business customers. No wonder parties representing large
4 load customers were so eager to sign the SIP Proposal.

5 **Q. What is your opinion on FPL's proposed disconnection policy?**

6 **A.** If adopted, FPL proposes a disconnection policy where FPL will not disconnect
7 any customer for nonpayment if the temperature is forecasted at 95 degrees or
8 higher, where a heat advisory has been issued by the National Weather Service, or
9 where the temperature is forecasted at 32 degrees or lower. FPL operates in one
10 of the hottest states in the country, having access to air conditioning should not be
11 a luxury, but rather a necessity that Floridians require to protect their health and
12 well-being. FPL's policy is not protective enough of Floridians who experience
13 Florida's brutal summers.

14 While 95 degrees is certainly hot, Floridians need access to air conditioning
15 all summer long. FPL's policy does not sufficiently account for humidity, which
16 drastically increases the "feels-like" temperature outside, and slows the body's
17 ability to regulate and cool itself.⁶ Florida, being on the front lines of climate
18 change, is seeing increased temperatures every year, including increased humidity
19 levels. Heat-stress is the leading cause of weather-related deaths in the United
20 States.⁷ Critically, heat deaths do not only occur outdoors. Preventable deaths
21 occur indoors when people do not have access to air conditioning, and indoor heat
22 deaths are expected to increase as climate change continues to drive up

⁶ National Weather Service, *What is the heat index?*,
<https://www.weather.gov/ama/heatindex> (accessed Sept. 19, 2025).

⁷ U.S. Environmental Protection Agency, *A Closer Look: Heat-Related Workplace Deaths*,
<https://www.epa.gov/climate-indicators/closer-look-heat-related-workplace-deaths#ref7>
(accessed Sept. 19, 2025).

1 temperatures, impacting low-income households the most.⁸

2 A summer disconnection policy is especially critical to protect vulnerable
3 populations. One of the most vulnerable groups is adults 65 and older, for which
4 Florida is home to the second-highest per capita population in the country. Studies
5 have shown that older adults have a higher risk of heat related health problems.
6 As our summers become hotter, we must adjust our policies and do everything
7 possible to ensure that older adults, who are more likely to be on a fixed income,
8 have access to air conditioning. Arizona requires its regulated utilities to have a
9 disconnection policy, including a moratorium on disconnecting customers from
10 June 1-October 15.⁹ Additionally, weather disconnection policies are the norm for
11 northern states to protect customers in the winter from freezing temperatures, with
12 over 40 states that have these types of protections.¹⁰ Given that Florida has much
13 more risk for heat-related deaths than those caused by cold weather, the
14 Commission should require a more protective approach to keeping Floridians safe
15 from the deadly heat.

16 FPL's own data demonstrates the necessity of a summer disconnection
17 policy. In 2024, FPL disconnected 1,229,818 residential customers (so far more
18 actual Floridians), including 376,274 during the critical months of June-
19 September.¹¹ During that time, while most people were able to be reconnected to
20 the grid the same day, the average reconnection time was still about a third of a

⁸ The Guardian, *'It happened so fast': the shocking reality of indoor heat deaths in Arizona* (Aug. 31, 2025), https://www.theguardian.com/us-news/2025/aug/31/phoenix-heat-deaths?CMP=oth_b-aplnews_d-1.

⁹ Arizona Residential Utility Consumer Office, *Disconnection Rules*, <https://ruco.az.gov/hot-topics/disconnection-rules> (accessed Sept. 19, 2025).

¹⁰ LIHEAP Clearinghouse, *Cold Weather Disconnect Policies*, <https://liheapch.acf.gov/Disconnect/cold-weather.htm> (accessed Sept. 19, 2025).

¹¹ See FPL Response to Florida Rising, LULAC, and ECOSWF Interrogatory No. 98, Attachment 1.

1 day (and due to how FPL calculates disconnection and reconnections, same day
2 reconnections count as zero days), meaning either about one-third of that 376,274
3 disconnections took a day to be reconnected (or longer with fewer customers
4 taking that longer period of time).¹²

5 It is worth noting that, multiplying the 2024 disconnections (1,229,818 out
6 of 5,287,101 residential customers) by average reconnection time (0.29 days –
7 counting reconnections that take less than a day as zero), shows that a residential
8 customer was more likely to be without power in 2024 for disconnection for
9 nonpayment than from a system reliability issue, reinforcing my testimony that a
10 reliable grid does not do struggling Floridians any good if they cannot afford the
11 grid.¹³

12 **Q. What does the SIP Proposal do in terms of the return on equity and capital**
13 **structure?**

14 **A.** At a high level, the SIP Proposal gives FPL everything it could ever hope for.
15 Although FPL claims the ROE of “just” 10.95% is a compromise from its as-filed
16 position of 11.90%, I’m not sure 10.95% can be considered a compromise when it
17 is still 45 basis points higher than any other utility in the lower 48 States from what
18 I’ve been able to determine, and that doesn’t take into account the extraordinarily
19 high equity ratio that is also built into the SIP Proposal. In other words, although
20 FPL started the case at 11.90%, that does not make 10.95% reasonable. Say I offer
21 to sell you a cup of coffee for \$50 and then reach an agreement to lower my price
22 to \$30 instead. Sure, that’s a 40% reduction, but I don’t think anyone would claim
23 you got a good deal when you could go next door and buy the same cup of coffee

¹² *Id.*

¹³ $1,229,819/5,287,101=0.2326$. $0.2326*0.29=0.067456$ days*24 hours/day = 1.619 hours/customer, which is greater than the reported SAIDI of 43.8 minutes in 2024.

1 for \$4. The same is true here, except FPL's monopoly status means customers
2 can't even go next door to buy the cup of coffee unless they actually move outside
3 of FPL's territory. The ridiculous ROE from FPL's original petition cannot be the
4 starting point for measuring the claimed reasonableness of the "compromise" in
5 the SIP Proposal, especially given the billions of dollars of profits FPL already
6 makes every year.

7 **Q. Do you have any concerns regarding the long-term impacts of the SIP**
8 **Proposal?**

9 **A.** Yes, many.

10 **Q. Please explain.**

11 **A.** The SIP Proposal takes what was a terrible plan by FPL (intentionally creating a
12 huge revenue cliff in 2030 that bakes in a massive rate increase) and makes it even
13 worse. The SIP Proposal preserves the ITC flow-through in a single year. This
14 creates a "flip-back" or "swing-back" revenue requirement effect.

15 **Q. What do you mean by "revenue cliffs" and "flip-backs"?**

16 **A.** By revenue cliffs, I mean pre-planned gaps of hundreds of millions of dollars in
17 revenue requirement that will have to be paid back in FPL's next rate case—even
18 if FPL didn't plan to build anything new after 2029. FPL appears to have designed
19 the SIP Proposal in part to ensure that such gaps would exist and would have to be
20 paid back in its next rate case. The flip-back (FPL's turn of phrase) refers to the
21 massive revenue swing from the first to second year that each battery is in service,
22 caused by FPL using up all of the ITCs from each battery in its first year of service.
23 The year the battery goes into service, FPL plans to take all its ITCs in that single
24 year and sell them off (and worse, at a discount). As a result, the battery actually
25 has a significant negative revenue requirement associated with it for that year. The

1 next year, however, it is as if the ITCs associated with that battery never existed,
2 and all of a sudden, the battery imposes a large, positive revenue requirement. The
3 flip-back varies with the cost of the batteries added in a given year, but all create
4 hundreds of millions of dollars of increased costs in their second year. For
5 example, according to FPL's own calculations, the 2028 batteries have a flip-back
6 effect of \$302,521,347 of jurisdictional revenue requirement in 2029, just on their
7 own. The 2029 batteries are almost identical, with slightly higher costs (and
8 therefore slightly higher ITCs), so the flip-back effect into 2030 will be even
9 greater than that. Meaning, even if nothing else were to change, the SIP agreement
10 already sets up a need to fill the hole made by the 2029 ITCs to the tune of well
11 over \$300 million.

12 The SIP agreement also takes the deferred tax liabilities that customers
13 have already paid to FPL and uses them to allow FPL to stay at the top of its
14 allowed range (11.95%) and requires that FPL's customers pay those deferred tax
15 liabilities back to FPL, including in 2030. FPL has provided an estimate that this
16 will cost \$38.5 million per year, for 30 years.¹⁴ But this has a hidden, additional
17 benefit to FPL. Not only does taking the deferred tax liabilities allow FPL to stay
18 at the top of its allowed range, it also allows FPL to replace this zero-cost capital
19 funding source in its capital structure with additional equity infusions, which allow
20 it to earn even more profit. It's a win-win for FPL, and a lose-lose for FPL's
21 customers. Not only do FPL's customers have to pay the deferred tax liabilities
22 back to FPL, they also have to pay FPL the additional profit on the equity infusion
23 needed to replace the deferred tax liabilities in FPL's capital structure. So, in
24 addition to virtually guaranteeing another large rate increase in 2030, the SIP

¹⁴ See FPL Response to Florida Rising, LULAC, and ECOSWF Interrogatory No. 195.

1 proposal ensures that FPL will be able to stay at the top of its allowed range using
2 customer money, and replacing that money with equity which will allow FPL to
3 earn even more profits.

4 Additionally, the SIP Proposal makes things worse by extending the capital
5 recovery schedules to 20 years, meaning that people being born today will, when
6 they become FPL customers as adults, be paying for capital assets that were never
7 in service their entire lives.

8 **Q. Why does that matter?**

9 **A.** Florida Rising's members have families and children. It is of great concern to them
10 that they are not just passing on costs to be borne by future generations that will
11 not experience any of the benefits. That's just wrong. I get that the SIPs are all
12 about the profits that they will be making next quarter, and so they want to steal as
13 much money from future generations as they can, but Florida Rising, ECOSWF,
14 and LULAC cannot take such a narrow view and have to ensure that we are not
15 just guaranteeing massive rate increases from now for the next 30 years. It is
16 wrong to take money from people 30 years from now just to allow FPL to take
17 additional profits in the short term. But that's exactly what the SIPs have agreed
18 to in exchange for moving the rate increase away from them and onto residential
19 and small businesses of Florida and for additional CDR/CILC credits that have
20 pushed beyond cost-effectiveness. I don't see how anyone could possibly think
21 that the SIP agreement is in the public interest, unless they solely define the public
22 interest as the interests of FPL's shareholders and the 1% of customers represented
23 by the SIP signatories. We believe that the public interest is broader and includes
24 the interests of all customers including residential and small business customers,
25 and the interests of future generations. That's why Florida Rising is adamant

1 against setting up billions in “IOUs” to FPL from future FPL customers.

2 **Q. How does the SIP Proposal affect FPL’s minimum bill?**

3 **A.** The SIP Proposal increases FPL’s minimum bill to \$30, the same as was proposed
4 in FPL’s as-filed case. This means that no matter how much a customer cuts back
5 on their energy usage, they will always be paying at least \$30 a month, just to be
6 connected to FPL’s grid. This is an increase from the current minimum bill, which
7 is \$25 a month. FPL did not provide any support for this increase in the SIP
8 Proposal, and this again represents how the SIP Proposal does not represent all
9 customer classes.

10 Residential customers are most affected by the minimum bill, and the SIP
11 Proposal reflects that protecting residential customers was not the priority of the
12 special interest groups who determined the minimum bill did not need to change
13 from FPL’s as-filed proposal. Florida is facing an affordability crisis, and the
14 minimum bill impacts customers who are already low-income and low energy
15 users.¹⁵ Once again, this provision of the SIP Proposal does not impact most of
16 the signatories to that agreement, and carrying this provision over from the as-filed
17 case is not meaningful concession or compromise by any of the signatories.

18

19 **II. THE CMP PROPOSAL RESULTS IN RATES THAT ARE FAIR, JUST,**
20 **AND REASONABLE FOR ALL FPL CUSTOMERS INSTEAD OF**
21 **FAVORING ONLY SPECIAL INTERESTS.**

22 **Q. How does the CMP Proposal compare to the SIP Proposal in terms of rate**
23 **impacts?**

24 **A.** According to the calculations contained in the CMP Proposal, residential

¹⁵ See FPL Response to Florida Rising, LULAC, and ECOSWF Production of Documents Request No. 91.

1 customers will save more than \$5.24 per month per 1,000 kWh by 2027. That's
2 over \$62.88 per year, and that figure is still an understatement for at least two
3 reasons. First, it does not include the savings from maintaining the current level
4 of CDR/CILC credits, as contained in the CMP Proposal. Although we believe
5 that those are still way too high, Florida Rising made the compromise to keep the
6 current credit level in the interest of making an agreement with the CMP parties.
7 Second, it is based on only 1,000 kWh of usage. Since FPL residential customers
8 use more electricity than that on average, they will save even more. The savings
9 to residential customers under the CMP Proposal is really meaningful to our
10 members and the customers they represent when every dollar can matter and we
11 have people choosing between getting the life-saving medicine they need and
12 turning life-saving air-conditioning on. Furthermore, the CMP Proposal does not
13 increase the minimum bill, which FPL's own data seems to indicate will impact
14 many low-income customers and will not just be hitting snowbirds with multiple
15 homes. In fact, FPL's own data indicates that the months with the most minimum
16 bills are the colder months when the snowbirds would be occupying their homes
17 in Florida, proving that genuine low usage is causing homes to incur minimum
18 bills, not second-homes that are unoccupied during the hotter months as FPL states
19 in their testimony.¹⁶

20 The difference for GS customers is even starker, because unlike the SIP
21 Proposal, the CMP Proposal uses an actual cost of service methodology to fairly
22 assign the rate increases across the customer classes while still employing the
23 principle of gradualism. By 2027, the CMP Proposal results in savings of \$20.91
24 per month on a 1,200 kWh bill. That's \$250.92 per year, which is real money to

¹⁶ See Transcript of July 21, 2025 Deposition of Tiffany Cohen at 151-58.

1 many of Florida's small businesses struggling financially. It is also worth bearing
2 in mind that residential and small business customers comprise almost 99% of
3 FPL's customers, all of whom would be significantly better off under the CMP
4 Proposal as compared to the SIP Proposal. It is also worth noting that the CMP
5 Proposal represents a real compromise between Florida Rising's, ECOSWF's, and
6 LULAC's positions going into the case which called for a cost of service
7 methodology much more weighted towards energy, no application of gradualism,
8 and the elimination of the CDR/CILC credits. I believe that under the CMP
9 Proposal, due to the application of gradualism and the maintenance of the
10 CDR/CILC credits, the 1% of customers represented in the SIP Proposal are still
11 getting a special break. They still are not forced to truly pay their fair share, but
12 the CMP Proposal at least finally moves them closer towards paying their fair
13 share, unlike under the SIP Proposal, where those parties pay only a small fraction
14 of what they would under any reasonable cost of service study.

15 **Q. Are there other benefits of the CMP Proposal as compared to the SIP**
16 **Proposal?**

17 **A.** Absolutely. One of the largest is that it avoids much of the generational inequity
18 contained in the SIP Proposal by avoiding revenue cliffs due to SIP Proposal
19 features like the ITC flip-back and repayment of the deferred tax liabilities (former
20 TAM) now included in the RSM. By amortizing the ITCs over four-years and
21 eliminating the double-taxation of the deferred tax liabilities, the CMP Proposal
22 avoids setting-up a massive "IOU" to FPL to the tune of well-over a billion dollars
23 starting in 2030 with a massive "flip-back" due to the 2029 investment tax credits.
24 The CMP Proposal ensures that battery energy storage devices are only constructed
25 when and because they are needed as a generation resource, not because they need

1 to avoid rate shock by masking the effect of FPL having used up all the ITCs from
2 the prior year in that same year. Avoiding rate shock should not be a reason to
3 build battery energy storage systems, which, when doing so, necessitates that they
4 be built each year to keep postponing the inevitable rate shock, one year at a time.
5 The long-term cost is staggering considering that these batteries cost billions of
6 dollars and are adding over \$5 billion into rate base on their own over the term of
7 the SIP Proposal.

8 **Q. Please summarize your testimony.**

9 **A.** The SIP Proposal results in a massive windfall to FPL and most of the SIPs. The
10 SIP's windfall is all paid for by current and future generations of residential
11 customers and small businesses. That's just wrong. By contrast, the CMP Proposal
12 treats all customers fairly and helps move FPL's largest customers towards paying
13 their fair share of system costs.

14 **Q. Does this conclude your testimony?**

15 **A.** Yes, it does.

1 BY MR. MARSHALL:

2 Q Mr. Marcelin, did you prepare a summary of
3 your testimony?

4 A Yes.

5 Q Would you please go ahead and give us your
6 summary?

7 A Sure can.

8 In my testimony, I present that Florida Rising
9 is not only participating in this rate case as a
10 representative for our community members, but
11 additionally we are present as a GS customer class.
12 This settlement proposed by the special interest party
13 will have a significant and two-folded impact on Florida
14 Rising.

15 The proposed SIP settlement is the definition
16 of unfair and unjust, as it shifts significant costs
17 away from the largest and most profitable class onto
18 residential and small business customers. As a part of
19 the GS customer class, we do not in to see our rates, or
20 those of any small business in Florida, increase by more
21 than three times what FEL proposed initially.

22 We know that our members work for -- work for
23 and own small businesses, which are the lifeblood of
24 Florida economy. More than just our own electricity
25 bill, which we certainly care about, the SIPs offer no

1 rational reason for shifting this rate increase, which
2 is the largest in U.S. history from what I have seen
3 onto residential customers and small businesses and away
4 from the FPL's largest and most profitable customers.

5 Even more, their proposed return on equity
6 compromise at 10.95 percent is still 45 basis points
7 higher than any other utility's in the lower 48 states
8 from what I have been able to determine.

9 In FPL's original as-filed case, FPL proposed
10 lowering the credits given to interruptible customers.
11 In my direct testimony, I mention that the credit levels
12 proposed by FPL were still too high as in their as-filed
13 case, given that the interruptible credit customers are
14 never interrupted on FPL's system, and FPL has no plans
15 to interrupt their interruptible customers.

16 In cruel twist, instead of taking my
17 recommendations and further lowering the credit levels,
18 or eliminating credits, FPL and the SIPs have gone the
19 opposite direction, and are proposing to increase credit
20 levels even beyond that which is cost-effective under
21 the RIM test.

22 FPL operates in one much the hottest states in
23 the country. And as I mentioned before, having access
24 to air conditioning is a necessity that Floridians
25 require to protect their health and well-being.

1 Although, 95 degrees is extremely hot, FPL's
2 weather disconnection policy remains insufficient.
3 Floridians needs access to air conditioning all summer
4 long, and Florida being the front line of the climate
5 change, is seeing the increased temperatures every year,
6 along with the rising humidity levels. Heat stress is
7 the leading cause of whether deaths in the United
8 States. Critical heat deaths do not only occur
9 outdoors, and preventable deaths occur indoors when
10 people to not have access to air.

11 All these reasons and more is why, in my
12 conclusion, the major elements of the CMP proposal as a
13 whole would result in fair, just and reasonable rates,
14 in contrast to both proposed -- FPL's original filed
15 petition to increase base rates and the SIP's proposal.

16 **Q Thank you.**

17 A Thank you.

18 **Q Mr. Rábago, could you please state your name**
19 **and business address for the record? Could you please**
20 **state your name and business address for the record?**

21 A There we go. Okay. Hi, I am Karl Rábago, and
22 spelled R-A-B-A-G-O.

23 **Q And on whose behalf are you testifying?**

24 A I am testifying on behalf of Florida Rising,
25 LULAC and ECOSWF.

1 **Q On September 19th, 2025, did you prepare and**
2 **cause to be filed settlement testimony and Exhibits**
3 **KRR-66 through KRR-11 regarding this rate case?**

4 A Yes, I did.

5 MR. MARSHALL: And just for the record, those
6 are identified on the CEL as Exhibits 1312 through
7 1317.

8 BY MR. MARSHALL:

9 **Q Do you have that testimony and those exhibits**
10 **you with today?**

11 A Yes.

12 **Q If I asked you the same questions today would**
13 **your answers be the same?**

14 A They would be.

15 **Q Do you have any changes to your prefiled**
16 **testimony or exhibits?**

17 A I found one little knit. On page 16, at line
18 14, the word "the" should be the word "that".

19 MR. MARSHALL: Mr. Chairman, at this point, we
20 would like to have Mr. Rábago's prefiled settlement
21 testimony entered into the record as though read.

22 CHAIRMAN LA ROSA: So moved.

23 (Whereupon, prefiled direct testimony of Karl
24 Rábago was inserted.)

25

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

SETTLEMENT TESTIMONY OF

KARL R. RÁBAGO

ON BEHALF OF

FLORIDA RISING,

LEAGUE OF UNITED LATIN AMERICAN CITIZENS,

AND

ENVIRONMENTAL CONFEDERATION

OF SOUTHWEST FLORIDA, INC.

SEPTEMBER 19, 2025

1 **Q. Please state your name, business name, and address**

2 **A.** My name is Karl R. Rábago. I am the principal of Rábago Energy LLC, a Colorado
3 limited liability company, located at 1350 Gaylord Street, Denver, Colorado.

4 **Q. On whose behalf are you appearing in this proceeding?**

5 **A.** I appear here in my capacity as an expert witness on behalf of Florida Rising, Inc.
6 (“FL Rising”), LULAC Florida Inc., better known as the League of United Latin
7 American Citizens of Florida (“LULAC”), and the Environmental Confederation
8 of Southwest Florida, Inc. (“ECOSWF”).

9 **Q. Are you the same Karl R. Rábago who previously prepared direct testimony**
10 **in this proceeding?**

11 **A.** Yes.

12 **Q. Please summarize your previously filed direct testimony.**

13 **A.** In my direct testimony, I addressed FPL’s as-filed rate case, finding that several
14 key elements of FPL’s proposals are not justified. I specifically focused on several
15 deficiencies, most notably the Tax Adjustment Mechanism (“TAM”), the use of
16 Investment Tax Credits (“ITCs”) in a single year, the Stochastic Loss of Load
17 Probability (“SLOLP”) used to justify the batteries at issue in FPL’s case, and the
18 excessive return on equity, especially in light of FPL’s proposed equity to debt ratio
19 and overall capital structure.

20 **Q. What is the purpose of your testimony?**

21 **A.** The purpose of my testimony is to share my evaluation of the “settlement”
22 agreement filed August 20, 2025 between Florida Power & Light Co. (“FPL”),
23 Florida Industrial Power Users Group (“FIPUG”), Florida Retail Federation
24 (“FRF”), Florida Energy for Innovation Association, Inc. (“FEIA”), Walmart Inc.
25 (“Walmart”), EVgo Services, LLC (“EVgo”), Americans for Affordable Clean

1 Energy, Inc. (“AACE”), Circle K Stores, Inc. (“Circle K”), RaceTrac Inc.
2 (“RaceTrac”), Wawa, Inc. (“Wawa”), Electrify America, LLC (“EA”), Federal
3 Executive Agencies (“FEA”), Armstrong World Industries, Inc. (“AWI”), and
4 Southern Alliance for Clean Energy (“SACE”), whom I collectively refer to as the
5 “Special Interest Parties” (“SIPs”). I will refer to the “settlement agreement”
6 proffered by the SIPs as the “SIP Proposal.”

7 I analyze and offer my opinion on several aspects of the SIP Proposal,
8 including the excessive revenue requirement, the revenue allocation to the
9 customer classes devoid of any cost of service methodology, excessive return on
10 equity, excessive equity ratio, the Large Load Contract Service (“LLCS”) and
11 Contribution in Aid of Construction (“CIAC”) provisions, the Rate Stabilization
12 Mechanism (“RSM”) and its enabling of excessive returns for FPL at the cost to
13 ratepayers, the asset optimization program, the EV giveaway fund program, the
14 cost allocation for cost recovery clause factors, the solar base rate adjustment
15 mechanism (“SoBRA”), capital recovery schedules, sale of the investment tax
16 credits (“ITCs”) and production tax credits (“PTCs”), treatment of the Vandolah
17 acquisition, the embedded excessive rate base additions (and the inferred
18 continued reliance on the stochastic loss of load probability modeling “SLOLP”),
19 and prohibition on natural gas hedging. I also address how there does not seem to
20 be any real compromises by any of the SIPs, but rather the SIPs taking what they
21 want by shifting the burden of the rate increase onto residential and small business
22 customers. I therefore conclude that the SIP Proposal is decisively against the
23 public interest and results in rates that are unfair, unjust, and unreasonable. I
24 contrast this with the proposal of the Citizens of Florida (as represented by the
25 Office of Public Counsel), Florida Rising, LULAC, ECOSWF, and Floridians

1 Against Increase Rates (“FAIR”), whom I collectively refer to as the “Customer
2 Majority Parties” (“CMPs”), which would have resulted in fair, just, and
3 reasonable rates that are in the public interest, treating all customers fairly rather
4 than shifting the bulk of the increase on the hardworking families and small
5 businesses of Florida as the SIP Proposal does. The CMP Proposal is attached to
6 my testimony as Exhibit KRR-6.

7 **Q. Do you have an opinion regarding the base rate revenue increases included in**
8 **the SIP Proposal?**

9 **A.** Yes. The base rate revenue increases are, for all intents and purposes, 100% of
10 FPL’s as-filed original ask.

11 **Q. Did FPL show this anywhere?**

12 **A.** No. FPL claims that the \$945 million incremental base rate revenue requirement
13 in 2026 is a compromise position.

14 **Q. Then how do you know FPL is getting 100% of their as-filed original ask?**

15 **A.** There are several interlocking elements of the SIP Proposal that support my
16 finding. First, substituting a 10.95% return on equity for the 11.9% return on
17 equity originally requested by FPL (which was never realistic to begin with, as I
18 discuss further) covers most of the revenue reduction. There was never any
19 reasonable or objectively legitimate justification for this added revenue request, so
20 removing it in settlement is not a compromise. Simply substituting in the 10.95%
21 return on equity into the cost of capital results in a weighted average cost of capital
22 of 7.15% and reduces the incremental revenue requirement from the originally
23 requested \$1,544,780,000 to \$1,065,463,000 in 2026. The reduction in proposed
24 revenue from the unreasonable return on equity request alone accounts for \$480
25 million of the 2026 revenue requirement reduction out of a total reduction of \$600

1 million (from \$1.545 billion to \$945 million) in the SIP Proposal. Next, according
2 to the settlement testimony of Scott Bores, the move of Scherer 3's retirement date
3 to 2047 from 2035 accounts for \$6.7 million in reduced revenue requirement in
4 2026 (p. 13, line 9 of Bores settlement testimony). Further, according to that same
5 testimony, moving the capital recovery schedules to a 20-year amortization over
6 the as-filed 10-year amortization results in a reduction of \$9.4 million in revenue
7 requirement. Totaled together, these changes would reduce the 2026 revenue
8 requirement to \$1,049,363,000 but, again, many of these changes are not actual
9 revenue reductions. They are accounting actions that change the annual recovery
10 amounts, but not the totals. The rest of the less than \$105 million difference is
11 easily explained by the Asset Optimization Program ("AOP"). Under the SIP
12 Proposal, FPL gets to keep all of the money generated under the AOP under \$150
13 million. Although FPL will claim that some of that money was already earmarked
14 for "shareholder" value, that is illusory, as FPL has no permanent claim on that
15 money. And since it is going to FPL either way, as against base revenues or to
16 shareholders, all of that money should be counted as applied to base revenues
17 (almost half of which is going to FPL's profits in any event). The only basis for
18 FPL claiming the AOP balances for shareholders is the 2021 FPL rate case
19 settlement, which Florida Rising, ECOSWF, and LULAC notably did not join, and
20 therefore are by no means bound to respect the continuation of that settlement term
21 indefinitely into the future. FPL, in recent years, has consistently generated
22 funding considerably above \$105 million in the AOP.

23 In sum, the \$945 million revenue requirement in 2026 does not signify any
24 concessions on the part of FPL, as the "lower" ROE is still well-above any ROE
25 that could be reasonably justified, as I discuss further below.

1 As I discuss later in my testimony, and as I discussed in my testimony
2 regarding the FPL as-filed case, the additional revenue requirement was founded
3 on reliance on the stochastic-loss of load probability methodology (“SLOLP”).
4 That purported foundation is riddled with errors or intentionally false assumptions
5 that appear designed to create simulated loss of load events and thereby justify
6 further spending.

7 It is also important to note that FPL expects to bill customers hundreds of
8 millions of dollars for demand created by “favorable” weather--increased sales
9 beyond those forecasted. FPL’s reliance on twenty-year normalization of historical
10 weather for sales-forecasting purposes completely discounts the existence of
11 climate change, resulting in higher rates (because revenue requirement is spread
12 over lower sales forecasts) and allowing FPL to reap windfall revenues generated
13 by hotter weather.

14 **Q. Is the move of Scherer 3’s retirement date to 2047 justified?**

15 **A.** No. There is no indication that Scherer 3’s retirement date has moved to 2047 in
16 reality. It has only moved to 2047 for depreciation purposes, meaning that if
17 Scherer 3 retires in 2035, as is currently expected by the operator and decision-
18 maker regarding the retirement date, FPL’s customers will be left “holding the bag”
19 and needing to set up yet another capital recovery schedule. A better explanation
20 for the retirement date change appears to be that this provision of the SIP Proposal
21 was a special giveaway to the current federal administration, as advocated for by
22 the Federal Executive Agencies in this case. Despite what the FEA claimed in their
23 testimony, there are no mandates from the current Administration extending the
24 retirement date of the uneconomic Scherer 3 unit from 2035 to 2047. Nor does it
25 appear that the Administration has the constitutional authority to mandate such a

1 change, even if it wanted to.

2 **Q. What is the total cost of extending the capital recovery schedules for retired**
3 **plant to twenty years?**

4 **A.** No one knows, including the Commission and the supporters of the SIP Proposal.
5 FPL refuses to provide that calculation. Given that FPL will be earning returns in
6 the capital recovery schedule for an additional 10 years over the 10-year period
7 originally proposed, there will be considerably more costs passed to future
8 generations, reflecting another likely and grievous violation of the matching
9 principle. Future generations will still be paying for assets that never served them.
10 The generational economic inequity proposed in the SIP Proposal is not just
11 patently short-sighted, it is grossly inconsistent with the public interest in
12 affordable electric service.

13 **Q. What are the cumulative costs of FPL's proposed rate increase?**

14 **A.** As I address below, there are significantly more costs, well over \$1 billion, beyond
15 the term of the SIP proposed agreement. During the cumulative term of the
16 agreement, with \$945 million in 2026, \$705 million incremental plus an estimated
17 \$61 million SoBRA incremental in 2027, an incremental \$316 million SoBRA in
18 2028, and another estimated \$247 million SoBRA increment in 2029, the total
19 cumulative increase over four years is \$6.957 billion. As far as I've been able to
20 determine, this is the largest rate increase in United States history.

21 **Q. What is the revenue allocation in the SIP Proposal?**

22 **A.** The SIP Proposal includes an equal percentage increase across the customer
23 classes except for residential customers. Residential customers are assigned an
24 increase equivalent to 95% of the system average increase.

25 **Q. What cost of service methodology justifies this revenue allocation?**

1 **A.** There is no cost of service methodology mentioned in the SIP Proposal. In
2 testimony in support of the SIP Proposal, FPL argues that this somehow
3 incorporates, by non-reference, the settlement “methodology” from the 2021 FPL
4 settlement, even though on its own terms that black box “negotiated” methodology
5 expires at the end of the 2021 settlement (i.e., 2025). Additionally, the SIP
6 Proposal supporters have indicated, through their discovery answers and their
7 depositions, that they did not believe the 2025 SIP Proposal adopted a cost of
8 service methodology. FPL seems to be alone in its belief that the 2025 SIP
9 Proposal adopted the 2021 settlement by not referencing any cost of service
10 methodology. Bluntly stated, FPL references to a cost of service foundation for
11 the rates in the SIP Proposal are an “incorporation by non-reference.” This is not
12 a rational basis for just and reasonable rates.

13 **Q. Why do you call it a black box methodology?**

14 **A.** The distribution plant values in the previous settlement were negotiated, by FPL’s
15 own admission, and therefore not subject to review. There is no cost of service
16 study supporting the negotiated distribution plant values, nor do we even know
17 what those negotiated values are. There is nothing in the SIP Proposal indicating
18 that this 2021 methodology was being continued. FPL’s own analysis shows many
19 classes quite far away from parity under the 2021 methodology and moving further
20 from parity. This includes the almost 99% of customers included in the RS and
21 GS classes, both of which are moving away from “parity” under this black box
22 “methodology.”

23 **Q. Should this black box methodology be used as a basis to justify the SIP**
24 **Proposal’s revenue allocation?**

25 **A.** Absolutely not. Not only is it not a defensible “methodology,” since it is a

1 negotiated methodology that is not open to review, it does not justify the revenue
2 allocation since many customer classes are moved away from parity. Under the
3 SIP revenue allocation proposal, the almost 99% of customers who are part of GS
4 and RS classes are moved away from rate parity.

5 **Q. Aren't settlement negotiations confidential anyway?**

6 **A.** Yes. In my experience, parties may have different strategic intentions regarding
7 their positions on settlement terms, but the terms themselves must be sufficient to
8 support the Commission's conclusion that the proposed rates are just, reasonable,
9 and in the public interest. There is no way the Commission can reach such a
10 conclusion in the absence of a cost of service study.

11 **Q. What is the effect of the revenue allocation in the agreement?**

12 **A.** The effect is to give the large load customers a massive rate reduction from FPL's
13 as-filed case.

14 **Q. If residential customers are getting 95% of the system average increase,**
15 **shouldn't they be getting the largest reduction in any settlement?**

16 **A.** Residential customers should be getting an even larger reduction, as indicated by
17 every cost of service methodology previously filed by SIP Proposal supporters in
18 the case. Giving residential customers 95% of the system average increase is
19 actually shifting hundreds of millions of dollars onto residential customers beyond
20 that which they should be paying. As shown in KRR-7, which compares the as-
21 filed rate increases with the SIP and CMP proposed increases, the SIP Proposal
22 supporters give themselves massive rate breaks while shifting costs onto the RS,
23 GS, and some of the governmental classes (like traffic lights and Miami metro
24 service). Incredibly, GS customers, like Florida Rising, Inc., are getting more than
25 three times the increase in 2026 than if FPL's original as-filed petition had been

approved in full.

Q. What is the effect of the revenue allocation on parity?

A. Using FPL's as-filed cost of service study and setting the revenue requirement deficiency to \$945 million, attached as Exhibit KRR-8,¹ shows that the SIP Proposal shifts hundreds of millions of dollars onto the GS and RS classes away from the large load classes, as shown by Table 1 for 2026.

Table 1: Cost Shift According to FPL As-Filed Cost of Service Methodology

Class	Base Rate Revenue \$945 million Increase under as-filed COS	Base Rate Revenue Increase under SIP Proposal	Difference - Subsidies Charged (Paid) to Other Customers	Percent of FPL's customers
CILC-1D	\$33,910,884	\$11,518,176	\$22,392,707	0.0040%
CILC-1G	\$1,060,994	\$533,554	\$527,441	0.0009%
CILC-1T	\$14,225,463	\$4,937,850	\$9,287,613	0.0002%
GS(T)-1	(\$40,205,259)	\$77,357,230	(\$117,562,489)	9.0721%
GSCU-1	(\$245,751)	\$252,896	(\$498,647)	0.0756%
GSD(T)-1	\$365,143,712	\$182,670,472	\$182,473,240	1.7073%
GSLD(1)-1	\$159,511,658	\$57,677,888	\$101,833,770	0.0507%
GSLD(T)-2	\$65,809,995	\$18,739,255	\$47,070,740	0.0034%
GSLD(T)-3	\$7,519,655	\$3,402,631	\$4,117,024	0.0003%
MET	\$240,871	\$460,638	(\$219,767)	0.0004%
OS-2	\$991,381	\$221,265	\$770,116	0.0048%
RS(T)-1	\$336,979,655	\$566,220,725	(\$229,241,069)	88.6574%
SL/OL-1	\$4,013,938	\$19,825,792	(\$15,811,854)	0.3510%
SL-1M	\$109,717	\$164,769	(\$55,052)	0.0169%
SL-2	\$34,862	\$196,642	(\$161,780)	0.0260%
SL-2M	(\$102,272)	\$59,434	(\$161,706)	0.0287%
SST-DST	(\$119,091)	\$18,895	(\$137,986)	0.0001%
SST-TST	(\$3,518,112)	\$741,873	(\$4,259,984)	0.0002%

¹ Start with "20250011 - FIPUG 1st INT No. 11 - Attachment No. 1." Go to the last tab and insert a rate of return on rate base of 7.0345% to approximate the revenue requirement of \$945 million and how that revenue requirement should be distributed using the as-filed 12CP and 25% AD cost of service methodology. Although I advocated for even more energy weighting in my original testimony, the 12CP and 25% AD cost of service methodology filed by FPL is a well-supported but conservative approach.

1 As the rate increase was inflated, so too were the inter-class subsidies from
2 the RS and GS classes to FPL's large load customers. Just in 2026, under the SIP
3 Proposal, as compared to FPL's as-filed cost of service study, RS and GS customers
4 are paying almost \$350 million more than their fair share. Over the 4-year term of
5 the settlement, with the additional rate increases, this should amount to a \$1.5
6 billion transfer of wealth from FPL's residential and small business customers to
7 their largest and wealthiest customers. This kind of levelized increase, which
8 should under cost of service analysis be an overall decrease, does virtually nothing
9 to move the classes closer to parity, quite unlike FPL's originally filed cost of
10 service allocation proposals in this case.

11 **Q. Does FPL justify this over \$1.5 billion transfer of wealth in their testimony?**

12 **A.** No. FPL asserts that it is "favoring" residential customers by giving them a lower
13 than system average increase. FPL further asserts that the compound annual
14 growth rate for small businesses is lower than other commercial classes, but that
15 is only the result of small businesses currently paying a larger proportion of their
16 current bill to storm charges than larger businesses, so their bill will fall more as
17 those storm charges fall-off. It is disingenuous, at best, for FPL to claim that it is
18 treating residential or small businesses customers fairly.

19 **Q. Does FPL claim someone was representing GS and RS interests at the**
20 **negotiating table?**

21 **A.** Yes. Incredibly, FPL claims it was representing those classes' interests itself. One
22 such example where FPL makes this extraordinary claim is attached as Exhibit
23 KRR-9.

24 **Q. Does FPL have any documentation to back up this claim?**

25 **A.** No. FPL has not produced any representation agreements nor any other

1 documentation showing that residential or small business customers have asked or
2 relied upon FPL to negotiate on their behalf against FPL regarding FPL's proposed
3 rate increase. Not only is FPL's contention an extraordinary claim that would put
4 them on both sides of the "v" in this rate case, given how much of the rate increase
5 is pushed onto RS and GS customers, FPL's claim that it was negotiating on their
6 behalf is simply not credible. FPL went into the negotiation asking, at 100% of its
7 ask, for an increase a little under \$25 million in 2026 for GS class customers. By
8 the end of the "negotiations" FPL, as representative of the GS class, supported a
9 more-than \$77 million increase in 2026. Given that the worst-possible outcome in
10 a litigation scenario at the Commission would be FPL getting 100% of everything
11 it asked for in its petition for rate increase, including an 11.9% ROE (which is
12 completely unrealistic, as I address later), this is not a reasonable outcome but
13 rather a betrayal of the GS class. Residential customers only do marginally better.
14 If FPL was representing RS and GS interests at the negotiating table, it did a
15 terrible job. A true representative of RS and GS interests (i.e., almost 99% of FPL's
16 customers) was necessary in crafting a settlement proposal that could support just
17 and reasonable rates and garner Commission approval.

18 **Q. So what happens to parity under the SIP Proposal?**

19 **A.** It gets difficult to tell due to the additional CILC/CDR credits provided by the SIP
20 Proposal. Those credits would give CDR and CILC customers approximately \$30
21 million per year more than FPL originally proposed. Even though those credits
22 are discounting the bills of the interruptible customers, the cost of service studies
23 treat those credits as "revenue" from those customers. As witness Marcelin
24 testifies, those credits are greatly overvalued and so are not properly reflected in
25 the cost of service studies.

Q. If RS and GS classes were not the primary beneficiaries of the reduction from the as-filed petition in the SIP Proposal, who won?

A. As shown in Table 2, the large load classes were, by far and away, the largest beneficiaries of any reduction. When looking at the additional CILC/CDR offsets to see the true bill impacts, the impacts are even starker. With less CILC/CDR credits, bills will go up, and with more CILC/CDR credits, bills will go down. So to show the true rate impact going towards the bill, I net out the changes in CILC/CDR credits to show how much those customers would actually have had to pay under the as-filed proposal and how little they will have to pay under the SIP Proposal as compared to the as-filed initial rate increase proposal. Although I only present data for 2026, the effects are similar for 2027.

Table 2: 2026 Revenue Requirements by Class Per SIP Proposal vs. As-Filed

Class	As-filed Proposed Increase	As-filed Proposed Increase Net CDR/CILC Credits	SIP Proposal Increase	SIP Proposal Increase Net CDR/CILC Credits	Percent of As-filed Increase Net CDR/CILC Credits
CILC-1D	\$30,683,000	\$37,303,000	\$11,518,00	\$8,938,000	23.96%
CILC-1G	\$1,325,000	\$1,605,000	\$534,000	\$425,000	26.46%
CILC-1T	\$14,758,000	\$18,816,000	\$4,938,000	\$3,356,000	17.84%
GS(T)-1	\$24,932,000	\$24,932,000	\$77,357,000	\$77,357,000	310.27%
GSCU-1	\$85,000	\$85,000	\$253,000	\$253,000	298.37%
GSD(T)-1	\$439,605,000	\$444,237,000	\$182,670,000	\$180,865,000	40.71%
GSLD(1)-1	\$146,581,000	\$150,961,000	\$57,678,000	\$55,971,000	37.08%
GSLD(T)-2	\$49,827,000	\$51,889,000	\$18,739,000	\$17,935,000	34.56%
GSLD(T)-3	\$9,690,000	\$9,960,000	\$3,403,000	\$3,403,000	35.12%
MET	\$589,000	\$589,000	\$461,000	\$461,000	78.20%
OS-2	\$452,000	\$452,000	221000	\$221,000	48.90%
RS(T)-1	\$807,171,000	\$807,171,000	\$566,221,000	\$566,221,000	70.15%
SL/OL-1	\$18,392,000	\$18,392,000	\$19,826,000	\$19,826,000	107.80%
SL-1M	\$243,000	\$243,000	\$165,000	\$165,000	67.68%
SL-2	\$195,000	\$195,000	\$197,000	\$197,000	100.64%
SL-2M	\$19,000	\$19,000	\$59,000	\$59,000	318.72%
SST-DST	\$6,000	\$6,000	\$19,000	\$19,000	309.09%
SST-TST	\$228,000	\$228,000	\$742,000	\$742,000	325.50%

1 As can be seen in Table 2, large load customers got a great deal in the SIP
2 Proposal, while RS, GS, and some of the governmental classes, like MET, and the
3 SL classes, did not. From just looking at Table 2, no matter FPL's protestations, it
4 is evident which classes had actual and effective representation at the negotiation
5 table.

6 **Q. Doesn't the SIP Proposal contain a significant concession by FPL in regard to**
7 **return on equity?**

8 **A.** No. The proposed return on equity of 10.95% is 45 basis points higher than the
9 next highest in the lower 48 States. FPL has offered no justification for why its
10 mid-point ROE should be so much higher than the rest of the industry, especially
11 when considering how the ROE interacts with the Rate Stabilization Mechanism
12 ("RSM"). I find Mr. Marcelin's analogy in his testimony apt. This is no more of
13 a concession than offering to sell a normal cup of coffee for \$50, and then
14 "conceding" to sell it for \$30, when all other cups of coffee are significantly
15 cheaper.

16 **Q. Please explain?**

17 **A.** For FPL, given the current range of authorized ROEs nationally, a 10.95% ROE
18 cannot be considered anything other than a total victory for FPL at great cost to
19 customers. The RSM is an additional mechanism that mitigates risk by taking
20 customer money and essentially creating a bank account that FPL can withdraw
21 and deposit money into and out of at will in order to control its earnings with
22 pinpoint precision, usually at or very near the top of its authorized range. Thus, a
23 10.95% ROE, coupled with the RSM, should really be considered an 11.95% ROE,
24 as it is much more likely that FPL will be earning an 11.95% ROE, or very close
25 to it, than a 10.95% ROE. We know this from history and from FPL's stated intent

1 to use the RSM like it used the Reserve Surplus Amortization Mechanism
2 (“RSAM”). This would allow unjust windfall profits to FPL far in excess of
3 anything that could be considered a reasonable return, i.e., up to a full percentage
4 point, or 100 basis points, above the “fair and reasonable” midpoint ROE. To go
5 back to the coffee analogy, when all of the other coffee shops are selling a normal
6 cup of coffee for \$4, FPL selling a cup of coffee for \$30, claiming it has conceded
7 \$20 off of the cup, is not a reasonable proposition. This is further reinforced by
8 the excessive equity to debt ratio, which, all things being equal, should mean lower
9 risk and thus require a lower ROE.

10 **Q. How is the equity ratio excessive?**

11 **A.** FPL has one of the highest equity ratios in the entire nation, which costs FPL’s
12 ratepayers more as a result since equity is more expensive than debt. FPL makes
13 no concession regarding its requested equity ratio in the SIP Proposal. Such a high
14 equity ratio should lead FPL’s ROE to be on the lower end of the spectrum, not to
15 break the spectrum by being a far outlier on the high side of ROE. This also works
16 in the opposite direction—a relatively high ROE should be balanced with a lower
17 equity ratio in order to avoid an unjust allowed Rate of Return. Proposing both a
18 higher-than-reasonable ROE and a higher-than-reasonable equity ratio is
19 unconscionable. Coupled with the RSM, there is no reasonable argument that the
20 SIP Proposal will not lead to excessive earnings. In fact, the RSM will actually
21 allow FPL to draw down the cost-free deferred tax liability portion of their capital
22 structure and allow FPL to replace that funding with even more equity. So, in fact,
23 although the SIP Proposal keeps FPL’s equity to debt ratio the same as proposed
24 and as it has been for many years (which is one of the highest in the nation), the
25 SIP Proposal actually will lead to FPL increasing its equity share of its overall

1 capital structure, which will lead it to having one of the highest, if not the highest,
2 proportion of equity as a total of its total capital structure in the nation. In
3 combination, the ROE, equity ratio, and RSM interplay together and are
4 completely excessive. Instead of leading to a lower ROE, or lower equity ratio, or
5 no need for an RSM, FPL pushes the boundaries to the top on all three, leading it
6 to be decisively against the public interest.

7 **Q. You've mentioned the RSM several times. What is it?**

8 **A.** The RSM is FPL's latest proposal for a slush fund of customer money that FPL can
9 flexibly credit to and debit against to artificially ensure that it earns at the top of
10 its authorized ROE range—just as it has previously done with the RSAM and
11 proposed to do with the TAM proposed in FPL's original petition in this docket.
12 FPL's representatives have testified that FPL will use the RSM in the exact same
13 manner as it has used the RSAM.²

14 **Q. How does the RSM compare to the TAM and RSAM that FPL has previously**
15 **proposed or used?**

16 **A.** In usage, it is the same in all respects. The only difference is the three sources of
17 funds that would be used to seed the mechanism. The SIP Proposal RSM
18 contemplates taking: 1) \$1.155 billion (roughly 70%) of the same deferred tax
19 liabilities earmarked for the TAM proposed in FPL's original filing; 2) the ITCs
20 associated with the 2025 NW FL batteries; and 3) the carryover amount remaining
21 from the 2021 RSAM. Unlike the originally proposed TAM (excepting the \$1.155
22 billion of TAM monies earmarked for the RSM), which at least gave a fixed
23 amount authorized for inclusion, it is hard to pinpoint the total funding for the
24 RSM, as the 2025 ITCs have an estimate of \$143,386,492 and any final carryover

² Transcript of Sept. 5, 2025 Deposition of Scott Bores at 89–90.

1 of the 2021 RSAM is also just an estimate. As of the end of July, 2025, FPL
2 reported a balance of \$304,929,480, which reflected an increase of more than \$50
3 million over the previous balance. I would expect that in August it increased by a
4 similar amount. Although FPL did not decrease the reserve at the end of 2024, it
5 was targeting a lower ROE during that timeframe. As a result, I would expect FPL
6 to use some of the reserve during the end months of 2025. However, I would also
7 expect, based on the trends, something on the order of a couple hundred million
8 dollars to remain in RSAM at the close of 2025.

9 **Q. Do you have any concerns about the initial funding sources for the RSM?**

10 **A.** Absolutely. Regarding the deferred tax liabilities, my previous testimony
11 explained why this is such an inappropriate source to divert into FPL's already
12 unnecessary earnings-maximizing slush fund. FPL has already collected the
13 associated customer money, through rates, to pay its taxes. FPL acknowledges that
14 all deferred tax funds ~~the~~ ^{that} FPL spends will have to be recovered by customers in
15 the future, so by appropriating those funds for a different use, FPL's customers are
16 subject to a double-recovery of the deferred tax liabilities. It is even worse when
17 the impact of drawing down the associated regulatory liability accelerates the
18 depletion of a zero-cost capital source and allows FPL to backfill that with more
19 equity spending at its excessive ROE. Opting out of normalization of deferred tax
20 liabilities also violates the matching principle by giving customers a short-term
21 reduction on deferred tax expense and then making future customers pay it back
22 for decades. From the full use of this funding source alone, FPL expects to charge
23 customers an additional \$38.5 million every year for 30 years, beginning in 2030.³

24 The 2025 ITCs also present several problems. First, if the general body of

³ FPL's Response to FEL Sixteenth Set of Interrogatories, No. 195.

1 ratepayers is on the hook to pay for the 2025 NW FL batteries, they should receive
2 the full benefits of the associated tax credits. That means the ITCs should be
3 normalized over the same depreciable life as customers will be charged for the
4 capital costs of the 2025 batteries, so that the ITCs reduce the revenue requirement
5 in every year of their depreciation. The SIP Proposal to allow FPL to appropriate
6 those funds to increase shareholder profits shackles the customers who are actually
7 paying for the batteries with a substantially higher total cost due to being deprived
8 of the ITCs. Second, the 2025 batteries have never been approved, and are planned
9 for addition during what should be a base rate freeze from FPL's last rate
10 settlement, which is still in effect.

11 The carryover RSAM amount, too, is inappropriate to use for this
12 mechanism. This is money that customers have already paid, through base rates,
13 to cover depreciation expense. Any amount remaining in the RSAM at the end of
14 this year, should be used to offset the increases in depreciation costs that FPL has
15 proposed in this case—which are due primarily to manipulating depreciation lives
16 across recent rate cases to create the “surplus” that has fed its past non-cash
17 mechanisms. There is also the issue of the 2021 settlement agreement, which is
18 still binding and in effect, and prohibits FPL from using the RSAM after 2025
19 unless it forewent seeking new rates for 2026.⁴ FPL has clearly not exercised its
20 option to stay out for another year, so by the terms of the 2021 Settlement, those

⁴ “FPL may not amortize any portion of the Reserve Amount past December 31, 2025 unless it provides notice to the Parties by no later than March 31, 2025 that it does not intend to seek a general base rate increase to be effective any earlier than January 1, 2027, in which event the Minimum Term of this Agreement shall be extended by 12 months. Any amortization of the Reserve Amount after December 31, 2025 shall be in accord with this Paragraph.” *In re: Petition for rate increase by Florida Power & Light Company*, Docket No. 20210015-EI, Final Order Approving 2021 Stipulation and Settlement Agreement, Attachment 1 at 23 ¶ 16(g) (Dec. 2, 2021).

1 funds cannot be rolled into the proposed RSM.

2 **Q. FPL claims the SIP Proposal establishes “a number of conditions” regarding**
3 **use of the RSM to “safeguard customers’ interests.”⁵ Are these guardrails**
4 **sufficient?**

5 **A.** I see no guardrails. Despite FPL’s position that it needs some sort of flexible
6 amortization mechanism like the RSM to defer base rate increases in the second
7 half of the proposed four year plan, the SIP Proposal allows FPL to use the RSM
8 at its discretion from the very first day of the settlement period. No guardrails
9 there. Despite FPL’s position that the TAM was sized to ensure FPL could earn its
10 midpoint ROE, the SIP Proposal allows FPL to use the RSM at its discretion to
11 achieve any ROE that would not cause FPL to exceed or fall below its authorized
12 range. That is not a restriction. The SIP Proposal already sets a midpoint ROE
13 and accompanying +/- 100 basis point range; intentionally using the RSM to
14 achieve an ROE above that range would be a blatant violation of the SIP Proposal
15 and would open FPL up to being hauled before the Commission for a rate
16 reduction. The SIP Proposal requires FPL to spend away the 2025 ITCs and
17 leftover RSAM before using the deferred tax liabilities. This is also not a real
18 safeguard considering applying the 2025 ITCs and leftover RSAM to the RSM
19 already misappropriates customer money, including money that is contractually
20 required not to be amortized during the proposed settlement term by FPL’s last rate
21 settlement. Virtually the only restriction whatsoever is the prohibition on debiting
22 funds above the maximum RSM Amount, which, again, we can only guess at
23 because FPL has not provided final amounts for two of the three RSM funding
24 sources.

⁵ “The [SIP Proposal] includes a number of conditions that safeguard customers’ interests.”
Scott Bores Settlement Testimony p. 18, ll. 15-16.

1 It is also worth noting that the language of the SIP Proposal does not
2 actually terminate the RSM after the end of four years, as FPL has asserted.⁶ SIP
3 Proposal provides that “The RSM shall terminate upon the expiration of the
4 Minimum Term of this Agreement and FPL may not amortize any portion of the
5 RSM past December 31, 2029 unless FPL provides notice to the Parties . . . that it
6 does not intend to seek a general base rate increase to be effective any earlier than
7 January 1, 2030.” SIP Proposal at 25, ¶ 21(f). The minimum term of the agreement
8 runs through December 31, 2029, so there is no earlier effective date for new rates
9 than January 1, 2030 that would not violate the minimum term of the agreement.
10 As such, FPL would only have to inform the SIPs that it did not intend to violate
11 the minimum term of the agreement and it would be allowed to continue to use the
12 RSM past the four-year period, even if it did seek rates to be effective in 2030. It
13 is possible that this is a scrivener’s error and extension provision was intended to
14 apply only if FPL deferred seeking rates to be effective until at least January 1,
15 2031, but even if so, no correction has been made to Paragraph 21(f) of the SIP
16 Proposal as of filing this testimony.

17 **Q. What does the SIP Proposal propose for new large load customers?**

18 **A.** The SIP Proposal proposes major modifications to the LLCS-1, LLCS-2, and
19 LLCS Service Agreement tariff that substantially weaken the protections for the
20 general body of ratepayers. The LLCS tariffs as proposed would apply to
21 customers with new or incremental loads of 50 MW or more and a load factor of
22 85% or higher. FPL proposes the minimum take-or-pay demand charge for the
23 tariffs be set at 70%, meaning that customers must pay 70% of their contract even
24 if they do not have the demand level anticipated.

⁶ Transcript of Sept. 5, 2025 Deposition of Scott Bores at 129.

1 **Q. How does this compare to FPL's as-filed case?**

2 **A.** The LLCS tariffs proposed in FPL's as filed case better protect the general body of
3 customers from the risks associated with these new large load customers, which
4 are predominantly going to be data centers. Not only do incoming data centers
5 pose risks for communities associated with land use and water usage, but
6 customers are also at risk of subsidizing the increased generation needed to power
7 these loads if the commission and utilities do not properly insulate the everyday
8 customer. FPL's as filed case proposed that the LLCS schedules apply to new or
9 incremental loads of 25 MW or greater, with a load factor of 85% or higher, and a
10 take-or-pay provision set at 90%. The departure from FPL's as-filed case to what
11 is proposed in the SIP Proposal represents industry pressures that FPL did not stand
12 firm against, risking the general body of ratepayers to appease big corporations
13 looking to set up shop in Florida. The SIP Proposal also reduces the Incremental
14 Generation Charge for LLCS-1 from \$28.07 per kW to \$12.18 per kW of demand.

15 Florida is not the only state dealing with the possibility of new large loads
16 entering service. Recently, the Public Utilities Commission of Ohio (PUC)
17 approved a settlement for a new data center tariff. The tariff applies to incoming
18 data centers with loads of 25 MW or greater. The PUC approved this baseline over
19 the recommendation put forward by a joint stipulation from a group of data centers
20 recommending that the tariff apply to incoming loads of 50 MW or greater, which
21 is similar to what FPL and the SIPs are proposing here. In so doing, the PUC
22 approved a baseline that is more protective of current customers instead of favoring
23 future data centers.

24 Notably, FPL changed positions on the LLCS tariffs after FEIA intervened
25 in this case, a group representing data center developers. The LLCS proposals in

1 the SIP Proposal are largely similar to the positions FPL took on rebuttal, after
2 responding to FEIA's witnesses. While these changes may better serve the
3 interests of data centers, they do not better protect FPL's existing and future
4 customers, who do not and will not require the vast increase in generation that data
5 centers demand. The provisions in the SIP Proposal do not sufficiently protect
6 customers from potentially subsidizing this new generation.

7 In FPL witness Cohen's pre-filed direct testimony, she stated that "a
8 customer with a load of 25 MW or more and a load factor of 85% or more will
9 have significant impacts on FPL's transmission system and generation resource
10 plan. In order to serve a customer of this magnitude, FPL will need to make
11 significant investments in new and incremental generation capacity". So, as it
12 stands, these customers can now enter FPL's service territory without being subject
13 to the LLCS, and these customers will not be required to pay the incremental
14 generation charge associated with the new generation they require.

15 It is important to note that the data centers' consumption of energy and
16 other resources is not currently regulated, meaning that it is crucial the
17 Commission craft a protective rate schedule that does not merely consider the
18 desires of big corporations coming into Florida with as few obstacles as possible.
19 The concerns I addressed in my direct testimony still apply.

20 **Q. What is your opinion on FPL's Contribution-in-Aid of Construction tariff?**

21 **A.** FPL's Contribution-in-Aid of Construction tariff in its as-filed case applied to all
22 non-governmental applicants with either projected load of 15 MW or greater or
23 new or upgraded facilities totaling \$25 million or more. These customers would
24 be required to pay the total costs to provide service to them and would later receive
25 a refund of the advanced costs, subtracting the CIAC amount due. Customers will

1 receive credits to their monthly bill equal to the customer's actual monthly base
2 energy and base demand charged for that billing cycle. This tariff goes hand in
3 hand with the LLCs schedules, as it anticipates new transmission and distribution
4 needs and seeks to protect customers from expected loads that do not materialize
5 was intended to protect the general body of ratepayers.

6 Once again, FPL has walked back some of these protections in the CIAC
7 proposal under the SIP Proposal. Here, FPL proposes the tariff apply to non-
8 governmental entities with new or upgrades to facilities totaling \$50 million or
9 more. Because this threshold is double what FPL initially proposed, this leaves
10 customers open to subsidizing the transmission and distribution costs for new
11 customers who still require significant investments into FPL's grid. There is no
12 evidence as to the average or expected costs of upgrades or of the total amount of
13 facilities upgrades FPL's customers would have to pay under this modification.
14 This change in the CIAC tariffs represents only the interests of big corporations
15 and is not in the public interest.

16 **Q. Please explain how the SIP Proposal modifies the Asset Optimization**
17 **Program.**

18 **A.** The SIP Proposal takes the Asset Optimization Program ("AOP") and applies the
19 customer portion of the earnings to base revenues. As pointed out by the Office of
20 Public Counsel, almost 50% of base revenues go towards FPL's profits and the
21 taxes on those profits. So, under the SIP Proposal, all earnings up to \$150 million
22 go to FPL in one form or another, even though all of the assets being used to
23 generate that funding are being paid for by FPL's customers and FPL is already
24 earning a more than reasonable return on those assets. This results in FPL taking
25 even more customer money via a mechanism that was not even an issue in the as-

1 filed case (although it probably should have been). In my opinion, it should be
2 considered that all \$150 million will be going to FPL and therefore all should be
3 considered as going towards the revenue requirement. As shown in Exhibit KRR-
4 10, in recent years FPL has generated a total of between \$123 million to over \$130
5 million using the mechanism. This should only be expected to increase as FPL
6 brings additional solar plants online and is able to engage in additional solar
7 renewable energy credit sales. This is further support for my testimony that FPL
8 did not concede anything in negotiations from its as-filed position in regard to its
9 profits, rate base, and revenue, the most important things to it, as the “concession”
10 on ROE does not count for the reasons I discussed above.

11 **Q. Please explain the “Make-Ready” program included as part of the EV**
12 **programs in the SIP Proposal**

13 **A.** In the SIP Proposal, FPL has proposed an investment of \$20 million over four
14 years, to be used for a “Make-Ready” program for public direct current fast
15 charging (public DC charging) infrastructure and for charging in public spaces,
16 workplaces, fleet, and multifamily dwellings (level 2 chargers). The Make-Ready
17 program provides financial credits to commercial customers who want to build
18 public DC charging stations and level 2 chargers. Essentially, FPL is using the
19 general body of ratepayers to fund third-party developers’ construction of these
20 types of charging stations. Once again, FPL should not be using its monopoly
21 power to influence the private and competitive EV market. This \$20 million
22 investment is no more than a handout to the EV companies who intervened in this
23 case so that FPL has an easier path forward in getting everything else it wants.

24 Although FPL states that the revenue from this program is “expected” to
25 cover the costs of the \$20 million investment over the life of the assets, the upfront

1 investment still comes from the general body of ratepayers. FPL should not be
2 utilizing customer money to influence a private market, especially one that does
3 not benefit all FPL customers. This allocation of money is definitively not in the
4 public interest and sets a precedent for FPL to continue to wrongfully influence
5 private markets using customer money.

6 **Q. Do you have any additional concerns with the EV programs proposed in the**
7 **SIP Proposal?**

8 **A.** Yes. In addition to the Make-Ready program, the SIP Proposal proposes to make
9 permanent the GSD-1EV and GSDL-1EV tariffs, which also seeks to increase
10 third-party investment in public charging stations. These tariffs allow for a lower
11 initial electric rate and transitions customers to regular rates as their usage
12 increases. These tariffs, in conjunction with the Make-Ready program,
13 demonstrate FPL's overreach into the EV charging industry and risks subsidization
14 from the general body of ratepayers for these programs that do not benefit FPL's
15 customers and only benefit third-party developers.

16 **Q. What does the SIP Proposal provide regarding the cost of service methodology**
17 **for purposes of clause recovery?**

18 **A.** Even though the settlement has no cost of service for base rate recovery, it goes
19 out of its way to use data from a 4CP and 12% AD cost of service methodology.
20 This appears to be another giveaway to the SIPs as a way of further decreasing
21 their electric bills and shifting costs onto other classes. No party advocated for a
22 4CP and 12% AD methodology. FPL, unlike for its 25% AD weighting in its as-
23 filed case, has provided no basis for weighting energy at 12%. As FPL had already
24 maintained in the as-filed case, a 25% AD weighting was, if anything, a bit
25 conservative. Here, in addition to applying a 4CP demand allocation factor that

1 favors large, high-load-factor customers, the SIP Proposal cuts that average
 2 demand weighting by over half without any justification other than the SIP
 3 Proposal supporters wanted it. Again, this is just further evidence that the normal
 4 “give and take” of a settlement was upended with just “takes” by the SIP parties in
 5 the promotion of their own self-interests in a room devoid of residential and small
 6 business representation. In response to an interrogatory, FPL produced the
 7 breakdown in how the change from 12CP and 1/13th AD for clause recovery
 8 purposes to 4CP and 12% AD would impact the classes.

9 **Table 3: Clause Recovery Estimated Change by Class Caused by Change in**
 10 **Cost of Service Methodology Contained in SIP Proposal**

Change (\$000)	Capacity	Conservation	Environmental	SPP	Total
RS1/RST1	(\$25)	(\$51)	(\$8)	\$191	\$107
GS1/GST1	\$186	\$374	\$1,172	\$254	\$1,986
GSD1/GSDT1/HL TF(21-499 kW)	\$24	\$48	\$92	(\$43)	\$121
OS2	\$0	\$0	\$1	(\$1)	\$1
GSLD1/GSLDT1/ CS1/CST1/HLTF (500-1,999 kW)	(\$78)	(\$156)	(\$529)	(\$161)	(\$924)
GSLD2/GSLDT2/ CS2/CST2/HLTF (2,000+ kW)	(\$35)	(\$70)	(\$238)	(\$84)	(\$427)
GSLD3/GSLDT3/ CS3/CST3	(\$6)	(\$13)	(\$45)	(\$15)	(\$79)
SST1T	\$2	\$3	\$10	\$1	\$16
SST1D1/SST1D2/ SST1D3	\$0	\$0	\$0	\$0	\$0
CILC D/CILC G	(\$39)	(\$79)	(\$261)	(\$79)	(\$458)
CILC T	(\$35)	(\$71)	(\$229)	(\$59)	(\$394)
MET	(\$2)	(\$3)	(\$11)	(\$2)	(\$18)
OL1/SL1/PL1	\$10	\$21	\$58	\$0	\$88
SL2, GSCU1	(\$2)	(\$4)	(\$12)	(\$3)	(\$21)

1 Once again, the GS class is being saddled with the largest increase as a
2 result of this term of the SIP Proposal. With no basis provided for this part of the
3 SIP Proposal, this outcome is also unfair, unjust, and unreasonable, and should
4 therefore be rejected.

5 **Q. What does the SIP Proposal do to the SoBRAs?**

6 **A.** The SIP Proposal allows FPL to petition for additional solar SoBRAs in 2027,
7 2028, and 2029; and additional batteries in 2028 and 2029. Interestingly, even
8 though the 2027 batteries are not economic and there has been no demonstrated
9 need for them, they are simply deemed approved by the SIP Proposal, likely
10 because they would be unlikely to pass any kind of prudence review or any other
11 review that the SoBRA would offer. The SoBRAs allow FPL to get additional
12 solar approved if they would be deemed beneficial at a ratio of 1.15 to 1 within 10
13 years under a CPVRR (cumulative present value of revenue requirements)
14 calculation. However, FPL continues to rely on the future imposition of carbon
15 costs as a value inflator in these calculations—even though no such legislation
16 with a realistic chance of passing is pending and the EPA continues to roll back the
17 accounting of greenhouse gases—in order to pass this test. FPL, however, should
18 and I believe must, do more than cease its reliance on faked value. The utility must
19 show that the batteries project is the most economical method of meeting FPL's
20 generation supply needs. Perversely, FPL might pass this test if the costs and
21 obligations of serving new large loads from data centers are shifted to the general
22 body of rate payers. However, because FPL plans to continue taking the ITCs for
23 its battery projects in a single year, the swing-back effect of amortization expenses
24 unmitigated by normalized tax credits is considerable and leaves large revenue
25 requirement impacts in 2030. I also address this elsewhere. FPL's response to

1 Staff interrogatory number 525, attachment 1, provides an estimate of the cost of
2 the SoBRAs in the SIP Proposal, with an estimate of an incremental increase of
3 \$61 million in 2027, \$316 million in 2028, and \$247 million in 2029. In other
4 words, FPL really does not give up anything in regard to the SoBRAs as compared
5 to its as-filed case, except to hide additional rate increases in the SoBRAs in 2027
6 and 2028 as compared to the as-filed rate increase (which included the full revenue
7 requirement of the 2027 solar in the base rate increases, and not in the SoBRA).
8 This creates the “effect” of making the 2027 solar increase look somewhat
9 reasonably smaller than the as-filed increase, but it is not, because there is every
10 reason to believe that FPL will seek to increase rates pursuant to the SoBRA.

11 **Q. How does the SIP Proposal treat FPL’s originally proposed capital recovery**
12 **schedules related to retired capital assets?**

13 **A.** The SIP Proposal includes a provision to extend the amortization period—the total
14 recovery period—for retired capital assets related to power plants and transmission
15 lines that are no longer used and useful to ratepayers. The proposal doubles the
16 amortization period from ten years, as FPL included in its original petition, to
17 twenty years. This is a sleight of hand, by which the SIP proposes to make the cost
18 burdens of plant retirements appear to be lower by stretching out the payment term.

19 **Q. But doesn’t that save customers money?**

20 **A.** No, it only appears to do so. Spreading out the payments means customers will be
21 paying a return on a larger principle for a longer period, such that FPL will
22 ultimately extract a significantly higher sum from customers for the same retired
23 assets as compared to a shorter schedule. This is the simple logic of paying a
24 mortgage in 30 rather than 15 years. Not only does the proposal increase the total
25 amount of money customers will be on the hook for, but it greenlights recovery of

1 the Company's inflated rate of return on every dollar of retired plants, all without
2 any showing of cost-effectiveness or reasonableness. This accrues to the benefit
3 of FPL's shareholders, but not its captive customers. FPL has not provided any
4 estimate of the impact of doubling the capital recovery schedules to twenty years.

5 **Q. Are there any policy concerns with using a longer amortization period to pay**
6 **for the Company's retired and unused plant?**

7 **A.** Yes. First, the Company hasn't shown that the amounts in the proposed regulatory
8 asset account for retirements are just and reasonable, nor have the settling parties
9 required such a showing. Second, the apparent savings achieved by the
10 amortization sleight of hand directly burden almost an entire generation of
11 customers that will have never received any electricity or electric service from any
12 of those retired assets. The injustice of imposing the costs on future customers,
13 and in increasing those costs through secret settlement negotiations violates almost
14 every principle of sound rate making. The proposal deviates from cost-based rates
15 and the matching principle, lavishes FPL with excessive returns, and imposes
16 intergenerational inequity by transferring historical and current costs onto future
17 customers.

18 **Q. What should the Commission do in regard to the SIP Proposal to increase the**
19 **amortization term for regulatory assets created to recover retired plant?**

20 **A.** The Commission should reject the SIP Proposal in its entirety, and in the full
21 hearing on the Company's as-filed case, demand a full accounting for the cost-
22 effectiveness and reasonableness of the proposed regulatory asset treatment for
23 retired plant.

24 **Q. How does the SIP Proposal deal with the ITCs and PTCs?**

25 **A.** The SIP Proposal again gives FPL everything they asked for, allowing FPL to take

1 ITCs in a single year, sell excess ITCs and PTCs at a discount, and thereby deprive
2 customers of the rate impact mitigation effects of credits they are expected to pay
3 to generate. I discuss in the testimony I originally filed as to the issues with taking
4 the ITCs in a single year and how it creates a Ponzi-like scheme that will greatly
5 burden customers with a rate shock should FPL ever stop constructing ever-larger
6 battery projects. The SIP Proposal achieves exactly what FPL originally proposed
7 and sets up a massive hole that will need to be backfilled in 2030, essentially
8 guaranteeing a massive rate increase in 2030 even if FPL plans no additional
9 capital expenditures (in addition to needing to payback the deferred tax liabilities,
10 addressed above). Reviewing FPL's response to Staff's Interrogatory Number 525,
11 attachment 1, provides a good basis for estimating the size of this hole. The 2029
12 batteries are expected to be only slightly more expensive than the 2028 batteries.
13 The 2028 batteries create a \$303 million hole to be filled in 2029, and due to the
14 timing of when they are placed in service in 2028, due to the lagging effect of the
15 averaging for rate base calculations, the 2028 solar facilities create a hole of \$29
16 million in 2029. This \$303 million number will be higher in 2030 due to the
17 increased cost of the batteries, and the \$29 million figure will be higher by about
18 15% in 2030 (roughly \$33 million) due to the impacts of the larger solar facilities
19 entering service later in the year. Therefore, a conservative estimate of a revenue
20 requirement hole in 2030 of \$336 million is appropriate as being caused by the
21 SoBRA's authorized by the SIP Proposal. In combination with having to pay back
22 the deferred tax liabilities, a large rate increase in 2030 is all but guaranteed by the
23 SIP Proposal.

24 **Q. Do you have an opinion on the SIP Proposal's treatment of the Vandolah**
25 **power plant acquisition?**

1 **A.** Yes. In both the SIP Proposal and supporting testimony, FPL states that it will not
2 “exclusively” use Vandolah’s generating capacity to serve data centers or large
3 load customers. SIP Proposal at 26, ¶ 24; Bores Settlement Testimony at 8, lines
4 18–20. This unusually conditional denial is troublesome and not addressed with
5 specificity in the SIP Proposal. FPL has not described any other resource addition
6 proposed in this rate case, be that solar, battery, or capital upgrades to its gas fleet,
7 as not being exclusively for the benefit of one class.

8 **Q. How does the SIP Proposal deal with the SLOLP?**

9 **A.** The SIP Proposal completely ignores the flaws in, and problems created by the
10 SLOLP report. This is not surprising given how reliance on the SLOLP is
11 indefensible given all of the errors in the SLOLP analysis of FPL’s system. I
12 pointed out some of these errors in the testimony I filed earlier in the case.
13 Unfortunately, FPL, in rebuttal, mischaracterized my testimony and still,
14 apparently, does not seem to understand the fundamental errors it made in the
15 SLOLP analysis. Of course, no SIP party actually challenged the SLOLP analysis.
16 The SLOLP analysis is foundational to all of FPL’s generation resource additions
17 in this case and thus the largest portion of the capital projects. Despite this absence
18 of record evidence, the SIP parties purport to settle this issue anyway.

19 Putting all that aside for the moment, the SIP Proposal does nothing to
20 address the maintenance schedule mismatch, the improbably high load events, the
21 solar profile timing mismatch, and the forced outage factor mismatch. Each one
22 of these errors, on its own, would be enough to throw out the entire SLOLP
23 analysis. However, these errors compound on each other, and it is telling that for
24 a simulated loss of load event to occur on FPL’s system, almost ALL of the
25 following are necessary: units out for maintenance that are not actually expected

1 to be out for maintenance; multiple units out via forced outage, even though those
2 units have been and are expected to remain far more reliable than the inputs used
3 for the SLOLP analysis, thus making a statistically near impossible event using
4 actual and actually expected forced outage rates; very high load events that FPL
5 does not expect and are far higher than as indicated by the historical record; and
6 solar outputs that are far lower than FPL's actual solar outputs due to a combination
7 of inaccurate solar profiles, and inputting the wrong times from those solar profiles
8 into the SLOLP analysis (even though FPL will have far more solar on its system
9 in the future than the past, the SLOLP analysis consistently has solar output
10 stopping, due to sunset, far earlier than it actually does in Florida). The SIP
11 Proposal simply authorizes all of the billions of dollars of spending on battery
12 energy storage systems anyway, as if there was an actual generation need for those
13 systems and as if the SLOLP analysis had been conducted in a valid fashion.

14 None of the SIP parties took a position on the SLOLP or offered testimony
15 on the SLOLP, so perhaps it is not a surprise that they were willing to waive away
16 this foundational challenge to FPL's request for its rate increase. Florida Rising,
17 LULAC, and ECOSWF, and the customers they advocate for, cannot be so cavalier
18 as to allow such unchecked spending without any rational basis, let alone
19 satisfaction of FPL's normal and proper requirement to show the prudence of
20 billions of dollars in spending. The SIP Proposal's treatment of the SLOLP issues
21 appears to be a joint effort by FPL and the SIP parties to bypass Commission
22 review of the prudence of billions of dollars in capital spending.

23 **Q. How does the SIP Proposal address natural gas hedging?**

24 **A.** The SIP Proposal prohibits gas hedging, at no cost to FPL, but at significant
25 potential cost for residential and small commercial customers. Even though this

1 was not an issue in the rate case, some SIP parties apparently believe natural gas
2 hedging can cause undue costs, although it can alleviate the impact of spikes in the
3 prices of natural gas. In 2023, FPL also was prohibited from natural gas hedging,
4 and due to a spike in natural gas prices, FPL's residential customers had some of
5 the highest electric bills in the nation. Should there be another spike in natural gas
6 prices, or in combination with another major storm, FPL's residential customers
7 could very well again see some of the highest electric bills in the entire nation.
8 None of the settlement testimony offered by FPL or the other SIPs indicates why
9 this prohibition would be in the public interest.

10 **Q. Are you aware of FPL's and the SIP's contentions as to the purported**
11 **concessions and compromises reflected in their agreement?**

12 **A.** Yes. The SIPs claim that they have entered into their agreement "in compromise
13 of their respective positions taken in accord with their rights and interests under
14 Chapters 350, 366 and 120, Florida Statutes," and that "each Party has agreed to
15 concessions to the others." SIP Proposal at 2. This narrative is unsupported in
16 fact.

17 **Q. Why do you say so?**

18 **A.** First, at least two of the signatories to the SIP signatories appear to be
19 unincorporated associations. I am not a Florida-barred attorney, but it is my
20 understanding that unincorporated associations do not have any legal capacity to
21 enter into a contract under Florida law. As a result, the SIP Proposal does not
22 constitute a binding agreement between parties.

23 Second, looking at the activity of the intervenors to this docket, compared
24 to the CMPs, the SIP's collective engagement in this case has been a mere fraction
25 of that of the CMPs. My Exhibit KRR-11 documents these disparities. For

1 example, looking only at the pre-settlement phase of this proceeding, the five
2 parties comprising the CMPs filed 771 interrogatories (76% of the total), 458
3 requests for production of documents (69% of the total), 31 requests for admission
4 (100% of the total), and noticed 33 depositions of FPL witnesses (100% of the
5 total). Likewise, of the 795 total cross examination exhibits identified by all
6 intervening parties, the SIPs were collectively responsible for just 47 exhibits (4%
7 of the total), compared to the 748 exhibits (96% of the total) identified by the
8 CMPs.

9 It is not only lack of depth that distinguishes the SIP's superficial
10 participation, but also the narrowness of the issues of interest to the collective
11 group. Leading up to the originally scheduled August 11, 2025, hearing, each party
12 submitted a prehearing statement that identified that party's position on each of the
13 123 issues determined to require resolution in this docket. Excluding the issues
14 for which a party took no position or simply adopted the position of another party,
15 on average, the SIPs affirmatively stated a position for just 11.6 issues (9% of the
16 total issues) on average. *Id.* Counting every listed issue for which at least one of
17 the SIPs took a position, the thirteen SIPs collectively took positions on less than
18 half the issues—54 out of 123 (44%). In contrast, by the same counting criteria,
19 the CMPs took affirmative positions on 86.3 issues on average and collectively
20 covered 117 (95%) of the total issues. Even from a high level it is clear which
21 group reflects the parties that have engaged across the breadth and depth of the
22 case, and—due to having actually taken positions counter to FPL and other
23 intervenors over the full spectrum of issues—can legitimately offer compromises
24 and concessions on those positions.

25

Q. Have you compared the SIP parties' prehearing positions on FPL's original petition to those reflected in the SIP Proposal?

A. Yes. The Commission has identified a list of 25 "major elements" for evaluating the SIP. While several of these, such as "Support Proposal for Large Customer Opt-out of ECCR" were introduced for the first time in the SIP Proposal, most of the 25 elements relate to one or more existing issues from the originally-filed case. The Prehearing Order collects the positions of each party on each issue, which facilitates a comparison of the before and after positions. The table below presents several of the most important issues/elements that are common to both FPL's original petition and the SIP Proposal.⁷

Table 4: Major Elements

Major Element	Prehearing Order Issue Number
2. Cost of Capital	49 (ROE)
	48 (Equity Ratio)
3. 2026 Base Rate Adjustment	87(a)
4. 2027 Base Rate Adjustment	87(b)
5. Revenue Requirement Allocation	89-92
6. CILC/CDR Credits	100
7. LLCS Tariff	105-106
8. CIAC Tariff	104
9. EV Charging Programs	111, 112
11. Storm Cost Recovery Mechanism	123
12. SoBRAs	121
14. Capital Recovery Schedules	16
15. Depreciation & Dismantlement	13-15 (depreciation)
	17-18 (dismantlement)
16. Sale of Excess ITCs and PTCs	81 (sale of ITCs/PTCs)
	82 (ITC treatment/flowthrough)
17. Rate Stabilization Mechanism	2 (TAM, legal authority), 118 (TAM)
20. Land for Solar Facilities & Sale of Property Held for Future Use	39
21. Vandolah	24

⁷ Order Dismissing Customer Majority Parties' Joint Motion to Approve Stipulation and Settlement Agreement, Denying Motion for Scheduling Order as Moot, and Establishing Major Elements at 3–4, Order No. PSC-2025-0345-PCO-EI (Sept. 12, 2025) & Prehearing Order, Order No. PSC-2025-0298-PHO-EI (Aug. 7, 2025).

1 Exhibit KRR-11 condenses, for ease of comparison, what issues each SIP
2 and CMP party took a position on, deferred to another party on, or took no position
3 on, all as shown in the Prehearing Order. In general, the SIPs did not take positions
4 on many of the major elements of the case, opting instead to opine on the narrow
5 issue or issues that were of special interest to that party. Again, there was no party
6 in the SIP Proposal representing the interests of the vast majority of customers.

7 **Q. Did the SIPs take positions on the cost of capital in FPL's original petition?**

8 **A.** Regarding both ROE and equity ratio, FEIA, EVgo, AACE, Circle K, RaceTrac,
9 Wawa, AWI and EA took no position, while FRF and SACE both adopted OPC's
10 position. Only FIPUG, Walmart, and FEA took positions on cost of capital. KRR-
11 11 (issues 48–49). However, in signing the SIP Proposal, Walmart specifically
12 stated that it “takes no position on the ROE set forth” in the SIP Proposal. SIP
13 Proposal at 34. Thus, as to the 10 out of 13 signatories who took no position on
14 equity ratio and the 11 out of 13 signatories who took no position on ROE, it's hard
15 to see how the SIP Proposal could reflect a compromise or concession by those
16 parties on those subjects.

17 **Q. Did the SIPs take positions on the revenue requirement increases for 2026 and**
18 **2027 in FPL's original petition?**

19 **A.** Not a single SIP stated an affirmative stance on the 2026 and 2027 operating
20 revenue increase or decrease. FIPUG and FRF both deferred to OPC, and every
21 other party took no position. KRR-11 (issue 87). Thus, as to all 13 signatories
22 who took no specific position on the 2026 and 2027 proposed rate increases, it's
23 hard to see how the SIP Proposal could reflect a compromise or concession by
24 those parties on those subjects.

25

1 **Q. Did the SIPs take positions on the revenue requirement allocations in FPL's**
2 **original petition?**

3 **A.** As to production costs, FEIA, EVgo, AACE, Circle K, RaceTrac, Wawa, AWI, and
4 EA took no position; SACE adopted FPL's position; only FIPUG, FRF, Walmart,
5 and FEA took an affirmative stance. KRR-11 (issue 89). As to transmission costs,
6 FEIA, Walmart, EVgo, AACE, Circle K, RaceTrac, Wawa, AWI, and EA took no
7 position; SACE adopted FPL's position; only FIPUG, FRF, and FEA took an
8 affirmative stance. *Id.* (issue 90). As to distribution costs, FEIA, Walmart, EVgo,
9 AACE, Circle K, RaceTrac, Wawa, AWI, and EA took no position; SACE adopted
10 FPL's position and FRF adopted FIPUG's position; only FIPUG and FEA took an
11 affirmative stance. *Id.* (issue 91). As to other costs, FEIA, Walmart, EVgo, AACE,
12 Circle K, RaceTrac, Wawa, AWI, and EA took no position; SACE adopted FPL's
13 position; only FIPUG, FRF, and FEA took an affirmative stance. *Id.* (issue 92).
14 Under the SIP Proposal, every party who took an affirmative position received a
15 smaller increase for the customer(s) or class(es) they represent, *see* Table 2, *supra*,
16 so none of SIPs can be said to have compromised on cost of service issues.

17 **Q. Did the SIPs take positions on the CILC/CDR credits in FPL's original**
18 **petition?**

19 **A.** FIPUG, FRF, and Walmart took a position, SACE adopted FEL's position, and all
20 other parties took no position. *Id.* (issue 100). Thus, 10 of the 14 parties took no
21 position and cannot have compromised on this issue.

22 **Q. Did the SIPs take positions on the LLCs tariff in FPL's original petition?**

23 **A.** As to the LLCs tariff, FIPUG, FEIA, Walmart, and FEA took positions; SACE
24 adopted FEL's position; and all other SIPs took no position. KRR-11 (issue 105).
25 As to the LLCs incremental generation charge, FIPUG, and FEIA took positions;

1 SACE adopted FEL's position and Walmart adopted FIPUG's position; and all
2 other SIPs took no position. *Id.* (issue 106). As to these specific issues, it appears
3 the parties may have reached a compromise.

4 **Q. Did the SIPs take positions on the CIAC tariff in FPL's original petition?**

5 **A.** FIPUG and Walmart took affirmative positions; FRF adopted FIPUG's position
6 and SACE adopted FPL's position, and the remaining nine SIPs took no position.
7 *Id.* (issue 104). The 11 of 13 parties who took no position could not compromise
8 on positions on which they took no position.

9 **Q. Did the SIPs take positions on EV charging programs in FPL's original**
10 **petition?**

11 **A.** Walmart, EVgo, AACE, Circle K, RaceTrac, Wawa, EA, and SACE took
12 affirmative positions; FIPUG adopted OPC's position, and the remaining four
13 parties took no position. *Id.* (issue 111). As to EV charging investments, EVgo,
14 AACE, Circle K, RaceTrac, Wawa, and SACE; FIPUG adopted OPC's position,
15 and the remaining six SIPs took no position.

16 **Q. Did the SIPs take positions on the Storm Cost Recovery Mechanism in FPL's**
17 **original petition?**

18 **A.** FIPUG took a position, and the remaining twelve SIPs took no position. *Id.* (issue
19 123). The SIP Proposal cannot reflect compromises with respect to the SCRM.

20 **Q. Did the SIPs take positions on the SoBRAs in FPL's original petition?**

21 **A.** Regarding the Commission's legal authority to approve a SoBRA, FIPUG alone
22 took a position and FRF deferred to OPC. *Id.* (issue 3). Regarding whether to
23 approve the SoBRAs, FIPUG, FRF, and SACE took positions, and the remaining
24 eleven SIPs took no position. *Id.* (issue 121). The SoBRAs therefore would not
25 seem to represent a compromise or concession.

1 **Q. Did the SIPs take positions on the capital recovery schedules in FPL’s original**
2 **petition?**

3 **A.** No. FIPUG and FRF adopted OPC’s position, and every other SIP took no
4 position. *Id.* (issue 16). Consequently, the SIP Proposal cannot reflect compromise
5 on this issue.

6 **Q. Did the SIPs take positions on depreciation and dismantlement parameters,**
7 **accruals, and corrections in FPL’s original petition?**

8 **A.** FEA took a position regarding both depreciation parameters/rates and the
9 theoretical depreciation reserve balance. FIPUG and FRF adopted OPC’s position
10 on all three depreciation issues, and none of the remaining SIPs took any other
11 positions. *Id.* (issues 13–15). Regarding dismantlement accruals and
12 dismantlement corrections, FIPUG and FRF adopted OPC’s positions, and no
13 other SIPs took any position on these issues. *Id.* (issues 17–18). The SIP Proposal
14 does not appear to reflect any compromise as to these issues.

15 **Q. Did the SIPs take positions on the sale of ITCs in FPL’s original petition?**

16 **A.** Regarding the sale of ITCs and PTCs, FIPUG took a position, FRF adopted OPC’s
17 position, and the remaining twelve SIPs took no position. *Id.* (issue 81).
18 Regarding the treatment of ITCs, including FPL’s proposed one year flowthrough
19 of ITCs, FIPUG adopted OPC’s position, and none of the SIPs took an affirmative
20 position. *Id.* (issue 82). Therefore, the SIP Proposal does not appear to reflect any
21 compromise on these issues.

22 **Q. Did the SIPs take positions on the RSM in FPL’s original petition?**

23 **A.** The RSM was not introduced until the SIP Proposal, however it is primarily funded
24 through the same deferred tax liabilities contemplated by the TAM. As for the
25 TAM, specifically regarding the Commission’s legal authority to adopt it, FIPUG

1 took a position and FRF adopted OPC's position. None of the remaining twelve
2 SIPs took any position. *Id.* (issue 2). Regarding whether to approve the TAM as
3 filed, FIPUG, and FRF took positions, SACE deferred to FEL, and none of the
4 remaining eleven SIPs took a position. *Id.* (issue 118). As to the overwhelming
5 lack of positions taken on these issues, the SIP Proposal cannot reflect a
6 compromise.

7 **Q. Did the SIPs take positions on Property Held for Future Use in FPL's original**
8 **petition?**

9 **A.** No. FIPUG, FRF, and Walmart adopted OPC's position, and the remaining eleven
10 SIPs took no position. *Id.* (issue 39). As to the overwhelming lack of positions
11 taken on these issues, the SIP Proposal cannot reflect a compromise.

12 **Q. Did the SIPs take positions on the Vandolah acquisition in FPL's original**
13 **petition?**

14 **A.** No. FIPUG, FRF, and Walmart adopted OPC's position, and the remaining ten
15 SIPs took no position. *Id.* (issue 24). As to the overwhelming lack of positions
16 taken on this issue, the SIP Proposal cannot reflect a compromise.

17 **Q. What is your overall conclusion of the SIPs' claimed compromises and**
18 **concessions on positions between the originally filed case and the SIP**
19 **Proposal?**

20 **A.** Based on a review of the SIPs' positions—and particularly the lack thereof—as to
21 the major elements underlying the SIP Proposal, it is clear that the SIPs are not
22 adverse parties in competition with the utility and each other. Instead, the SIP
23 Proposal reflects a deal in which the SIPs gave FPL everything it wanted as to the
24 overwhelming majority of the case on which they took no positions, and in
25 exchange received giveaways for their particular classes and customers they

1 represent. In its rate case, FPL cares about the overall size of the pie, not how it's
2 sliced. Reaching agreement with a handful of small, but well-resourced customer
3 classes who agree to give much bigger slices (higher rates) to those who aren't at
4 the table is not a compromise and it is not in the public interest.

5 **Q. Have you reviewed the corporate representative depositions of the SIPs?**

6 **A.** Yes, I have.

7 **Q. Have you been able to draw any conclusions from those depositions?**

8 **A.** Yes. First, not a single party, other than FPL, understands the SIP Proposal to adopt
9 a cost of service methodology for setting base rates. Second, not a single SIP
10 understood some of the key financial implications of the SIP Proposal, including
11 an estimate of some of the key funding provisions of the RSM, like an estimate of
12 the 2025 ITCs or leftover RSAM, an estimate of a revenue requirement for
13 payback of the deferred tax liabilities (many of the SIPs did not even understand
14 that they needed to be paid back), nor an estimate of the swing-back in revenue
15 requirement in 2030 caused by the single-year flow through of the ITCs, including
16 the 2029 battery energy storage systems. In other words, although each SIP has
17 offered their opinion of the SIP Proposal as being in the public interest, not a single
18 SIP signatory, other than FPL, truly understands the financial implications of the
19 SIP Proposal on the general body of ratepayers, and therefore, their opinion that
20 the SIP Proposal is in the public interest, is due to be disregarded.

21 **Q. Have you also evaluated the CMP Proposal?**

22 **A.** Yes. The purpose of my testimony is to share my evaluation of the Customer
23 Majority Parties ("CMP") Proposal made by the Citizens of the State of Florida,
24 Florida Rising, LULAC, ECOSWF, and Floridians Against Increased Rates
25 ("FAIR"), including the reasonableness of the revenue requirement, return on

1 equity, overall cumulative rate increase, cost of service, and revenue allocation. I
2 find that the CMP Proposal results in rates that are fair, just, and reasonable,
3 yielding non-discriminatory rates that are in the public interest, while providing
4 FPL with ample funding and return on its investment to supply safe and reliable
5 electricity.

6 **Q. Please explain how the proposed revenue requirement for 2026 was**
7 **developed.**

8 **A.** The CMP Proposal provides FPL with a 2026 revenue requirement increase of
9 \$867 million. This figure is based on an overestimate of the revenue requirement
10 for FPL at a 10.6% return on equity. The CMP Proposal includes the following
11 key elements: removal of the 2026 batteries proposed by FPL, moving the ITCs to
12 a four-year amortization period to smooth out their impact and improve adherence
13 to the matching principle, application of approximately \$300 million from leftover
14 RSAM and customer funding from the asset optimization methodology (as a one-
15 time payment, shifting the revenue requirement to 2027), and other adjustments as
16 supported by the CMP, which includes Office of Public Counsel.⁸ The revenue
17 requirement figure is likely an overestimate, because the CMP Proposal does not
18 take into account customer deferred tax liabilities that have already been paid and
19 removed from FPL's capital structure to create a shareholder slush fund. Restoring
20 this unreasonable transfer would further reduce FPL's cost of capital.

21 **Q. Please explain how the revenue requirement for 2027 was developed.**

22 **A.** I used a very similar process to the 2026 revenue requirement, it applies a 10.6%

⁸ See MFR D-01a Test, MFR A-1 Test, and "SoBRA Revenue Requirements" (produced in response to OPC's First Set of Requests for Production of Documents, No. 15, under the Laney subfolder).

1 ROE and assumes the removal of the 2026 batteries.⁹ This results in a revenue
2 requirement of approximately \$403 million.¹⁰ As FPL's assumed capital structure
3 continues to remove zero-cost deferred tax liabilities, which is not contemplated
4 by the CMP Proposal, this figure is likely to be even more of an overestimate than
5 the 2026 revenue requirement number.

6 **Q. Please explain the revenue requirement impact if the 2027 SoBRAs are**
7 **approved.**

8 **A.** I understand that the 2027 batteries could be approved via the SoBRA mechanism
9 but given the timing of the entry of the 2027 batteries and the 4-year amortization
10 of the associated ITCs. Should that occur, they would essentially be revenue
11 neutral in 2027, although they would have impacts on the revenue requirement
12 associated with the 2028 and 2029 SoBRAs. The 2027 solar, however, if not
13 approved, would lower the revenue requirement by approximately \$59 million in
14 2027.

15 **Q. Please explain the revenue requirement impact if the 2028 and 2029 SoBRAs**
16 **are approved.**

17 **A.** Assuming the 2027 batteries are approved and using a 4-year amortization of the
18 ITCs, the incremental revenue requirement in 2028 and 2029 is estimated to be
19 \$195 million and \$169 million respectively.¹¹

20

⁹ Removal of the 2026 batteries and 2027 batteries and 4-year amortization of the 2025 battery ITCs results in a revenue requirement in 2027 for batteries of \$29,677,428, a net swing of -\$40,304,036, all related to the 2025 batteries.

¹⁰ See MFR D-01a 2027 TY and MFR A-1 2027 TY.

¹¹ See "SoBRA Revenue Requirements" (produced in response to OPC's First Set of Requests for Production of Documents, No. 15, under the Laney subfolder). The \$174 million filed with the CMP Proposal is an overestimate, although it does include some cushion if FPL files to approve 600 MW of batteries.

1 **Q. Please explain the cost of service methodology used in the CMP Proposal and**
2 **revenue allocation between the customer classes.**

3 **A.** The CMP Proposal uses a 12CP and 1/13th AD cost of service methodology. This
4 methodology is a compromise away from the cost of service methodology I
5 proposed in my original testimony in this case. To derive the revenue allocation
6 of the revenue requirement, I used FPL's as filed cost of service methodology, with
7 the energy weight reduced from 25% to 1/13th, and applying the revenue
8 requirement for 2026 and 2027 to develop the revenue shortfall to parity between
9 the customer classes, and then applied the Commission's gradualism principle to
10 limit any rate increases to 1.5x the system average increase, after taking into
11 account clause revenue as FPL had done in its as-filed case.¹²

12 **Q. Please explain the estimated bill impacts used in the CMP Proposal.**

13 **A.** The estimated bill impacts take the revenue allocation developed above and use
14 the MFR billing determinants to create estimated bill impacts for each customer
15 class.¹³ These estimated bill impacts are reflected in Exhibit B to the CMP
16 Proposal.

17 **Q. Do you have an opinion on whether the terms of the CMP Proposal should be**
18 **adopted by the Commission for setting FPL's rates at the conclusion of this**
19 **docket?**

20 **A.** Yes. There are good arguments that the CMP Proposal is overly generous to FPL
21 and the Special Interest Parties, awarding a cost of service methodology that is not
22 as well supported in the record as FPL's as filed 12CP and 25% AD cost of service

¹² Compare FPL Response to FIPUG's First Set of Interrogatories, No. 11, Attachment 1 ("20250011 - FIPUG 1st INT No. 11 - Attachment No. 1.xlsx") and Attachment 2 ("20250011 - FIPUG 1st INT No. 11 - Attachment No. 2.xlsx") with FPL's MFR E-08 Test (for 2026) and MFR E-08 2027 TY (for 2027).

¹³ See MFR E-13c for the respective 2026 and 2027 years.

1 methodology, and applying gradualism, which is a principle not found in Florida
2 statutory law or administrative rules, and exceptionally generous to FPL by
3 bestowing the highest return on equity in the lower 48 States and one of the highest
4 equity ratios in the nation, which should lead to a lower ROE, and the largest rate
5 increase in United States history. Despite this largesse towards FPL and the SIPs,
6 the CMP Proposal still saves all customers billions in base rate increases as
7 compared to the SIP Proposal; avoids use of the RSM and its embedded TAM,
8 which would both fairly benefit recent customers who paid for FPL's tax liabilities
9 and save future customers well over a billion dollars; and doesn't result in a
10 revenue requirement shortfall of hundreds of millions of dollars in 2030, due to the
11 1-year flow-through of the battery ITCs and the start of the payback of the deferred
12 tax liabilities taken in the SIP Proposal Rate stabilization mechanism (RSM). It
13 also doesn't take customer money, in the form of the AOP or the appropriation of
14 customer-funded deferred tax liabilities under the RSM to give FPL a shareholder
15 slush fund that will allow it to stay at the top of its allowed range.

16 While I continue to believe that the CMP Proposal is overly generous to
17 FPL and unnecessarily favorable to the SIPs, in my opinion, the resulting rates of
18 the CMP Proposal are fair, just, and reasonable, and do not discriminate against
19 any rate class. Accordingly, I believe the CMP Proposal is in the public interest,
20 and that the PSC should approve it.

21 **Q. How does the CMP Proposal compare to the SIP Proposal?**

22 **A.** As these two proposals would impact the public interest—i.e., the general welfare
23 of the 12 million Floridians who get their electric service from FPL and the general
24 health of the Florida economy—the CMP Proposal is superior in every aspect,
25 from both its lower short-term effects, to its dramatically improved long-term

1 aspects in ensuring that there is no revenue shortfall cliff in 2030 due to the 4-year
2 amortization of the ITCs and not taking customer money in the form of the deferred
3 tax liabilities. The CMP Proposal still allows FPL to have the highest ROE and
4 equity ratio in combination in the lower 48 States, allowing FPL to have very
5 healthy profitability and more than sufficient revenue to ensure it can provide safe
6 and reliable electricity, not even accounting for the hundreds of millions of dollars
7 FPL can expect in revenue due to sales beyond that indicated by 20-year
8 normalization. In other words, the CMP Proposal gives FPL plenty of money.
9 Also, unlike the SIP Proposal, the CMP Proposal treats all classes fairly,
10 maintaining generous (but not non-cost-effective) credits to CDR/CILC
11 customers. The CMP Proposal shows what a generous, but fair, settlement would
12 actually look like. The CMP Proposal is therefore markedly unlike the SIP
13 Proposal, which can only be characterized as a special deal for the special interests
14 in the room with FPL. Ideally, the CMP proposal could mark the start of an era in
15 which settlement proposals and Commission orders approving them are truly in
16 the public interest. The SIP Proposal must be denied as being contrary to the public
17 interest and because it cannot and will not result in fair, just, and reasonable rates.

18 **Q. Does that conclude your testimony?**

19 **A.** Yes.

1 BY MR. MARSHALL:

2 Q Did you prepare a summary of your testimony?

3 A Yes, sir, I did.

4 Q Would you please go ahead and give us your
5 summary?

6 A Yes.

7 Thank you to the Commission for the
8 opportunity to summarize my settlement testimony in this
9 proceeding. Again, Karl Rábago on behalf of LULAC,
10 Florida Rising and ECOSWF. In my testimony in the
11 settlement, I focus on two topics.

12 First, problems identified in the proposed
13 settlement between FPL and other parties that we have
14 been referring to as the special interest parties, or
15 calling it the SIP or the SIP settlement proposal.

16 And second, ways in which the settlement
17 proposal by the parties representing the vast majority
18 of customers, the parties I represent, the citizens of
19 the state of Florida as represented by the office of
20 public utility council and FAIR, also known as the
21 customer majority parties of that proposal differs and
22 corrects for, or at least tries to correct for flaws
23 notice SIP proposal.

24 As a preliminary matter, I want to note that
25 the SIP proposal cannot be described as a product of

1 compromise between opposing parties that produces
2 benefits for all customers, and that reflects the kind
3 of outcome that could have been reached through a
4 contested proceeding.

5 We did take the time to detail just how bad
6 the SIP proposal is in this regarding. Not only was it
7 an agreement between FPL and elite customers, but most
8 of the participants in the proposal didn't even address
9 most of the big ticket items in the rate case. In those
10 regards, the SIP proposal is just a rubber stamp of the
11 FPL proposal, or at least the worst features of it, paid
12 for on the backs of residential and small business
13 customers. There is no reasonable way that I believe
14 you can approve the SIP proposal as being in the public
15 interest.

16 I don't have the time to detail the many flaws
17 in the proposal, nor all the ways that the CMP
18 settlement, the customer majority party settlement,
19 tries to fix that, or at least mitigate those flaws.
20 Please refer to my testimony.

21 I start with explaining how the settlement
22 proposed rate base revenue requirement is not really or
23 practically a real reduction from the proposed revenue
24 requirement in FPL's application. I also address the
25 ways in which the SIP parties manipulate financial terms

1 to make costs appear lower, but that significantly
2 violate the matching principle, making future customers
3 pay for costs they did not cause, and creating the
4 potential for rate shocks in the future, starting as
5 soon as 2030. Adding 12 years to the depreciation
6 schedule for the Scherer 3 unit, charging future
7 customers to pay back deferred tax liabilities to be
8 used to keep FPL at the top of its range for ROE, the
9 ITC flip-back, and extending the capital recovery
10 schedules for retired power plants are big examples.

11 Even with these adjustments, the SIP proposal
12 seeks to increase costs by nearly \$ billion over the
13 next four years. A key facility of unnecessary spending
14 the SIP proposal supports -- in -- that the SIP proposal
15 supports relates to battery projects. The so-called
16 needs for these facilities was supposed to be propped up
17 by the SLOLP stochastic study, but the laughably flawed
18 study was not even addressed in the SIP proposal, or by
19 most of the SIP proposal parties. None took positions
20 on that critical issue. The SIP proposal, therefore,
21 cannot substitute for a Commission reasonableness review
22 on this, or many other issues.

23 The structure of the SIP proposal is not and,
24 therefore -- is not, therefore, a real reduction in
25 realistic utility costs. It is a deal for increases,

1 and the story it tells about reallocating costs,
2 reslicing the oversized request to amove the burdens on
3 residential and small commercial customers to hand out
4 massive and unjustified discounts to ultra large
5 customers willing to strike a deal. This reallocation
6 was done by not including a cost of service study.

7 Not only is it the largest rate increase I
8 have ever seen in my 35 years in this business, but the
9 SIP proposal would -- in a general rate case, but the
10 SIP proposal would create the largest cost shift in
11 cross-subsidy from small to commercial customers that I
12 have ever seen. Over the four-year terms of the
13 proposal, we are talking about a
14 billion-and-a-half-dollars in cross-subsidies, and
15 tables in my testimony lay out the numbers. The SIP
16 proposal does reduce the allowed ROE, but not to a
17 reasonable level.

18 Let me just close up. There are other things
19 that I went into, but I am reading too slowly, let me
20 just close and save you time by saying that the CMP
21 proposal tries to address the many issues that are in
22 the SIP proposal that are problematic and produce an
23 outcome that is in the public interest with meeting the
24 realistic financial needs of the utility, and is fair to
25 all the parties. Somebody had to. That's what we

1 offered.

2 Thank you.

3 **Q Thank you.**

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

5 Good evening again, on behalf of the citizens of
6 the state of Florida, FAIR, Florida Rising, LULAC
7 and ECOSWF, I call Ms. Zayne Smith to the stand.

8 EXAMINATION

9 BY MR. SCHEF WRIGHT:

10 **Q Ms. Smith you were sworn a few minutes ago to**
11 **take the oath of the witnesses?**

12 A Correct.

13 **Q Did you prepare and cause to be filed in this**
14 **case on September 19th, 2025, prefiled direct testimony**
15 **regarding the settlement agreement proposed by FPL and**
16 **others, and also regarding a similar proposal advanced**
17 **by OPC, FAIR, Florida Rising, LULAC and ECOSWF**
18 **consisting of 18 pages?**

19 A Yes, I did.

20 **Q Do you have any changes or corrections to make**
21 **to that testimony?**

22 A No, I do not.

23 **Q And so if I were to ask you those same**
24 **questions today, would your answers be the same?**

25 A Yes, they would.

1 MR. SCHEF WRIGHT: Mr. Chairman, I ask that
2 Ms. Smith's testimony be entered into the record as
3 though read.

4 CHAIRMAN LA ROSA: So moved.

5 MR. SCHEF WRIGHT: Thank you.

6 (Whereupon, prefiled direct testimony of Zayne
7 Smith was inserted.)

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In re: Petition by for Rate Increase by)
 Florida Power & Light Company) DOCKET NO. 20250011-EI
) FILED: SEPTEMBER 19, 2025
 _____)

**The Citizens of the State of Florida,
Floridians Against Increased Rates, Inc.,
Florida Rising, Inc.,
The League of United Latin American
Citizens of Florida, and
The Environmental Confederation of
Southwest Florida**

**IN RE: PETITION FOR RATE INCREASE BY
FLORIDA POWER & LIGHT COMPANY,
DOCKET NO. 20250011-EI**

DIRECT TESTIMONY OF ZAYNE SMITH

ON BEHALF OF

**THE CITIZENS OF THE STATE OF FLORIDA,
FLORIDIANS AGAINST INCREASED RATES, INC.,
FLORIDA RISING, INC.,
THE LEAGUE OF UNITED LATIN AMERICAN CITIZENS OF
FLORIDA, AND
THE ENVIRONMENTAL CONFEDERATION OF SOUTHWEST
FLORIDA**

INTRODUCTION

1

2 **Q. Please state your name and business address.**

3 A. My name is Zayne Smith, and my business address is 360 Central Avenue,
4 Suite 1750, St. Petersburg, Florida 33701.

5

6 **Q. By whom and in what position are you employed?**

7 A. I am employed by AARP Florida as Senior Director of Advocacy.

8

9 **Q. Please summarize your education and experience relative to the subject**
10 **matter and issues in this general rate increase proceeding for Florida**
11 **Power & Light Company (“FPL”).**

1 A. I have served AARP Florida in advocacy roles of increasing responsibility
2 since 2014; I became Senior Director of Advocacy in 2022. Throughout my
3 employment and service with AARP Florida and its members, I have focused
4 on and participated in a wide range of matters, including utilities, healthcare,
5 housing, transportation, and other issues in legislative, regulatory, and other
6 government proceedings that affect the interests of AARP Florida's
7 members. For reference, AARP is the nation's largest nonprofit, nonpartisan
8 organization serving Americans 50 and older. It advocates for health,
9 financial security, and personal fulfillment, with a strong national and local
10 presence. AARP Florida supports 2.8 million members, of whom 1.59
11 million members live in FPL's service territory. AARP Florida's efforts on
12 behalf of its members include legislative advocacy, age-friendly initiatives,
13 and educational programs both online and in person.

14 In my work, I have advised and coordinated AARP Florida's work
15 opposing rate increases sought by FPL, Duke Energy Florida, and Tampa
16 Electric Company. I also completed the Public Utilities Ratemaking Course
17 offered through the National Association of Regulatory Utility
18 Commissioners Rate School at the Michigan State University Institute of
19 Public Utilities. A copy of my résumé is included as Exhibit ZS-1 to my
20 testimony.

21 Additionally, with respect to this FPL rate case, I am a residential
22 customer of FPL at my residence in Parrish, Florida.

1 **Q. On whose behalf are you testifying in this proceeding?**

2 A. I am testifying with the authorization of AARP Florida to state AARP
3 Florida's positions, as well as my own opinions as an FPL customer, on the
4 matters addressed in my testimony. My testimony is presented on behalf of
5 five intervenor parties in this case, the Citizens of the State of Florida,
6 represented by their Public Counsel (abbreviated as "Citizens" or "OPC");
7 Floridians Against Increased Rates, Inc. ("FAIR"), a Florida not-for-profit
8 corporation, and FAIR's members who are customers of FPL; Florida Rising,
9 Inc.; the League of United Latin American Citizens of Florida ("LULAC");
10 and the Environmental Confederation of Southwest Florida ("ECOSWF").
11 Conforming to their chosen abbreviation in pleadings, I refer to these last
12 three parties collectively as "FEL." Finally, I refer to the Citizens, FAIR,
13 and FEL collectively as the "Customer Majority Parties" or the "CMPs"
14 because they are the only meaningful representatives of FPL's residential
15 customers, who make up approximately 89 percent of FPL's total customer
16 base.

17
18 **Q. Have you previously testified in utility rate proceedings?**

19 A. Yes. I testified in person on behalf of AARP Florida at customer service
20 hearings that the Commission held in the 2016 FPL rate case and virtually in
21 the customer service hearings that the Commission held in the 2021 FPL rate
22 case. Although I was unable to attend the customer service hearings in the

1 current 2025 FPL case, I submitted written comments of AARP Florida to
2 the Commission on March 6, 2025. I have also testified on behalf of AARP
3 Florida at customer service hearings in rate cases for Duke Energy Florida
4 and Tampa Electric Company.

5

6 **Q. Are you sponsoring any exhibits with your supplemental testimony?**

7 A. Yes. I am sponsoring the following exhibits:

8 Exhibit ZS-1 Résumé of Zayne Smith;

9

10 Exhibit ZS-2 Sample of AARP Member petition submitted to
11 the Florida PSC Opposing FPL Rate Increases;

12

13 Exhibit ZS-3 Sample of AARP Member mail message
14 submitted to the Florida PSC Opposing FPL Rate
15 Increases; and

16

17 Exhibit ZS-4 Example of Correspondence from AARP
18 Members to Florida PSC Opposing FPL's
19 Proposed Settlement.

20

21

22 **PURPOSE AND SUMMARY OF TESTIMONY**

23 **Q. What is the purpose of your testimony in this docket?**

24 A. As AARP Florida's Senior Director of Advocacy and as an FPL customer,
25 my testimony primarily addresses the settlement agreement submitted to the
26 Florida Public Service Commission ("PSC") on August 20, 2025 by FPL and
27 several other parties, to which I refer as the "Special Interest Parties'
28 Proposed Settlement" or the "SIPs' Proposed Settlement," including why I
29 oppose this FPL-designed deal. The Special Interest Parties, or "SIPs," who

1 submitted their Joint Motion for Approval of Settlement Agreement on
2 August 20, 2025, are FPL; the Florida Industrial Power Users Group
3 (“FIPUG”); Florida Energy for Innovation Association, Inc.; EVgo Services,
4 LLC; Americans for Affordable Clean Energy, Inc.; Circle K Stores, Inc.;
5 RaceTrac Inc.; Wawa, Inc.; Electrify America, LLC; the Florida Retail
6 Federation; the Federal Executive Agencies; Walmart, Inc.; Armstrong
7 World Industries, Inc.; and the Southern Alliance for Clean Energy
8 (“SACE”). Besides FPL, nearly all of these parties are organizations and
9 corporations that are or represent large industrial and commercial customers
10 of FPL and other utilities.

11 I explain that the SIPs’ Proposed Settlement is hardly any better for
12 FPL’s customers than FPL’s original rate increase requests in this case. I
13 also discuss the proposed terms that are embodied in a comprehensive set of
14 proposed terms submitted by the Citizens, FAIR, and FEL to the
15 Commission, to which I refer as the Customer Majority Parties’ Proposal,
16 abbreviated as the “CMPs’ Proposal.” This document is being
17 simultaneously provided to the Commission as an exhibit to the testimony of
18 John Thomas Herndon, also on behalf of the CMPs.

19 I also provide direct testimony regarding FPL’s false claim that it
20 represented the interests of FPL’s residential customers in the settlement
21 negotiations that led to the SIPs’ Proposed Settlement.
22

1 **Q. Please summarize the main points of your testimony with respect to the**
2 **SIPs’ Proposed Settlement and the CMPs’ Proposal.**

3 A. At the outset, FPL’s claim that it represented the interests of its residential
4 customers and the residential rate class in the secret settlement negotiations
5 in which FPL and the other Special Interest Parties agreed to their
6 “Settlement” is simply false. No one from FPL ever contacted me, either as
7 an individual customer or as AARP Florida’s Senior Director of Advocacy
8 working on utility matters, including FPL’s rate case, to ask me my position
9 or AARP Florida’s position on the SIPs’ Proposed Settlement. Further, in
10 my work with AARP Florida’s members on this case, no FPL customer –
11 that is, no FPL customer who is an AARP Florida member or a non-AARP-
12 member – ever told me that anyone from FPL reached out to them to ask their
13 thoughts or position on the SIPs’ Proposed Settlement. This
14 misrepresentation is particularly shocking in light of the fact that residential
15 customers account for approximately 89 percent of FPL’s total number of
16 customers. Frankly, I believe that this misrepresentation should cause the
17 PSC to reject the SIPs’ Proposed Settlement outright.

18 Regarding impacts on the approximately 12 million regular Floridians
19 who receive their residential electric service from FPL (through about 5.4
20 million residential accounts), the substantive provisions of the SIPs’
21 Proposed Settlement are economically harmful and unjustified. Even though
22 the increases are somewhat less than the increases that FPL proposed in their

1 original filings, the rate increases and FPL's profits are still excessive. For
2 example, the SIPs' Proposed Settlement would have FPL set its rates using a
3 return on equity higher than any approved by any public service commission
4 in the United States in 2024 or 2025, and much higher than the national
5 average return on equity approved by public utility regulators for comparable
6 utilities over the past three years. The impact of just this one variable is
7 substantial: about \$560 million per year, which is more than \$2.2 billion
8 over FPL's proposed four-year rate period. The same excessive ROE applied
9 to the 2027 rate increase would add further to the burden imposed on FPL's
10 customers.

11 Adding further insult onto the backs of its customers, FPL, through its
12 proposed Rate Stabilization Mechanism ("RSM"), with its embedded Tax
13 Adjustment Mechanism, or "TAM," would use money that customers have
14 already paid in to cover FPL's future tax liabilities to enhance FPL's earnings
15 and then to recover those amounts from customers again in the future.

16 I have also reviewed the alternative proposal offered by the Citizens,
17 FAIR, and FEL on August 26, 2025, to which I will refer as the "Customer
18 Majority Parties' Proposal" or the "CMPs' Proposal." Viewed from a high
19 level, the CMPs' Proposal provides for lower base revenue and rate increases
20 than the SIPs' Proposed Settlement, and it would not allow FPL to use the
21 Tax Adjustment Mechanism, while still allowing FPL's rates to be set using
22 a higher ROE than approved by any public utility commission in the U.S.

1 since 2023. While I believe that the PSC should reject the SIPs' Proposed
2 Settlement, if the PSC is going to choose between the proposals before it, it
3 is clear that the best interests of FPL's customers and the public interest
4 would be better served by adopting the terms of the CMPs' Proposal.

5
6 **REPRESENTING RESIDENTIAL CUSTOMERS' INTERESTS**

7 **Q. Please summarize your testimony regarding FPL's claim that it**
8 **represented the interests of its residential and small business customers**
9 **in the negotiations that led to the SIPs' Proposed Settlement.**

10 A. FPL's claim, which it expressed in both written discovery responses and in
11 the deposition testimony of its Vice President of Finance, Scott Bores, is
12 false. I am an FPL customer, and I work and interact with many FPL
13 customers who are members of AARP Florida. No one from FPL ever
14 consulted me, either as an FPL customer or as AARP Florida's Senior
15 Director of Advocacy, to ask my position or AARP Florida's position on the
16 rate increases or any other terms that would be imposed on me and other FPL
17 ratepayers by the SIPs' Proposed Settlement. To spell it out for the PSC and
18 for the public, no one from FPL ever even asked me or AARP Florida for the
19 authority to represent the interests of me or AARP Florida's members in any
20 such negotiations.

21 In my work, relationships, and interactions with AARP Florida
22 members who are FPL customers, no FPL customer has told me that any FPL

1 representative ever asked his or her opinion regarding any aspect of the SIPs’
2 Proposed Settlement, nor has anyone told me that any FPL representative
3 ever asked for the authority to represent his or her interests in any such
4 negotiations.

5 Further, FPL’s proposition that it represented residential customers’
6 interests in negotiating for the rates and revenues that FPL itself would obtain
7 through the SIPs’ Proposed Settlement is a straightforward admission of self-
8 dealing. It certainly appears that FPL cut its deal with the other Special
9 Interest Parties by giving them special benefits while FPL itself would in
10 return get excessive revenues and excessive earnings, plus its TAM that
11 would take even more money from future FPL customers. Mr. Bores even
12 stated that FPL “at the table, represented the residential class in designing the
13 settlement agreement.” Neither the Public Counsel nor any residential
14 customers got to “design” the settlement agreement.

15 To be blunt, FPL’s claims that it represented its residential customers’
16 interests are simply untrue.

17
18 **Q. Have any members of AARP Florida previously commented on FPL’s**
19 **proposed rate increases?**

20 A. Yes. A large number of AARP Florida members previously sent
21 correspondence to the PSC opposing FPL’s original increases. AARP
22 Florida’s records indicate that, in response to FPL’s original rate requests,

1 AARP Florida received 21,459 petitions with digital signatures opposing
2 FPL's requests, and that those petitions were delivered to the PSC.
3 Additionally, AARP Florida's records indicate that 14,844 "tear-off" mailer
4 cards were also delivered to the PSC opposing FPL's requests. Copies of the
5 forms of the petition and the "tear-off" mailer are included as Exhibits ZS-2
6 and ZS-3, respectively, to my testimony. As of September 15, AARP
7 Florida's records show that more than 1,800 of our members submitted
8 electronic correspondence to the PSC opposing FPL's original rate increase
9 requests.

10

11 **Q. Do you have any indication that members of AARP Florida either**
12 **oppose or support the settlement submitted by FPL and the other**
13 **Special Interest Parties?**

14 A. Yes. Many AARP Florida members have reached out to me in my capacity
15 as Senior Director of Advocacy to express their frustration regarding the
16 SIPs' Proposed Settlement and to question how FPL could possibly move
17 forward with a proposed settlement that did not include residential
18 customers' voices. Every FPL customer with whom I have spoken since the
19 SIPs' Proposed Settlement was submitted to the PSC opposes it. Since the
20 SIPs' Proposed Settlement was only filed on August 20, following secret
21 negotiations, AARP Florida and its members have only recently become
22 aware of the SIPs' Proposed Settlement.

1 As of September 19, 2025, AARP Florida's records show that more
2 than 3,800 of our members have submitted email correspondence to the PSC
3 stating their opposition to the SIPs' Proposed Settlement and confirming that
4 they were not represented by FPL in its settlement negotiations with the other
5 SIPs. An example of the AARP Florida members' emails, obtained from the
6 PSC's Correspondence file for this docket, is included as Exhibit ZS-4 to my
7 testimony.

8
9 **THE PSC SHOULD REJECT THE SIPs' PROPOSED SETTLEMENT**

10 **Q. Please summarize your understanding of the SIPs' Proposed Settlement.**

11 A. Besides FPL, nearly all of the parties to the SIPs' Proposed Settlement are
12 organizations and corporations that are or represent large industrial and
13 commercial customers of FPL and other utilities.

14 From reviewing documents filed in this case, I understand that the
15 main provisions of the SIPs' Proposed Settlement that impact residential
16 customers include total additional base rate increases for FPL of about \$6.9
17 billion over the 2026-2029 period; an ROE of 10.95 percent; and a Rate
18 Stabilization Mechanism ("RSM") that includes a TAM of \$1.155 billion of
19 customer-paid-in monies for FPL to use to support FPL's earnings, which
20 FPL would expect its customers to replenish in subsequent years.

1 In sum, the total cost to FPL's customers under the SIPs' Proposed
2 Settlement is approximately \$6.903 Billion in additional base rate charges,
3 plus the TAM plus additional amounts allowed under the RSM.
4

5 **Q. Why do you believe that the PSC should reject the SIPs' Proposed**
6 **Settlement?**

7 A. In addition to rejecting it because of FPL's misrepresentations that it
8 represents the interests of residential customers, the PSC should reject the
9 SIPs' Proposed Settlement because it would give FPL excessive revenues
10 and thus result in excessive rates for all FPL customers. Additionally,
11 because the SIPs' Proposed Settlement would allow FPL to use, through its
12 proposed TAM, up to \$1.155 billion of money paid by its customers to cover
13 FPL's future tax liabilities to enhance FPL's earnings, with future customers
14 then effectively forced (through accounting amortization of the funds used
15 by FPL) to cover the repayment of their money that FPL plans to use over
16 the next four years.
17

18 **Q. Isn't the SIPs' Proposed Settlement better for customers than FPL's**
19 **originally proposed rate increases? If so, why do you oppose the SIPs'**
20 **Proposed Settlement?**

21 A. While it is true that the rate increases are somewhat less in the SIPs' Proposed
22 Settlement than those originally requested by FPL, the increases in the SIPs'

1 Proposed Settlement are still grossly excessive, and the SIPs' Proposed
2 Settlement still includes the TAM. The increases would still take more than
3 \$6.9 billion of additional customer money in base rate increases, FPL's rates
4 would still be set using an unreasonably high ROE compared to other
5 comparable U.S. utilities and public utility commission decisions, and the
6 RSM and TAM provisions would still allow FPL to use customer-paid
7 monies to enhance its earnings with future customers then having to repay
8 the money that FPL took from the customers who already paid for FPL's
9 future tax obligations. The excessive ROE alone would take more than \$2.2
10 billion of customers' money above what a national average ROE would
11 provide.

12

13 **Q. Can you tell anything about benefits that the other Special Interest**
14 **Parties appear to be getting through their deal with FPL?**

15 A. Yes. In addition to lower rates, it appears that some large industrial and
16 commercial customers are getting increases in credits (for allowing their
17 service to be interrupted under some circumstances) that are significantly
18 greater than FPL proposed in its original filings. FPL's original filing would
19 have reduced the total amount of those credits from current levels by about
20 \$22 million per year, but under the SIPs' Proposed Settlement, they would
21 be increased by about \$8 million per year, indicating a swing in favor of those

1 customers of about \$30 million per year, or a total of about \$120 million over
2 the 2026-2029 term of the SIPs' Proposed Settlement.

3 Additionally, the SIPs' Proposed Settlement, which includes a
4 number of parties with interests in electric vehicle charging, provides that
5 FPL would make available \$20 million, not proposed in FPL's original filing,
6 for such parties to use to "make ready" to provide charging service. Further,
7 the SIPs' Proposed Settlement includes some concessions made in favor of
8 certain large customers, particularly believed to be data centers, as compared
9 to FPL's original proposals for such customers.

10
11 **THE CUSTOMER MAJORITY PARTIES' PROPOSAL**

12 **Q. Have you reviewed the Customer Majority Parties' Proposal?**

13 A. Yes.

14
15 **Q. Please summarize the major points of the CMPs' Proposal that you**
16 **believe are relevant to the decision facing the Florida PSC.**

17 A. The major elements of the CMPs' Proposal, comparable to the elements of
18 the SIPs' Proposed Settlement that I have discussed above, are the following.

- 19 1. If FPL takes advantage of certain provisions in the CMPs' Proposal
20 described below, FPL could realize total additional base rate revenues
21 of approximately \$5.241 billion over the 2026-2029 period, as
22 compared to the \$6.903 billion per the SIPs' Proposed Settlement.

- 1 2. The CMPs' Proposal provides for FPL to increase its base revenues
2 by \$867 million per year in 2026, as compared to the \$945 million per
3 year in the SIPs' Proposed Settlement, and by \$403 million per year
4 in 2027 as compared to the \$705 million per year in the SIPs'
5 Proposed Settlement.
- 6 3. The CMPs' Proposal provides for an ROE of 10.60 percent, which is
7 still higher than any ROE approved by any regulatory utility
8 commission in the U.S. since 2023.
- 9 4. The CMPs' Proposal is for a minimum term of two years, but it also
10 provides for FPL to obtain additional base revenue and rate increases
11 in 2028 and 2029 for generation resource additions upon a
12 demonstration that such additions are either cost-effective or needed
13 for reliability purposes. Together, these 2028-2029 increases can
14 provide at least \$456 million in additional revenue to FPL over those
15 years.
- 16 5. Significantly, the CMPs' Proposal would not allow FPL to use its
17 proposed Tax Adjustment Mechanism.

18
19 **Q. Do you support the CMPs' Proposal?**

20 A. I support the CMPs' Proposal as an alternative for settlement purposes. The
21 terms of the CMPs' Proposal are, as compared to the SIPs' Proposed
22 Settlement, significantly better for customers. The terms proposed in the

1 CMPs' Proposal would result in rates that are substantially more fair and
2 more reasonable than those that would result from the SIPs' Proposed
3 Settlement. In my view, the CMPs' Proposal is generous to FPL, particularly
4 in light of the CMPs' proposal to set FPL's rates using an ROE higher than
5 any approved in the country in the past two years.

6
7 **Q. Do you believe that the CMPs' Proposal is in the public interest?**

8 A. I believe that the CMPs' Proposal serves the public interest, and the best
9 interests of FPL's customers, much better than either FPL's original requests
10 or the SIPs' Proposed Settlement. I would prefer to see the PSC simply reject
11 the SIPs' Proposed Settlement (and, if necessary, FPL's original requests)
12 and either leave FPL's rates where they are today or adopt the
13 recommendations of the seven witnesses for the Citizens of the State of
14 Florida, who collectively recommend rate reductions of more than \$600
15 million per year in 2026. Having said that, however, resolving this case on
16 terms favorable to FPL and better for FPL's customers than those in the SIPs'
17 Proposed Settlement has to be considered a good thing, and in the public
18 interest.

19
20 **SUMMARY AND RECOMMENDATIONS**

21 **Q. Please summarize your testimony and recommendations to the**
22 **Commission regarding the Proposed Settlement Agreement that FPL**

1 **and the other Special Interest Parties filed with the PSC on August 20,**
2 **2025, and the alternative terms contained in the CMPs' Proposal.**

3 A. First, the PSC should reject the SIPs' Proposed Settlement because it does
4 not include any meaningful representation of FPL's residential customers.
5 Considering only this obvious fact, the PSC should reject the SIPs' Proposed
6 Settlement. Further, FPL's claims that it represented residential customers
7 in designing the SIPs' Proposed Settlement are false, and the PSC should
8 recognize FPL's utter lack of truthfulness and credibility and reject the SIPs'
9 Proposed Settlement altogether.

10 Regarding the specifics of the SIPs' Proposed Settlement, the PSC
11 should recognize that this deal between FPL and its fellow Special Interest
12 Parties results in grossly excessive rate increases for FPL's customers. The
13 overall rate increases in the SIPs' Proposed Settlement, while slightly less
14 than FPL's originally requested amounts, are excessive, and FPL's proposal
15 to use its Rate Stabilization Mechanism with its embedded Tax Adjustment
16 Mechanism to take monies already paid in by customers to support FPL's
17 earnings, and then to effectively force its customers to pay those monies back
18 to FPL again would further burden customers and is unconscionable.
19 Accordingly, the Commission should reject the SIPs' Proposed Settlement.

20 On behalf of myself as an FPL customer and in the best interests of
21 the 1.59 million AARP Florida members who are FPL's residential
22 customers, my overwhelming first choice would be for the PSC to simply

1 reject the SIPs' Proposed Settlement (and FPL's original requests), period.
2 If the PSC believes that it should decide between the SIPs' Proposed
3 Settlement and the terms offered in the CMPs' Proposal, then the PSC should
4 adopt the terms of the CMPs' Proposal as being the more reasonable of the
5 two. If anything, I believe that the CMPs' Proposal is overly generous to
6 FPL, particularly in light of the fact that it would allow FPL to have rates set
7 using the highest ROE in the country approved since 2023 and in light of the
8 testimony of the Citizens' witnesses that supports a substantial rate reduction
9 in 2026, as compared to the significant increases of \$867 million a year in
10 2026 and \$403 million a year in 2027 provided by the CMPs' Proposal.

11

12 **Q. Does this conclude your direct testimony?**

13 A. Yes, it does.

1 BY MR. SCHEF WRIGHT:

2 Q And did you also prepare and cause to be filed
3 along with your September 19th testimony four exhibits
4 that were identified in your testimony as Exhibits Nos.
5 ZS-1 through ZS-4?

6 A Yes, I did.

7 MR. SCHEF WRIGHT: Mr. Chairman, I note for
8 the record that Ms. Smith's exhibits have been
9 identified in the CEL as Exhibits 1318 through
10 1321.

11 CHAIRMAN LA ROSA: Okay.

12 BY MR. SCHEF WRIGHT:

13 Q Ms. Smith, have you prepared a summary of your
14 testimony regarding the settlement agreement proposed in
15 this case?

16 A Yes, I have.

17 Q Please deliver that summary.

18 A Thank you.

19 Good evening, Commissioners, and thank you for
20 the opportunity to address you on this important matter.
21 My name is Zayne Smith. I am the Senior Director of
22 Advocacy at AARP Florida. I am testifying on behalf of
23 five parties to this proceeding who represent the
24 interests of FPL's residential customers, the citizens
25 of the state of Florida represented by their Public

1 Counsel, FAIR, Florida Rising, LULAC and ECOSWF. I
2 refer to these parties as the customer majority parties,
3 or the CMPs, because they are the only parties in this
4 case who represent the real economic interests of FPL's
5 residential customers, who account for approximately
6 89 percent of FPL's customer accounts, and for
7 approximately 63 percent of FPL's 2026 base rate
8 revenues. Likewise, I refer to the settlement proposal
9 advanced by FPL with several other parties as the
10 special interest parties' proposal, or simply as the
11 SIP's proposal.

12 I am testifying with the authorization of AARP
13 and to state AARP Florida's positions, as well as my own
14 opinions as an FPL customer on the matters addressed in
15 my testimony.

16 FPL's claim that it represented residential
17 customers in its secret settlement negotiations with the
18 special interest parties is simply false. No one from
19 FPL ever contacted me either as an individual customer
20 or as AARP Florida's Senior Director of Advocacy working
21 on utility matters to ask me my position or AARP
22 Florida's position on the SIP's proposed settlement.

23 In my work on this case with AARP Florida
24 members who are FPL customers, no one has reported being
25 contacted by FPL to share their views or position on the

1 SIP's settlement. FPL's claim that it represented
2 residential customers in private settlement negotiations
3 is insincere. Neither residential customers nor their
4 representatives were included in any part of the
5 negotiation process.

6 AARP members do not want FPL to negotiate on
7 their behalf, as FPL's interests are fundamentally
8 misaligned with those of the residential customers.
9 Neither the Public Council nor any residential customers
10 got to design the settlement agreement.

11 Regarding impacts on the approximately 12
12 million regular Floridians who received their
13 residential electric service from FPL, the substantive
14 provisions of the SIP's proposed settlement are
15 economically harmful and unjustified. Even though the
16 increases are somewhat less than the increases FPL
17 proposed in their original filings, the rate increases
18 and FPL profits are still excessive, and would transfer
19 billions of dollars in profits to FPL and its parent
20 company NextEra Energy.

21 Adding further insult, FPL's proposed rate
22 stabilization mechanism, which includes the tax
23 adjustment mechanism, would allow the company to use
24 customer paid funds originally intended for future tax
25 liabilities to boost its current earnings. FPL would

1 then seek to recover those same funds from customers
2 again.

3 I have also reviewed the alternative proposal
4 submitted by the customer majority parties, or CMPs.
5 Compared to the SIP's proposed settlement, the CMP's
6 proposal offers lower base revenue and more -- a more
7 modest rate increase. It also excludes the use of TAM
8 by FPL, while still allowing FPL's rates to be set using
9 a higher ROE than approved by any public service
10 commission in the U.S. since 2023, and remained well
11 above the national average. I believe the terms of the
12 CMP's proposal are a reasonable package of compromises
13 to resolve this case.

14 In closing, I join fellow AARP members in
15 opposing the special interest parties' settlement. It
16 would lead to rates that are unfair, unjust and
17 unreasonable. Ultimately, harming Floridians and the
18 state's economy by overcharging customers.

19 As an FPL customer, and on behalf of AARP
20 Florida's 1.9 million members who are FPL customers, I
21 urge the Florida Public Service Commission to reject the
22 special interest parties'. Instead I ask that you
23 reject FPL's rate case entirely, or approve the
24 substantive terms outlined in the CMP proposal.

25 Thank you for this opportunity to speak.

1 **Q Thank you.**

2 MR. SCHEF WRIGHT: I think with that,
3 Ms. Smith, and probably the rest of the intervenor
4 witnesses are available for cross.

5 CHAIRMAN LA ROSA: Thank you.
6 FEIA?

7 MS. ISTED: FEIA does not have any
8 cross-examination.

9 CHAIRMAN LA ROSA: Thank you.
10 Walmart?

11 MS. EATON: We do not have any
12 cross-examination. Thank you.

13 CHAIRMAN LA ROSA: FEA?

14 CAPTAIN RIVERA: No cross. Thank you.

15 CHAIRMAN LA ROSA: FRF?

16 MR. BREW: Yes. Thank you, Mr. Chairman. I
17 have a few questions, but I don't have an any
18 questions for Ms. Smith or Mr. Schultz, and I can't
19 see Mr. Rábago or Mr. Marcelin.

20 CHAIRMAN LA ROSA: They are there, I promise.

21 MR. BREW: Could they switch positions so I
22 can actually see the persons that I am talking to?

23 CHAIRMAN LA ROSA: Sure. If the witnesses
24 don't mind maybe changing seats? Is that helpful?

25 MR. BREW: That's much better.

1 CHAIRMAN LA ROSA: Okay.

2 MR. BREW: Are you resettled?

3 CHAIRMAN LA ROSA: Look good?

4 MR. BREW: Okay. Thank you.

5 EXAMINATION

6 BY MR. BREW:

7 Q Mr. Rábago, first, you submitted testimony on
8 September 19th regarding the settlement agreement
9 submitted August 20, right?

10 CHAIRMAN LA ROSA: Yeah, just make sure your
11 microphone is on.

12 THE WITNESS: Yes.

13 BY MR. BREW:

14 Q Thank you.

15 As you sit here today, do you have any
16 corrections or updates to your settlement testimony?

17 A To my settlement testimony?

18 Q Correct.

19 A I did have -- I had that one correction.

20 Q Apart from the the and the that, do you have
21 any updates or corrections?

22 A Oh, no, nothing updated or corrected.

23 Q Thank you.

24 So in preparing your settlement testimony, you
25 reviewed the settlement agreement itself and the

1 **testimony in support of the settlement filed by FPL, is**
2 **that right?**

3 A Say that again.

4 Q **In preparing your testimony --**

5 A Right.

6 Q **-- you reviewed the August 20 settlement**
7 **agreement, yes?**

8 A Oh, yes, and -- yes, I did, and the CMPP
9 proposed settlement as well.

10 Q **And the settlement testimony in support of the**
11 **settlement filed by FPL, did you review that?**

12 A Yes.

13 Q **What about discovery? Did you review**
14 **discovery that was performed by the parties on the**
15 **settlement?**

16 A I have reviewed a few hundred of the discovery
17 things of the -- I mean, I reviewed the discovery. I am
18 not sure if I ever covered every single bit of it. I
19 rechecked and reviewed all the discovery to the non-FPL
20 parties most recently.

21 Q **Okay. So did you specifically review the**
22 **testimony that was issued of the settlement parties by**
23 **Florida Rising, LULAC and ECOSWF?**

24 A Did I review the testimony of these other
25 parties or --

1 **Q Did you review the testimony that your client**
2 **did of the signatory parties?**

3 A I am -- I reviewed my testimony. I provided
4 testimony on behalf of these, I reviewed --

5 **Q Okay. I will -- let me try again.**

6 **FEL issued discovery requests of the signatory**
7 **parties on the settlement.**

8 A Oh, okay.

9 **Q Did you review FEL's interrogatories and PODs**
10 **of the signatories?**

11 A I don't -- I don't -- I don't specifically
12 recall. I mean, I looked at a lot of discovery. I
13 don't recall if I looked at any particular ones from FPL
14 to other parties. I focused on staff, OPC and FPL --
15 FEL, and discovery to the signatory parties.

16 **Q Okay. Good.**

17 **Can I point you to your settlement testimony**
18 **that begins on page 10, line 19? I believe it's master**
19 **page L13-543.**

20 A Yes, let me get there -- my computer -- oh,
21 there, it's waking up. Okay. Okay, page 10 --

22 **Q Line 19.**

23 A Line 19. Does FPL claim?

24 **Q Yes, that's the one.**

25 A Okay.

1 Q So am I correct that on that Q&A, and the one
2 that follows onto the next page, you generally are
3 critical of testimony a FPL's claim that they
4 represented residential and small GS customers, is that
5 right?

6 A I got that.

7 Q All right. And I want to point you to a line
8 on page 11, line 15, where you say: A true
9 representative of RS and GS interests was necessary in
10 crafting a settlement proposal that could support just
11 and reasonable rates and garner Commission approval. Do
12 you see that?

13 A Yes.

14 Q Okay. Do you know if Florida Rising, LULAC
15 and ECOSWF asked the intervenors signatory parties if
16 any of them represented small GS customers?

17 A I saw several situations in deposition
18 transcripts and in discovery requests to signatory
19 parties from FEL -- well, I am not sure if FEL, but I
20 know I saw from staff and OPC about the representation
21 arrangements of the various signatory parties, whether
22 they existed, you know, who they were representing, and
23 specifically I recall a great number of questions about
24 whether GS customers were members of the various
25 associations that are part of the signatory party pool.

1 **Q Okay. Could we go to master page 03-1?**

2 A And help me again -- I don't have that -- I
3 don't have the master page -- oh, wait, I will do it
4 here.

5 CHAIRMAN LA ROSA: Yeah, the laptop also in
6 front of you, the laptop to your right --

7 THE WITNESS: No, actually, I don't --

8 CHAIRMAN LA ROSA: Mr. Rábago --

9 THE WITNESS: Yeah, okay. Let's do it here.
10 Okay.

11 CHAIRMAN LA ROSA: So the gentleman behind you
12 is actually directing the page, and you have got
13 access --

14 THE WITNESS: Okay. And --

15 CHAIRMAN LA ROSA: So what you see up here is
16 what you see on that laptop.

17 THE WITNESS: Do I do --

18 BY MR. BREW:

19 **Q And this is the Florida Retail Federation's**
20 **objected and supplemental responses to Florida Rising,**
21 **LULAC's and ECOSWF's First Set of Interrogatories to the**
22 **Florida Retail Federation, do you see that?**

23 A Yes.

24 **Q Could you scroll down to page 03?**

25 A Okay, one, two -- this one here?

1 Q Yes.

2 A Okay.

3 Q So you see question five, where FEL asked
4 whether FEA -- Florida Retail Federation claims to
5 represent the interest of FPL's small business
6 customers?

7 MR. MARSHALL: Mr. Chairman, I am going to
8 object to hearsay at this point.

9 MR. BREW: I'm sorry --

10 CHAIRMAN LA ROSA: He is pointing to the
11 question number five?

12 MR. MARSHALL: Right. This document is
13 hearsay. This is from FRF.

14 MR. BREW: This is a response to an FEL
15 interrogatory of FRF.

16 MR. MARSHALL: Correct.

17 MR. BREW: It goes directly to the accuracy of
18 the questions -- of the allegations made in the
19 testimony. You have been marking exhibits left and
20 right of discovery responses. This is a discovery
21 response that you asked for that you got an answer
22 to.

23 MR. MARSHALL: Yes, but that still doesn't
24 mean it's not hearsay. And the discovery responses
25 we were marking left and right were all from FPL,

1 which makes them admissions by a party opponent.
2 We never put in our own discovery responses to
3 FPL's requests and just said, well, because it was
4 in discovery, therefore, hearsay doesn't apply.

5 MR. BREW: Mr. Chairman, I believe we talked
6 about the rules regarding hearsay applications are
7 here. This is a question they wanted an answer to.
8 They got an answer. It was attested to by our
9 witness, so it's directly pertinent to the
10 statements made in the witness' testimony.

11 CHAIRMAN LA ROSA: I understand. I am going
12 to go to my Advisor, obviously, for this.

13 MS. HELTON: Mr. Chairman, my recommendation
14 is to note the hearsay objection, to allow
15 cross-examination on the exhibit, and then when the
16 time comes to admit the exhibit, and then let us
17 give it the weight that it's due.

18 CHAIRMAN LA ROSA: Okay. So noted. We will
19 allow the cross-examination and, as stated by Ms.
20 Helton, the Commission will give it the weight that
21 it's due.

22 BY MR. BREW:

23 **Q Okay. So, Mr. Rábago, in the response from**
24 **FRF to FEL's question, does it answer the question yes?**

25 A The response here to question five answers the

1 question, yes, with, as we can all see here, seven
2 additional lines of response.

3 **Q Okay. So you -- FEL asked the question of**
4 **whether FRF represented small GS customers, and you got**
5 **a straight up answer, right?**

6 A I am telling you what the answer says in
7 print. I do -- I want to be clear that the narrative
8 response that follows the word yes is a little unclear,
9 or nonspecific in response to the question because the
10 question was about Retail Federation's claim to
11 represent, and the embellishment on the yes answer
12 includes is really kind of a general description of
13 membership.

14 **Q Are you aware that the Office of Public**
15 **Counsel asked essentially the same question to all of**
16 **the intervenor signatory parties in the storm of form of**
17 **a request to admit, but none of them represented small**
18 **business and commercial customers of FPL?**

19 A I recall there were several duplicate requests
20 between staff, FEL and OPC, or close to duplicate
21 questions trying to come at the same kinds of
22 information.

23 **Q Okay. Did you review any of those responses?**

24 A I reviewed a lot of them. I think I might
25 have reviewed all of them that, as I said before, were

1 directed by staff -- I mean, yes. Most recently by
2 staff, by FEL, and by OPC to signatory parties.

3 **Q So in those responses, did -- besides FRF, did**
4 **any of the other intervenors claim to represent small**
5 **commercial interests?**

6 A I have a general recollection that there was
7 some discussion, perhaps it was in deposition
8 transcripts, but how some GS customers might be members
9 of the organization, or that there -- that there would
10 be some involvement among them -- among the
11 organization, but I don't recall a specific signatory
12 party stating, we represent the GS customers.

13 **Q Okay. So based on the information that you**
14 **reviewed that's in the possession of FEL today, you**
15 **elected not to update your testimony for the responses**
16 **that you got in discovery?**

17 A I did not update my testimony based on those
18 discovery -- on -- I wrote my testimony with the
19 discovery responses in mind, but I did not make any
20 changes based on the issues that we are discussing now.
21 I am a little I -- anyway, I will stop there.

22 **Q Okay. That's all I have.**

23 A Okay.

24 CHAIRMAN LA ROSA: Thank you.

25 FIPUG?

1 MR. MOYLE: No questions.

2 CHAIRMAN LA ROSA: FPL?

3 MR. BURNETT: No questions.

4 CHAIRMAN LA ROSA: Staff?

5 MR. STILLER: No questions.

6 CHAIRMAN LA ROSA: Commissioners, are there
7 any questions?

8 MR. BREW: Excuse me, Mr. Chairman, that was
9 all of my questions for Mr. Rábago.

10 CHAIRMAN LA ROSA: Gotcha. Let's rewind back
11 to FRF.

12 MR. BREW: Just one a minute --

13 CHAIRMAN LA ROSA: Sure.

14 MR. BREW: -- I am trying to get caught up
15 here.

16 BY MR. BREW:

17 Q Good evening, Mr. Marcelin.

18 A How are you doing?

19 Q I am doing fine. Thanks.

20 Can I refer you to your settlement testimony
21 at page six, lines 18 through 20? I believe it's -- on
22 the master, it's L12-501.

23 A Okay.

24 Q If you can't see the screen, I can just give
25 you a paper reference to it.

1 A Okay. Say that again.

2 Q It was page six, and I am going to I want to
3 talk to you about your testimony on lines 18 through 20.

4 A Okay. Perfect. I see it.

5 Q Do you see that? And in this Q&A, you are
6 talking about the change in the CDR/CILC credits --

7 A Yeah.

8 Q -- is that right?

9 A Uh-huh.

10 Q And you made a statement in your opening that
11 repeats what you have in your testimony on line 18, when
12 you say FPL and the SIPs have gone the opposite
13 direction and are proposing an increase to credit levels
14 even beyond that which is cost-effective under the rate
15 impact measure, RIM, test. Do you see that?

16 A Uh-huh.

17 Q And you are familiar with the RIM test, are
18 you not?

19 A Yeah, for the most part. Yeah.

20 Q And you are familiar with the RIM test because
21 you actually testified on DSM goals last year?

22 A Yes. Yes.

23 Q And you also participated in the Commission's
24 rulemaking the year before --

25 A Yes.

1 Q -- on DSM goals and cost-effectiveness tests?

2 A Uh-huh.

3 Q Okay. Would you agree that the Commission's
4 rules require utilities, when designing their programs
5 and setting their goals, look not only at the rate
6 impact measure test, but also the total resource cost
7 test and the participant test?

8 A I am familiar with the RIM test.

9 Q Pardon?

10 A The RIM test, yeah, but I can't speak to the
11 rest.

12 Q Do you know that the other -- whether the
13 other tests are required to be considered in developing
14 goals?

15 A Sure.

16 Q Okay. Okay. The RIM test is a ratio, right,
17 where you get a score where, under that test, you would
18 evaluate expected benefits versus expected costs?

19 A Repeat that.

20 Q The RIM test is a benefits cost ratio test,
21 right?

22 A Yeah, to determine whether it's
23 cost-effective.

24 Q Okay. And so the score that we talk about for
25 those tests, if you have a RIM score of one, it

1 basically means the estimated benefits roughly match the
2 estimated costs, right?

3 A Correct.

4 Q Okay. And if I had a RIM -- if I had a score
5 of, say, 3.0, it would be -- that particular measure
6 would be quite cost-effective because the estimated
7 benefits are well in excess of the costs, right?

8 A Sure.

9 Q Okay. And if I had a RIM score of 10, you
10 would have a real winner, because the expected benefits
11 are far in excess of the costs, right?

12 A Sure.

13 Q Okay. For the TRC, the same metric applies.
14 If I have a score of 1.0 under that measurement test,
15 expected benefits are roughly the same of the cost,
16 right?

17 A You said the TRC?

18 Q TRC?

19 A Can you --

20 Q A 1.0 under the TRC means that under that
21 particular testing method the expected benefits are
22 roughly commensurate with the expected costs?

23 A Sure, I believe you.

24 Q And a TRC cost of 3.0, mean it's clearly
25 cost-effective because the benefits exceed the costs?

1 A Sure.

2 Q Okay. And 10.0 under the TRC would mean it's
3 **extremely cost-effective, right?**

4 A Sure.

5 Q Okay. Now, can you tell me -- isn't it true
6 that Florida Rising, LULAC and ECOSWF have consistently
7 opposed utilities relying exclusively on the RIM test in
8 looking at DSM measures?

9 A Yeah, I believe so.

10 Q Okay. And in your testimony last year on the
11 DSM goals, weren't you supportive of FPL looking at both
12 the TRC and the RIM tests in setting its goals in
13 designing its programs?

14 A I can't recall, but I believe so. I am sorry,
15 my memory is not the best.

16 Q Bear with me just a second.

17 Didn't you testify that: I would note that
18 FPL's proposal was still an improvement from what they
19 have done historic -- what they historically proposed,
20 so it's good to see that they are moving in the right
21 direction in terms of considering both TRC and RIM?

22 A Repeat that.

23 Q Didn't you say: I would note that FPL's
24 proposal is still an improvement from what they have
25 historically proposed, and so it's good to see that they

1 **are moving in the right direction?**

2 A I vaguely recall that.

3 **Q Pardon?**

4 A I said, I vaguely recall that.

5 **Q Okay. Do you know what FPL estimated the TRC**
6 **score was for the settlement proposed CILC/CDR credit?**

7 A I can't recall.

8 **Q Do you know if it was over 10?**

9 A I can't recall.

10 **Q Do you know if it was over 50?**

11 A I can't recall.

12 **Q Do you know if it was over 100?**

13 A I cannot recall.

14 **Q All right. How familiar with you are -- how**
15 **familiar are you with the CILC/CDR program?**

16 A Fairly.

17 **Q Fairly? How does it work?**

18 A From what I -- from what I recall is I know
19 that you will have 15 customers, and if folks -- with
20 those customers, if folks are -- essentially, if they
21 are interrupted, they are given millions of dollars to
22 be inter -- to -- if they don't have the capacity
23 generated, then they are interrupted, but that doesn't
24 happen essentially.

25 **Q Okay.**

1 A I am sorry, I am a little nervous.

2 Q Would you agree that participants that sign up
3 for the program have their load controllable by FPL?

4 A I know that they receive millions of dollars.

5 Q No. No. That's not my question. I am asking
6 you if you know how the program works?

7 A I am not as familiar, but what I do know is
8 that they are essentially getting millions of dollars --

9 Q That's my question --

10 A -- to be interrupted, but they aren't
11 interrupted.

12 Q -- my question to you on cross is: Do you
13 know how the program works --

14 A Vaguely.

15 Q -- not what you think it costs?

16 A Vaguely.

17 Q Vaguely?

18 A Yes.

19 Q Do you know, does FPL actually control the
20 load?

21 A I am not sure.

22 Q Do you know if FPL solely determines whether
23 they have a need to activate that program?

24 A Say again.

25 Q Pardon?

1 A Say that again.

2 Q Do you know if FPL alone decides when to
3 activate that program?

4 A I don't believe so.

5 Q Okay.

6 A I don't believe they do.

7 Q Do you understand how a load control program
8 works?

9 A Not as well as many others.

10 Q Okay. Do you know how long FPL can keep a
11 load control activated?

12 A No.

13 Q Okay. Do you know if FPL can activate load
14 control any time in the year?

15 A I am not --

16 Q Okay.

17 A -- no.

18 Q Okay.

19 A I am not an --

20 Q Do you know if some load control participants
21 do so by operating standby generation?

22 A Repeat that.

23 Q Do you know if some participants in the
24 program do so by installing and operating standby
25 generation?

1 A I am not understanding your question.

2 Q You don't understand the question? Do you
3 know if standby generation is a feature of the CILC/CDR
4 program?

5 A I am not sure.

6 Q Okay. You don't know.

7 All right. That's all I have.

8 CHAIRMAN LA ROSA: I will go back down -- for
9 all witnesses? FRF, for all witnesses?

10 MR. BREW: I am finished with all of them.

11 Thanks, Mr. Chairman.

12 CHAIRMAN LA ROSA: I was just double checking.
13 FIPUG?

14 MR. MOYLE: Just to avoid the confusion, I
15 don't have any questions for any of the witnesses.

16 CHAIRMAN LA ROSA: Okay. FPL?

17 MR. BURNETT: No questions for this panel.

18 CHAIRMAN LA ROSA: Staff?

19 MR. STILLER: No questions for the panel.

20 CHAIRMAN LA ROSA: Commissioners?

21 Commissioner Clark.

22 COMMISSIONER CLARK: I do have one question,
23 Mr. Chairman. I want to direct my question to Mr.
24 Schultz.

25 Mr. Schultz, you are testifying, if I

1 understand right, on behalf of OPC, is that
2 correct?

3 THE WITNESS: That's correct.

4 COMMISSIONER CLARK: Okay. And you realize
5 and understand -- I guess maybe I should ask you
6 the question. Who does OPC represent?

7 THE WITNESS: OPC has a general body
8 representation of the customers of FPL in Florida.

9 COMMISSIONER CLARK: So that would mean all of
10 the customers, whether they were business
11 customers, residential customers, is that a fair
12 characterization?

13 THE WITNESS: Yes, sir.

14 COMMISSIONER CLARK: All right. Did -- were
15 you aware, or were you a part of any of the
16 negotiations that led up to the settlement
17 agreement?

18 THE WITNESS: I found out about the settlement
19 when the settlement was filed by FPL. And then I
20 found out about the counter-proposal when that was
21 filed. I had no clue any of that.

22 COMMISSIONER CLARK: You had no idea if OPC
23 was at the table for negotiations or not?

24 THE WITNESS: Not a bit.

25 COMMISSIONER CLARK: Okay. All right. Thank

1 you, Mr. Chairman. That's all I had. Thanks.

2 CHAIRMAN LA ROSA: Seeing no further
3 questions, I will send it back to the parties for
4 redirect.

5 MS. WESSLING: We have no redirect.

6 CHAIRMAN LA ROSA: FEL?

7 MR. MARSHALL: Briefly.

8 FURTHER EXAMINATION

9 BY MR. MARSHALL:

10 **Q Mr. Rábago, were -- when you submitted your**
11 **testimony, were you able to consider discovery responses**
12 **that were submitted to the parties after your testimony**
13 **was filed?**

14 A Yes, I was. I was able to consider them
15 after -- I was able to consider them, but -- yeah, after
16 the original settlement proposals were filed.

17 **Q I guess my question is: When you were writing**
18 **your testimony, were you able to -- what I am trying to**
19 **get at is were you able to consider discovery responses**
20 **in your testimony that had not arrived before your**
21 **testimony was due?**

22 A Yeah -- yes. And I -- I was able to -- I was
23 not able to -- I'm sorry, the answer is, no, I was not
24 able to consider responses that were submitted after the
25 testimony was due, right. And I did not -- yes, there

1 you go. Thank you.

2 **Q Thank you. That's all my redirect questions.**

3 **And I know it's been a long day on that. Thank you.**

4 **CHAIRMAN LA ROSA: FAIR?**

5 MR. SCHEF WRIGHT: There were no questions, so
6 I have no redirect. I was getting ready to move
7 exhibits.

8 CHAIRMAN LA ROSA: That's a good point. It's
9 getting late.

10 All right. So it is -- well, let me --

11 MR. STILLER: They have not moved their
12 exhibits.

13 CHAIRMAN LA ROSA: I am sorry.

14 MR. STILLER: They have not moved their
15 exhibits.

16 CHAIRMAN LA ROSA: Let's move exhibits into
17 the record.

18 MS. WESSLING: Thank you. At this time, OPC
19 would ask to move into evidence what was premarked
20 as Exhibits 1294 through 1298.

21 CHAIRMAN LA ROSA: Okay. Any objections?
22 Seeing none, so moved.

23 MR. MARSHALL: We move in Exhibit 1310.

24 (Whereupon, Exhibit Nos. 1294-1298 were
25 received into evidence.)

1 MR. MARSHALL: We would move in Exhibits 1310
2 through 1317.

3 CHAIRMAN LA ROSA: Objections?

4 Seeing none, so moved.

5 (Whereupon, Exhibit Nos. 1310-1317 were
6 received into evidence.)

7 MR. SCHEF WRIGHT: And FAIR would move the
8 admission of Exhibits 1318 through 1321 in the CEL.

9 CHAIRMAN LA ROSA: Any objections to those?

10 Seeing none, so moved.

11 (Whereupon, Exhibit Nos. 1318-1321 were
12 received into evidence.)

13 MR. BREW: Mr. Chairman, I would move Exhibit
14 1415.

15 CHAIRMAN LA ROSA: Any objections to that?

16 MR. MARSHALL: Yes, still maintain our hearsay
17 objection on that one.

18 MS. HELTON: Mr. Chairman, I recommend that
19 you acknowledge the hearsay objection and admit the
20 exhibit and give it -- and then we can give it the
21 weight that it's due.

22 CHAIRMAN LA ROSA: Okay. So as stated, and as
23 I stated earlier, so we are going to go ahead and
24 admit it.

25 (Whereupon, Exhibit No. 1415 was received into

1 evidence.)

2 MR. TRIERWEILER: Chairman, if I may, even
3 though it wasn't my witness, it affects the case.
4 I think it was established that this -- it's not
5 only hearsay, it's uncorroborated hearsay which
6 directly goes to the rule. This whole process is
7 built on hearsay for efficiency. However, there is
8 a requirement under the rule that it be
9 independently corroborated.

10 The CMPs have filed testimony, the SIPs did
11 not. They had the opportunity, so they didn't file
12 any testimony. I believe that this discovery
13 response that they are referring to was filed after
14 our panel had an opportunity to file their
15 testimony, so it fails also on relevance. How can
16 you cross somebody on a discovery response that was
17 filed after you filed your testimony?

18 And there is no opportunity for rebuttal in
19 our system, so not only did we not get a chance to
20 respond to discovery, but we also don't have a
21 chance to respond to anyone else's rebuttal
22 testimony. Our case pretty much ends on the day
23 that we file our testimony.

24 So it's not only hearsay, uncorroborated, and
25 also fails for relevance.

1 MR. MARSHALL: And I do want to state for the
2 record that we do take exception with Mr. Brew's
3 implication that we have -- that there is an
4 opportunity to continuously update our testimony
5 through when, you know, as discovery comes in,
6 testimony -- discovery continued to come in all the
7 way until the business day before the hearing. I
8 am pretty sure if we filed new testimony taking all
9 of that into account, it would have been vigorously
10 objected to as violating the Order Establishing
11 Procedure in this case as being well out of time,
12 because it would have been the same day that FPL's
13 rebuttal testimony was due.

14 MR. BREW: To the contrary. The -- to the
15 extent that FEL was asking specific information
16 about the representational interest of the parties
17 and exaggerating the statements in his testimony,
18 the discovery response that they asked for, they
19 got their answer to. That answer was attested to
20 as required by the rule by our witness, and so the
21 timing of it neither affects its probative value or
22 its relevance.

23 CHAIRMAN LA ROSA: Staff, can I -- can we
24 deliberate and take this up in the morning?

25 MS. HELTON: Yes, sir.

1 MR. TRIERWEILER: I would also like to remind
2 that this also would be consistent with Ms.
3 Helton's advice earlier, that just because it's a
4 discovery response doesn't mean it's record
5 evidence, and is uncorroborated. It was simply a
6 cross exhibit that arrived after these witnesses
7 filed their testimony, so it's just not evidence.
8 It's simply a cross exhibit over a collateral
9 matter that these witnesses had no opportunity or
10 responsibility to be responsible for to address or
11 to put in their testimony.

12 CHAIRMAN LA ROSA: Okay. Okay to take this up
13 in the morning? Okay. That's -- then that's what
14 we will do. We will pick up with this issue
15 tomorrow, then obviously jump back to our rebuttal
16 panel.

17 Is there anything else that needs to be
18 discussed? Obviously, we need to excuse the
19 witnesses.

20 Witnesses, you are excused. Thank you for
21 testifying.

22 (Witness excused.)

23 MR. BREW: Thank you, Mr. Chairman.

24 CHAIRMAN LA ROSA: No problem.

25 MS. WESSLING: And nine o'clock, Your Honor?

1 CHAIRMAN LA ROSA: Yep. So tomorrow, let's
2 start at 9:00 a.m. sharp, and then it looks like we
3 might be able to finish with this tomorrow, so, all
4 right, so see you guys tomorrow, nine o'clock.

5 Thank you.

6 MS. WESSLING: Thank you, good evening.

7 (Transcript continues in sequence in Volume
8 23.)

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1 CERTIFICATE OF REPORTER

2 STATE OF FLORIDA)
3 COUNTY OF LEON)
45 I, DEBRA KRICK, Court Reporter, do hereby
6 certify that the foregoing proceeding was heard at the
7 time and place herein stated.8 IT IS FURTHER CERTIFIED that I
9 stenographically reported the said proceedings; that the
10 same has been transcribed under my direct supervision;
11 and that this transcript constitutes a true
12 transcription of my notes of said proceedings.13 I FURTHER CERTIFY that I am not a relative,
14 employee, attorney or counsel of any of the parties, nor
15 am I a relative or employee of any of the parties'
16 attorney or counsel connected with the action, nor am I
17 financially interested in the action.18 DATED this 3rd day of November, 2025.
19
2021 
22 DEBRA R. KRICK
23 NOTARY PUBLIC
24 COMMISSION #HH575054
25 EXPIRES AUGUST 13, 2028