

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 20250011-EI

DATED: September 3, 2025

CUSTOMER MAJORITY PARTIES' MOTION FOR SCHEDULING ORDER

The Citizens of the State of Florida, by and through the Florida Office of Public Counsel, Florida Rising, Inc., LULAC Florida, Inc., better known as the League of United Latin American Citizens of Florida, Environmental Confederation of Southwest Florida, Inc., and Floridians Against Increased Rates, Inc. (“FAIR”), (collectively the “Customer Majority Parties” or “CMPs”) pursuant to Rule 28-106.204(1), Florida Administrative Code., hereby respectfully move the Florida Public Service Commission, through the Prehearing Officer assigned to this docket, to issue a scheduling order setting the dates for all parties to submit their testimony and exhibits herein. In summary, the requested schedule provides dates, consistent with the existing schedule, upon which the CMPs would file testimony and exhibits in support of their proposed settlement terms, and upon which the CMPs and the Special Interest Parties (“SIP” or “SIPs”)¹ would file responsive and rebuttal testimony to the others’ testimony and exhibits.

¹ As used herein, the term “Special Interest Parties” includes Florida Power & Light Company (“FPL”); the Florida Industrial Power Users Group (“FIPUG”); Florida Energy for Innovation Association, Inc. (“FEIA”); EVgo Services (“EVgo”), LLC; Americans for Affordable Clean Energy, Inc.; Circle K Stores, Inc.; RaceTrac Inc.; Wawa, Inc. (collectively “Fuel Retailers”); Electrify America, LLC; the Florida Retail Federation (“FRF”); the Federal Executive Agencies (“FEA”); Walmart, Inc.; Armstrong World Industries, Inc. (“AWI”); and the Southern Alliance for Clean Energy (“SACE”).

BACKGROUND

FPL initiated this proceeding by filing its Test Year Notification Letter dated December 30, 2024. FPL then filed testimony, exhibits, and Minimum Filing Requirements on February 28, 2025, by which it seeks the Commission's approval to increase its base rates and charges by amounts to provide approximately \$9.819 Billion in additional base rate revenues over the period 2026 through 2029. FPL's filed case also asks the Commission to approve a Tax Adjustment Mechanism ("TAM"), through which FPL would take funds paid by its customers for future tax liabilities and apply those funds to enhance FPL's earnings during the 2026-2029 period. (FPL acknowledges that the TAM is similar to the Reserve Surplus Amortization Mechanism ("RSAM") used by FPL since 2022.)

By Order Establishing Procedure ("OEP"), Order No. 2025-0075-PCO-EI, the Commission scheduled this case for a two-week hearing to begin on Monday, August 11. However, on Friday, August 8, 2025, FPL filed a notice of settlement and a motion to suspend the schedule established in the OEP. On August 11, the Commission granted the motion to suspend and subsequently issued its First Order Amending Order Establishing Procedure (the "Amended OEP"), Order No. 2025-0323-PCO-EI, on August 22, 2025. The Amended OEP provides for certain new dates, discussed below. On August 20, the Special Interest Parties filed their Joint Motion for Approval of Settlement Agreement (said motion the "SIPs' Joint Motion" and the attached proposed settlement agreement

the "SIPs' Settlement"). The SIPs' Agreement represents approximately \$6.903 Billion in additional base rate revenues over the period 2026 through 2029.

The CMPs all filed timely responses in opposition to the SIPs' Joint Motion. On August 26, 2025, the CMPs also filed their Joint Motion to Approve Customer Majority Parties' Stipulation and Settlement Agreement (said motion the "CMPs' Joint Motion" and the attached proposed settlement the "CMPs' Settlement"), by which the CMPs have proposed alternate terms to those set forth in the SIPs' Joint Motion. Summarizing key terms, the CMPs' proposed Settlement would: reduce FPL's total additional base revenues to approximately \$5.241 Billion over the 2026-2029 period, which is approximately \$1.66 Billion less than FPL would obtain under the SIPs' Settlement; reduce FPL's ROE to 10.60 percent, which is higher than any ROE approved by any public service commission or public utility commission in the United States in 2024 or 2025; eliminate FPL's proposed TAM; approve a Generation Base Rate Adjustment mechanism subject to proof of cost-effectiveness, reliability need, or both; and remedy certain inequities in the allocation of the rate increases that would result from the SIPs' Settlement.

The movants are unaware of any pronouncement by the Florida Supreme Court that the Commission's determination of the public interest when reviewing a non-unanimous, contested settlement requires the utility to be a party to the agreement. The SIP Settlement is an agreement between the regulated entity and certain special minority interests that only reflects the regulated utility's efforts to unilaterally establish its rates and charges, subject to limited Commission review, by offering special deals to those who signed on.

By contrast, the CMP Settlement filed on August 26, 2025, provides the Commission, whose primary purpose is to protect the public from the asymmetrical power that an electric utility wields under the grant of a state-sanctioned monopoly, with the opportunity to evaluate an agreement between parties that comprise a majority of the real parties in interest in this litigation (the regular customers who will pay these increased bills), and who have demonstrated actual adverse interests to the utility by conducting the overwhelming majority of discovery in opposition to this rate increase. The CMPs, acting under fully authorized representation, made actual compromises in presenting an equitable distribution of revenue requirement responsibility, rather than one based entirely on self-interest.

The CMP's proposal balances providing record amounts of cash and the highest recent return on equity to any utility in the lower 48 states, while removing the burden of a double recovery tax mechanism and punishing rates upon the residential and small commercial classes of customers. The proposed hearing schedule sought here would provide the Customer Majority Parties and the residential and small business customers they also represent with the minimum protections for their property interests which total in the billions of dollars, and a meaningful opportunity to defend themselves from the imposition of the disproportionately harsh rates sought by the SIPs, by presenting evidence demonstrating that their agreement contains actual compromises and the "give and take" expected of a genuine settlement agreement. Consideration of both proposals provides the Commission with the opportunity to determine which best serves the public interest among the two agreements, without infringing upon the rights of the two largest affected customer classes. The Commission is also free to consider, but refrain from adopting either proposal and to instead establish rates based upon the outcome of the full technical hearing on FPL's originally filed rate case.

REQUESTED SCHEDULE

The CMPs hereby respectfully request that the Commission, through its Prehearing Officer, issue an order incorporating the dates set forth below for the filing of the SIPs' and CMPs' testimony and exhibits ("T&E"); the dates requested by the CMPs are stated next to the dates in the Amended OEP for convenience.

<u>Activity</u>	<u>Amended OEP Date</u>	<u>CMPs' Req'd Date</u>
SIPs' Direct T&E on SIPs' Settlement	9/3/2025	9/3/2025
CMPs' Direct T&E on CMPs' Settlement	N/A	9/10/2025
CMPs' Responsive T&E to SIPs' Settlement	9/17/2025	9/17/2025
SIPs' Responsive T&E to CMPs' Settlement	N/A	9/24/2025
Both Sides' Rebuttal to T&E Opposing Each Others' Proposals	10/1/2025	10/1/2025

The CMPs' requested new events and dates are highlighted in **BOLD** type. No ultimate dates are changed; none of the SIPs' previously scheduled filing dates are changed. In summary, the CMPs are giving up a week of time that they might otherwise have had to prepare testimony and exhibits supporting their proposed settlement, based on the reasonable assumption that the CMPs would otherwise have had two weeks, and the CMPs are also giving up a week that they might otherwise have had to rebut the SIPs' testimony and exhibits responsive to the CMPs' Settlement. The SIPs' original filing date and their rebuttal filing date remain unchanged. The SIPs would have two full weeks to prepare testimony and exhibits responsive to the CMPs' Settlement.

TIMING

The Customer Majority Parties respectfully ask that the Prehearing Officer consider this motion at the additional prehearing conference scheduled for Monday, September 8, 2025.

REQUEST FOR CONFERRAL

The undersigned attempted to confer via email with all parties on the service list. FPL, FRF, Electrify America, Fuel Retailers, FEIA, Walmart, FEA, FIPUG, and AWI oppose the motion. EVgo and SACE take no position.

CONCLUSIONS

The Commission is faced with making critically important decisions regarding the electric rates to be paid by a majority of Floridians. The Customer Majority Parties have submitted an alternate settlement proposal that they – the Customer Majority Parties – assert is in the public interest and will result in fair, just, and reasonable rates – rates significantly lower than those proposed by the SIPs’ Settlement. By this motion, the CMPs simply ask the Commission to approve a schedule for all parties to file their testimony and exhibits in support of their respective settlement proposals and in opposition to the proposals advanced by each other. The CMPs assert that this fair exchange of testimony and exhibits is exactly how Florida administrative law is supposed to work, that it will give the Commission a complete record of options available for its decisions herein, and that the dates proposed herein by the CMPs will not delay the

proceeding or prejudice any party (other than abbreviating the time available to the CMPs).

WHEREFORE, the Citizens of the State of Florida, Florida Rising, Inc., LULAC Florida, Inc., the Environmental Confederation of Southwest Florida, Inc., and Floridians Against Increased Rates, Inc. respectfully move the Commission, through the Prehearing Officer assigned to this docket, to consider the CMPs' motion on September 8, 2025, and to issue an order approving the slightly modified schedule requested herein.

Respectfully submitted this 3rd day of September, 2025.

Florida Office of Public Counsel
111 West Madison Street, Suite 812
Tallahassee, FL 32399-1400

By: /s/**Walt Trierweiler**
Walt Trierweiler
Public Counsel

Counsel for the Citizens of the State of Florida

Earthjustice
111 S. Martin Luther King Jr. Blvd.
Tallahassee, FL 32301

By: /s/**Bradley Marshall**
Bradley Marshall

*Counsel for LULAC Florida, Inc., Florida Rising, Inc. and
Environmental Cor federation of Southwest Florida, Inc.*

Floridians Against Increased Rates
Gardner, Bist, Bowden, Dee, LaVia, Wright,
Perry & Harper, P.A.
1300 Thomaswood Drive
Tallahassee, FL 32308

By: /s/**Robert Scheffel Wright**
Robert Scheffel Wright

Counsel for Floridians Against Increased Rates, Inc.

CERTIFICATE OF SERVICE
DOCKET NO. 20250011-EI

I **HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by electronic mail on this 3rd day of September, 2025, to the following:

Adria Harper
Shaw Stiller
Timothy Sparks
Florida Public Service Commission
Office of General Counsel
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850
aharper@psc.state.fl.us
sstiller@psc.state.fl.us
tsparks@psc.state.fl.us
discovery-gcl@psc.state.fl.us

Kenneth A. Hoffman
Florida Power & Light Company
134 West Jefferson Street
Tallahassee, FL 32301-1713
ken.hoffman@fpl.com

John T. Burnett
Maria Moncada
Christopher T. Wright
Joel Baker
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420
john.t.burnett@fpl.com
maria.moncada@fpl.com
christopher.wright@fpl.com
joel.baker@fpl.com

Jon C. Moyle, Jr.
Karen A. Putnal
Moyle Law Firm, P.A.
118 North Gadsden Street
Tallahassee, FL 32301
jmoyle@moylelaw.com
kputnal@moylelaw.com
mqualls@moylelaw.com

Leslie R. Newton
Ashley N. George
Thomas A. Jernigan
Michael A. Rivera
James B. Ely
Ebony M. Payton
Federal Executive Agencies
139 Barnes Drive, Suite 1
Tyndall Air Force Base, FL 32403
leslie.newton.1@us.af.mil
ashley.george.4@us.af.mil
thomas.jernigan.3@us.af.mil
michael.rivera.51@us.af.mil
james.ely@us.af.mil
ebony.payton.ctr@us.af.mil

Nikhil Vijaykar
Yonatan Moskowitz
Keyes & Fox LLP
580 California St., 12th Floor
San Francisco, CA 94104
nvijaykar@keyesfox.com
ymoskowitz@keyesfox.com

Katelyn Lee
Lindsey Stegall
EVgo Services, LLC
1661 E. Franklin Ave.
El Segundo, CA 90245
katelyn.lee@evgo.com
lindsey.stegall@evgo.com

Bradley Marshall
Jordan Luebke
Earthjustice
111 S. Martin Luther King Jr. Blvd.
Tallahassee, FL 32301
bmarshall@earthjustice.org
jluebke@earthjustice.org
flcaseupdates@earthjustice.org

James W. Brew
Laura Wynn Baker
Joseph R. Briscar
Sarah B. Newman
Stone Mattheis Xenopoulos & Brew
1025 Thomas Jefferson St., NW
Suite 800 West
Washington, D.C. 20007
jbrew@smxblaw.com
lwb@smxblaw.com
jrb@smxblaw.com
sbn@smxblaw.com

Stephanie U. Eaton
Spilman Thomas & Battle
110 Oakwood Drive, Suite 500
Winston-Salem, NC 27103
seaton@spilmanlaw.com

William C. Garner
Law Office of William C. Garner
3425 Bannerman Road
Unit 105, No. 414
Tallahassee, FL 32312
bgarner@wcglawoffice.com

Danielle McManamon
Earthjustice
4500 Biscayne Blvd., Suite 201
Miami, FL 33137
dmcmanamon@earthjustice.org

Stephen Bright
Jigar J. Shah
Electrify America, LLC
1950 Opportunity Way, Suite 1500
Reston, Virginia
steve.bright@electrifyamerica.com
jigar.shah@electrifyamerica.com

Steven W. Lee
Spilman Thomas & Battle
1100 Bent Creek Blvd., Suite 101
Mechanicsburg, PA 17050
slee@spilmanlaw.com

D. Bruce May
Kevin W. Cox
Kathryn Isted
Holland & Knight LLP
315 S. Calhoun Street, Suite 600
Tallahassee, FL 32301
bruce.may@hklaw.com
kevin.cox@hklaw.com
kathryn.isted@hklaw.com

Robert Scheffel Wright
John T. LaVia, III
Gardner, Bist, Bowden, Dee, LaVia,
Wright, Perry & Harper
1300 Thomaswood Drive
Tallahassee, FL 32308
schef@gbwlegal.com
jlavia@gbwlegal.com

Brian A. Ardire
Armstrong World Industries, Inc.
2500 Columbia Avenue
Lancaster, PA 17603
baardire@armstrongceilings.com

Alexander W. Judd
Duane Morris LLP
100 Pearl Street, 13th Floor
Hartford, CT 06103
ajudd@duanemorris.com

Floyd R. Self
Ruth Vafek
Berger Singerman, LLP
313 N. Monroe Street, Suite 301
Tallahassee, FL 32301
fself@bergersingerman.com
rvafek@bergersingerman.com

Robert E. Montejo
Duane Morris LLP
201 S Biscayne Blvd., Suite 3400
Miami, FL 33131-4325
remontejo@duanemorris.com

/s/ Walt Trierweiler
Walt Trierweiler
Public Counsel
trierweiler.walt@leg.state.fl.us