BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Florida Power & Light Company	)	DOCKET NO. 20210015-EI

FLORIDA RISING'S, LEAGUE OF UNITED LATIN AMERICAN CITIZENS', & ENVIRONMENTAL CONFEDERATION OF SOUTHWEST FLORIDA'S RESPONSE IN OPPOSITION TO JOINT MOTION FOR APPROVAL OF SETTLEMENT AGREEMENT

The League of United Latin American Citizens of Florida ("LULAC"), Environmental Confederation of Southwest Florida ("ECOSWF"), and Florida Rising, pursuant to Rule 28-106.204(1) of the Florida Administrative Code, hereby file this response in opposition to the Joint Motion for Approval of Settlement Agreement. To put it succinctly, a settlement that transfers so much wealth from residential customers to commercial and industrial customers cannot be in the public interest, nor can a settlement that leaves residential customers *worse* off than in FPL's original proposal (where they faced an approximately 20% rate hike). This joint motion for approval of settlement agreement accomplishes both feats. Everyone gets what they want, except the residential public—who account for the vast majority of total customers, yet notably are the only major customer class unrepresented in the proposed settlement. LULAC, ECOSWF, and Florida Rising agree with the Office of Public Counsel of July, 2021—any rate hike right now is not justified, and the Commission does not have the legal authority to approve the mechanisms contained within FPL's original proposal and are still contained in the proposed settlement. LULAC, ECOSWF, and Florida Rising, groups whose members are almost entirely residential customers,[1] many of them low-income, object to and oppose the proposed settlement agreement, and request an evidentiary hearing with the opportunity to conduct discovery and

[1] ECOSWF does have non-residential customer members.

present witnesses in opposition to the proposed settlement agreement, and to establish the evidence and facts to support the allegations contained in this response below.

Florida Power & Light Co. ("FPL"), and the other signatories, failed to consult with Florida Rising, ECOSWF, and LULAC in their motion as required by Florida Administrative Code Rule 28-106.204(3). This is not a ministerial rule, but rather an important rule intended to encourage parties to proactively and efficiently work out their differences. Nor is this a rule that should only apply to procedural motions. Instead, by deliberately ignoring the requirements of this rule, the signatories ensured that no party representing residential customer interests[2] was invited, much less present at the negotiating table. It is no surprise that since residential customers were denied a seat at the table, they wound up on the menu. And that's precisely what happened. Although the revenue requirement for 2022 and 2023 is moderately lower than FPL's original proposal, very little of the decrease goes to residential customers, who still face a nearly 20% increase in bills. Instead, almost all of the decrease to the revenue requirement goes to commercial and industrial customers, even though residential customers were already forecasted to be paying *over* parity in FPL's original proposal, i.e., subsidizing the rates of commercial and industrial customers. Under the proposed settlement, that cross-subsidy will surge to a couple *hundred million* dollars per year. In exchange for this slight decrease in revenue requirement in 2022 and 2023 for residential customers and massive subsidy for commercial and industrial customers from residential customers, the settlement agreement allows for the addition of a couple *billion* dollars of rate base during the settlement period in the form of about $200 million for electric vehicle chargers and about $2 billion in additional solar through SolarTogether.

[2] The Office of Public Counsel ("OPC") has repeatedly indicated that they represent customers as a whole and do not protect residential customer interests against other classes. Proof of this is seen by OPC agreeing to this settlement.

SolarTogether is still a bad idea, making customers pay for solar twice—once through base rates, and a second time in the form of payments to large commercial/industrial customers who the program is disproportionately reserved for. The proposed allocations in the settlement, while not as egregiously in favor of large commercial/industrial customers as the original SolarTogether, still represent a massive transfer of wealth from the residential class to the participating commercial/industrial customers (and because this expansion is larger than the original program, it may represent, on net, a bigger transfer).

These additions to rate base in the settlement—noting that, as far as Florida Rising, LULAC, and ECOSWF have been able to determine in their quick review, the agreement does not subtract a single cent from FPL's original proposed rate base—will come home to roost during the next base rate proceeding, when they will *more than* wipe out any savings residential customers may have received in 2022 and 2023 from this settlement as compared to FPL's original proposal. In other words, on net, this settlement makes things *worse* for residential customers than if the Commission had approved every egregious proposal in FPL's original filing. Residential customers would have been better off with FPL's original proposed mid-point of 11.5% ROE—which while ludicrous and unsupported itself— would cost customers less than the additional $2 billion in rate base and the use of the Rate Surplus Amortization Mechanism ("RSAM") to essentially guarantee that FPL will, in fact, earn an 11.7% ROE under the settlement.

This is not a full listing of issues that need to be litigated regarding the proposed settlement. Florida Rising, LULAC, and ECOSWF received the proposed settlement less than

24 hours ago. However, given the request for an expedited ruling on the motion,[3] and no notation of Florida Rising's, LULAC's, and ECOSWF's position, a quick response was thought to be required given the upcoming evidentiary hearing. Nonetheless, several issues remain to be litigated, including the newly inserted minimum bill of $25 for residential customers. Although a major policy change and one that could hurt many residential customers, this change is not noted anywhere in the proposed settlement but is found buried in the exhibits in the residential tariff. Another major change is moving the capital recovery schedules from a 10-year amortization period to a 20-year amortization period. This means that people being born today will, when they become adults, still be paying for assets that were *never* used for service in their *lifetimes*. The intergenerational-inequities posed by FPL's original petition have reached new heights with this proposal.

The settlement includes numerous mechanisms, such as the RSAM, that Florida Rising, LULAC, and ECOSWF—like the Office of Public Counsel in July—believe the Commission does not have the authority to approve. We could not have said it better than OPC, which in response to the question of whether the Commission has the statutory authority to approve the RSAM stated: "No, the Commission does not have the ability to establish non-cost-based rates." OPC Prehearing Statement at 11. Cloaking the RSAM in a settlement does not exempt the Commission's authority from the strictures of Florida law. Florida Rising, LULAC, and ECOSWF, after a reasonable discovery period and an evidentiary hearing on the settlement agreement, request an opportunity to thoroughly brief the legal issues entwined in the proposed settlement as outlined in the Prehearing Order, as parties are entitled to under Chapter 120,

[3] "The Signatories request that the Commission rule on this Joint Motion to Approve Settlement as promptly as possible . . . ." Joint Motion at 8.

Florida Statutes, after which the Commission must deny the proposed settlement as being against the public interest and contrary to Florida law.

RESPECTFULLY SUBMITTED this 11th day of August, 2021.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy and correct copy of the foregoing was served on this 11th day of August 2021, via electronic mail on:

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DATED this 11th day of August, 2021.

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