**Antonia Hover**

**From:** Ellen Plendl
**Sent:** Friday, August 20, 2021 8:16 AM
**To:** Consumer Correspondence
**Subject:** Docket No. 20210015
**Attachments:** Egregious; Consumer Inquiry - Florida Power & Light Company

See attached customer correspondence and FPSC reply for Docket No. 20210015.

**Antonia Hover**

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**From:** Beatrice Balboa <beatricebalboa@gmail.com>
**Sent:** Friday, August 20, 2021 8:10 AM
**To:** Ellen Plendl
**Subject:** Egregious
**Attachments:** 09464-2021.pdf; 09081-2021.pdf; 09462-2021.pdf

20 August 2021 0800 hours

Ellen Plendl
Regulatory Consultant
Florida Public Service Commission
Office of Consumer Assistance & Outreach
1-800-342-3552 (phone)
1-800-511-0809 (fax)

To whom it may concern,

I am writing to express my deepest disappointment that FPL and the FPL Corporation have "developed jointly with Florida's Office of Public Counsel, the Florida Retail Federation, the Florida Industrial Power Users Group (FIPUG), and the Southern Alliance for Clean Energy." plan with proposed $1.48 billion rate hike in next 4 years.

http://www.floridapsc.com/library/filings/2021/09057-2021/09057-2021.pdf

Residential rate-payers, in submitted documentation (attached) to the State of Florida Public Service Commission, seem to be the targeted group mainly borning the extreme increase in electricity fees.

The attached documentation clearly indicates the clear lack of progress across all these areas of electricity "improvement and innovation" by FPL and the FPL Corporation. Excerpts from a recent news media articles (please see below) also underscores sleights of hand being foisted as a "good deal for all".

"Throwing good money after bad money" to an energy industrial sector that only seeks immediate private financial largess at the expense of the public common good (reliable and robust electrical delivery infrastructure at reasonable rates) speaks volume of the ongoing dialogue between corporate behemoths like FPL and the small people (salt of the earth)

Thank you for your time in these matters and hope to hear from you soon.

Sincerely,
Beatrice Balboa
1010 South Ocean Boulevard, Unit 1008
Pompano Beach, Fl 33062-6631
USA

As opposition mounts to FPL's rate increase, regulators delay decision
BY MARY ELLEN KLAS HERALD/TIMES TALLAHASSEE BUREAU
UPDATED AUGUST 19, 2021 03:49 PM

Amid opposition to a proposed settlement agreement that would impose the largest rate increase in state history on Florida Power & Light's residential customers, state utility regulators on Wednesday decided to spend two months getting feedback on the legal and practical impact of the proposal before approving it.

But the settlement is vigorously opposed by groups that were not included in negotiations including environmental advocates, organizations representing minority groups and low income residents, a Palm Beach County couple that has joined as intervenors in the case, and a group called Floridians Against Increased Rates (FAIR), led by a former Jacksonville utility executive.

'WORSE OFF'
Opponents argue that the settlement leaves residential ratepayers "worse off than FPL's original request" because they are subsidizing commercial and industrial users, who will see lower increases.

"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),'' wrote Bradley Marshall, attorney for Florida Rising, League of United Latin American Citizens and the Environmental Confederation of Southwest Florida in a response that asks the PSC to reject the deal.

"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,'' Marshall wrote.

Marshall said that while the Office of Public Counsel represents both commercial and residential class customers, "it has said many times that they do not take positions on how the pie should be divvied up between the classes."

A Palm Beach County couple, Daniel R. Larson and Alexandria Larson, joined the case as intervenors and announced their opposition to the proposed settlement Wednesday. They and FAIR argue the settlement will result in rates "that are unfair, unjust, and unreasonable" and will "produce revenues that are far in excess of what FPL requires to provide safe and reliable service during the settlement period."

Under the agreement, FPL would devote about $200 million for electric vehicle chargers and about $2 billion in additional solar expansion through its program called SolarTogether, a program that allows customers to voluntarily pay more on their electric bills to finance the solar projects and in return receive credits that are expected to result in them getting a "payback" in about seven years. The agreement dedicates 40% of the solar expansion to residential and small business customers and 60% to commercial, industrial and governmental customers.

Florida Rising and its coalition of partners in the case argue that the SolarTogether program is "a bad idea" because customers pay for solar twice — "once through base rates, and a second time in the form of payments to large commercial and industrial customers who the program is disproportionately reserved for."

The coalition also argues in its response to the settlement that because no one representing residential customers was included in the bargaining over the settlement agreement, "it is no surprise that since residential customers were denied a seat at the table, they wound up on the menu."

RESIDENTS SUBSIDIZE COMMERCIAL

According to FPL's analysis of its rate increase request, residential customers were going to be paying more than what the utility considers the "fair share of revenues" based on the cost of service and usage, while several commercial customer classes would pay less.

"Under the settlement, they will be paying even more," said Marshall, attorney for Earthjustice, which represents Florida Rising, League of United Latin American Citizens and the Environmental Confederation of Southwest Florida.

In 2022, for example, according to Marshall's analysis of the settlement documents, residential customers will pay $253.7 million more than they are currently paying, while large commercial and industrial users (known as general service demand and general service large demand customers) will pay $265 million less.

If approved, the agreement will increase the base rate of a typical monthly residential bill for a customer who uses 1,000 kilowatt hours of electricity by $13.64 over four years. The biggest hike would come next year when a $6.08 a month increase would occur for the typical residential bill using 1,000 kWh. Those customers would see another $3.85 increase in 2023, another increase of $2.21 in 2024, and a final bill increase of $1.50 in 2025.

But for the opponents, those numbers are deceiving because, according to pre-hearing cross examination, FPL said the "typical" bill is actually a "theoretical bill and not the one people actually get in the mail," Marshall said. "And when you think about the thing that they get every month that they have to pay, which is what we call a bill, they're actually pretty high...and this rate increase is going to push them even higher."

Opponents also argue that the PSC does not have the legal authority to approve parts of the settlement. And they all noted that the Office of Public Counsel had reversed course. It had been prepared to put on a case opposing the rate increase and was preparing witnesses to argue that FPL should reduce rates instead of raising them.

The Office of Public Counsel is under new leadership after the Florida Legislature pushed out former OPC head J.R. Kelly and hired attorney Richard Gentry, a former legislative lobbyist who has no previous utility regulation experience.

In the Larsons' response to the settlement, their attorney Nathan Skop called the terms of the settlement "egregious" and said they contradict the argument the OPC made in July when lawyers representing ratepayers argued that "the FPL request to increase rates was not justified, that the FPL return on equity request was excessive and unjustified" and that the commission "lacked the authority to approve the mechanisms contained within the FPL rate request."

Skop is a former PSC commissioner.

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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| In re: Petition for rate increase by Florida Power & Light Company. | DOCKET NO.: 20210015-EI<br><br>FILED: August 17, 2021 |

**LARSON RESPONSE IN OPPOSITION TO JOINT MOTION FOR APPROVAL OF SETTLEMENT AGREEMENT**

Mr. Daniel R. Larson and Mrs. Alexandria Larson ("Larsons"), pursuant to Rule 28-106.204(1), Florida Administrative Code, hereby files this response in opposition to the Joint Motion for Approval of Settlement Agreement ("Joint Motion") filed by Florida Power & Light Company ("FPL), the Office of Public Counsel ("OPC"), the Florida Industrial Power Users Group ("FIPUG"), the Florida Retail Federation ("FRF"), and the Southern Alliance for Clean Energy ("SACE") on August 10, 2021. The Larsons oppose the Joint Motion because: (1) the proposed settlement is not in the public interest, (2) the proposed settlement will result in rates during the settlement period that are unfair, unjust, and unreasonable, (3) the proposed settlement will result in rates which produce revenues that are far in excess of what FPL requires to provide safe and reliable service during the settlement period, and (4) the proposed settlement will result in intergenerational inequities and excessive rates immediately following the settlement period as a result of depleting surplus depreciation funds to maintain FPL earnings levels far in excess of what is required to maintain a fair and reasonable Return on Equity ("ROE") in comparison to other Florida Investor Owned Utilities ("IOUs").

The Larsons note for record that the positions taken by OPC within their prehearing statement in July 2021 (specifically that the FPL request to increase rates was not justified, that the FPL ROE request was excessive and unjustified, and that the Commission lacked the authority to approve the mechanisms contained within the FPL rate request) completely

contradict the egregious terms of the settlement to which OPC (Richard Gentry) acquiesced as a signatory to the Joint Motion prior to the scheduled rate case hearing.

Furthermore, FPL, and the other signatories to the Joint Motion, failed to consult with the Larsons prior to filing the Joint Motion required by Rule 28-106.204(3), Florida Administrative Code. Despite expressly stating their desire and willingness to participate in any FPL settlement discussions relating to the above captioned docket, the Larsons were not afforded the opportunity to participate in the settlement discussions that led to the filing of the Joint Motion. Consistent with the Alternative Dispute Resolution ("ADR") process encouraged by the Florida Public Service Commission ("Commission" or "FPSC"), the Larsons believe that all parties to a contested docket should have been afforded the meaningful opportunity to participate in settlement discussions in a good faith effort to reach a stipulated settlement agreement that could be supported by all of the parties in a heavily contested docket.

Based upon the above, the Larsons believe that the proposed settlement (in its current form) contained within the Joint Motion is not in the public interest and should be appropriately denied or modified by the Commission after conducting an evidentiary hearing.

**WHEREFORE**, the Larsons respectfully request that the Commission deny the Joint Motion for approval of the proposed settlement upon a finding the proposed settlement agreement is not in the public interest.

**[Remainder of Page Intentionally Blank; Signature Page Follows]**

Respectfully submitted this 17th day of August 2021.

/s/ Nathan A. Skop
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**Attorney for the Larsons**

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been filed with the Commission Clerk and furnished to the parties of record indicated below via electronic mail on August 17, 2021:

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**Attorney for the Larsons**

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| **Gulf Power Company**<br>Russell A. Badders<br>One Energy Place<br>Pensacola, FL 32520-0100<br>Phone: (850) 444-6550<br>Email: russell.badders@nexteraenergy.com | **Florida Industrial Power Users Group**<br>Jon C. Moyle, Jr./ Karen A. Putnal<br>Moyle Law Firm, PA<br>118 North Gadsden Street<br>Tallahassee, FL 32301<br>Phone: (850) 681-3828<br>Fax: (850) 681-8788<br>Email: jmoyle@moylelaw.com<br>E-mail: kputnal@moylelaw.com |

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| **Stone Law Firm**<br>James Brew/Laura Baker/Joseph Briscar<br>1025 Thomas Jefferson St., NW, Ste. 800 West<br>Washington DC 20007<br>Phone: (202) 342-0800<br>Phone: (202) 342-0807<br>E-mail: jbrew@smxblaw.com<br>E-mail: lwb@smxblaw.com<br>E-mail: jrb@smxblaw.com<br><br>On behalf of: Florida Retail Federation | |

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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|---|---|---|
| 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 THE RELIEF REQUESTED IN FLORIDA POWER & LIGHT COMPANY'S MOTION FOR SUMMARY FINAL ORDER REGARDING FLORIDIANS AGAINST INCREASED RATES, INC.**

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 Florida Power & Light Company's ("FPL's") extraordinary request for relief in footnote 1 of their motion for summary final order—namely, that after the close of evidence and after briefing has been completed based on that evidence,[1] that the Commission have any "substantive . . . testimony offered by [Floridians Against Increased Rates ("FAIR")] and any substantive evidence that they present at the hearing be *struck* from the record." FPL's Motion for Summary Final Order Regarding Floridians Against Increased Rates, Inc. at 1, n.1 [hereinafter "FPL's Motion"] (emphasis added). Although not spelled out in the footnote, it appears that FPL would like to have struck the testimony of the witnesses that Florida Rising, ECOSWF, and LULAC are co-sponsoring with FAIR, namely Mr. Herndon, Mr. Mac Mathuna, and Mr. Devlin, in addition to any substantive evidence FAIR introduces on cross-examination or otherwise at the evidentiary hearing. Such relief after the close of the evidentiary record, and after the

[1] In Footnote 1, "FPL recognizes that the Commission has decided to address the issue of FAIR's standing . . . at the conclusion of this hearing and as part of the resolution of Issue 9 in the Pre-Hearing Order," which will occur after briefing, with FPL "understand[ing] that the resolution of this motion will be held in abeyance until that time." FPL Motion at 1, n.1.

completion of briefing relying on that record, has no basis in Florida law (and FPL cites none), and will result in prejudice to all parties that will be relying on the evidentiary record as completed at the evidentiary hearing. The Commission must reject the extraordinary relief that FPL requested in footnote 1 of its motion.

## BACKGROUND

FPL filed this petition to increase rates for its customers back in March. The Order Establishing Procedure in this case was filed on March 24, 2021. In accordance with the scheduling requirements outlined in the Order Establishing Procedure, on June 21, 2021, the pre-filed testimonies of Mr. Herndon, Mr. Mac Mathuna, and Mr. Devlin were filed in this docket. Florida Rising, ECOSWF, and LULAC filed their Prehearing Statement on July 14, 2021, as did the other parties. On August 2, 2021, the Prehearing Conference in this case was held, in preparation for a two-week evidentiary hearing that is scheduled to take place from August 16-27, 2021. On August 4, 2021, FPL filed its Motion for Summary Final Order regarding FAIR, including a request that after the evidentiary hearing and briefing has been concluded, that the Commission strike from the evidentiary record any evidence or testimony supported by FAIR, regardless of whether it is also supported or submitted by other parties or the prejudice it may cause other parties, and without citing any legal basis to support its requested relief.

## ARGUMENT

### I. FPL's Motion is Untimely

Pursuant to Order No. PSC-2021-0116-PCO-EI, the Order Establishing Procedure in this Docket, any "[m]otions to strike any portion of the prefiled testimony and related portions of exhibits of any witness shall be made in writing no later than the Prehearing Conference. Motions to strike any potion of prefiled testimony and related portions of exhibits at hearing

shall be considered untimely, absent good cause shown." Order Establishing Procedure at 8 (Fla. P.S.C. Mar. 24, 2021). Not only did FPL fail to move to strike the testimony in writing at the Prehearing Conference, FPL proposed to *stipulate* to all of the FAIR witnesses in question except for Mr. Herndon. This is far from meeting the timely objection requirements of the Order Establishing Procedure. *See Dowd v. Star Mfg. Co.*, 385 So. 2d 179, 181 (Fla. 3d DCA 1980) ("An untimely motion to strike [testimony] is not a substitute for a timely objection. . . . [Party's] failure to make timely objection results in this point on appeal not being properly preserved for our review.").

But more than saying that FPL will move to strike during the testimony of the witnesses at the evidentiary hearing, FPL asks that the testimony be struck *after* the close of the evidentiary record, the very record that intervenors will be relying on to conduct briefing. FPL cites no legal basis to support this relief, nor will it be able to find any, as it is improper to strike testimony after the close of the evidentiary record. *Jones v. State*, 701 So. 2d 76, 78 (Fla. 1997) (affirming trial court finding that motion to strike after completion of testimony was untimely as "objection is waived unless it is made at the time the testimony is offered"); *Platt v. Rowand*, 54 Fla. 237, 242 (1907) ("[W]hen evidence . . . has been admitted without objection, the witness being examined and cross-examined by the respective parties, it is not error to deny a motion to strike out such evidence, made after its tendency and effect have been disclosed."); *Wicoma Inv. Co. v. Pridgeon*, 137 Fla. 540, 544 (1939) ("Where no objections are interposed to questions and the testimony is admitted without objection, the party failing to object cannot, as a matter of right, have the responsive testimony stricken out on motion, though it may be irrelevant or incompetent, and open to attack by proper objection."); *Rojas v. Rodriguez*, 185 So. 3d 710, 711

(Fla. 3d DCA 2016) (failure to raise objection "prior to the conclusion of trial" was "fatal to the defendant's case" to have the testimony in question stricken).

Furthermore, chapter 120 provides no support for FPL's requested relief. *See* § 120.569(2)(g), Fla. Stat. ("Irrelevant, immaterial, or unduly repetitious evidence shall be excluded, but *all other evidence* of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, *whether or not such evidence would be admissible in a trial in the courts of Florida*.") (emphasis added). Additionally, Chapter 120 provides that the record of the proceeding "shall" include "[e]vidence admitted," and "[t]he official transcript," § 120.57(1)(f), Fla. Stat., and that the "agency shall accurately and completely preserve all testimony in the proceeding," § 120.57(1)(g), Fla. Stat. Notably, there is no mechanism for admitted evidence or testimony to be removed or excluded from the record after the fact, and FPL cites no basis for any such mechanism.

## II. There Is No Legal Basis for Striking Co-Sponsored Testimony After the Close of the Record

Even if FPL's motion to strike was not untimely, considering that Florida Rising, LULAC, and ECOSWF are also calling the same witnesses and adducing the same testimony, FPL's requested relief has no basis. The Commission has already concluded that Florida Rising be allowed to co-sponsor the witnesses, as there is no basis for FPL to claim prejudice. Prehearing Order at 237, Order No. 20210015-EI (Fla. P.S.C. Aug. 10, 2021). Nor is it uncommon for witnesses to be adopted or called by other parties. *See, e.g.*, *Jones v. State*, 440 So. 2d 570, 576 (Fla. 1983) (defendant suffered no due process violation when cross-examination was limited based on scope objections as defendant could have called the witness "as his own witness"). This includes in the Chapter 120 context. *See, e.g.*, *Paul Still v. Suwannee River Water Mgmt. Dist.*, Case No. 14-1420RU, Final Order at 8 (Fla. DOAH, Sept.

11, 2014), *available at* https://www.doah.state.fl.us/ROS/2014/14001420.pdf (showing that petitioner Paul Still called several witnesses that had not been specifically listed as his witnesses, but had been listed by other parties, including respondents, as shown in the Amended Pre-Hearing Stipulation, *available at* https://www.doah.state.fl.us/DocDoc/2014/001420/14001420M-053014-10144514.PDF). *See also, e.g.*, *Okaloosa Cty. v. Dep't of Juvenile Justice*, Case No. 12-0891RX, Final Order, 2012 WL 2993757 at *2 (Fla. DOAH July 17, 2012) ("Bay County adopted the testimony of witnesses called by Okaloosa and Nassau Counties."); *Brown v. Dep't of Health & Rehab. Servs.*, Case No. 87-3405, Recommended Order, 1987 WL 488142 at *1 (Fla. DOAH, Nov. 13, 1987) ("Respondent adopted the testimony of all witnesses . . . ."); *Dep't of Comm. Affairs v. City of Tampa*, Case No. 08-4820GM, Respondent City of Tampa's Proposed Recommended Order, 2009 WL 2712064 at *2 (Fla. DOAH, Aug. 7, 2009) ("At the close of the hearing, the Department of Community Affairs adopted the testimony of the Department of the Air Force's witnesses. Similarly, the City adopted the testimony presented by Florida Risk and Tank Lines.").

As is common in the Chapter 120 context, LULAC, ECOSWF, and Florida Rising, in their Prehearing Statement, specifically listed under "Witnesses:" "All witnesses listed or presented by any other party or intervenor." Florida Rising, LULAC, & ECOSWF Prehearing Statement at 3, *available at* http://www.psc.state.fl.us/library/filings/2021/07939-2021/07939-2021.pdf. No objection to this listing has been received or noted. As a general matter, "a motion to strike out the entire testimony of a witness should be denied, if any part is admissible for any purpose." *Platt v. Rowand*, 54 Fla. 237, 241 (1907). As long as witnesses have relevant testimony to offer, parties can call whatever witnesses they like. Florida Rising, ECOSWF, and

LULAC are calling Mr. Herndon, Mr. Mac Mathuna, and Mr. Devlin to testify in this cause, and FPL has not cited any legal reason why Florida Rising, ECOSWF, and LULAC should not be allowed to do so. As the entirety of the witnesses' direct testimony was pre-filed on June 21, 2021, in accordance with the Order Establishing Procedure, leaving FPL ample time to conduct discovery on the substance of the testimony, FPL has no cause to object that additional parties are calling Mr. Herndon, Mr. Mac Mathuna, and Mr. Devlin to testify.

**III. An Uncertain Evidentiary Record Will Prejudice All Intervenors**

Even if FPL's motion to strike was not untimely, and even if Florida Rising, LULAC, and ECOSWF were not permitted to call Mr. Herndon, Mr. Mac Mathuna, and Mr. Devlin as witnesses, FPL's requested relief is still due to be denied due to the timing of the relief requested and how that timing prejudices intervenors. Florida Rising, LULAC, and ECOSWF intend to rely on the testimony of Mr. Herndon, Mr. Mac Mathuna, and Mr. Devlin in briefing. Calling into question the evidentiary record that will be relied on for briefing prejudices all parties and puts parties in a bind on how to conduct the evidentiary hearing.

The Prehearing Order prohibits duplicative cross-examination, *see* Prehearing Order at 5, Order No. PSC-2021-0302-PHO-EI (Fla P.S.C. Aug. 10, 2021), but in light of FPL's requested relief that post-briefing substantive evidence adduced by FAIR be excised from the record, intervenors will, of necessity, be required to duplicate FAIR's cross-examination in order to ensure that there is an evidentiary record that they can rely on. For example, as a hypothetical, if upon cross-examination by FAIR's counsel, Mr. Silagy admitted that there was no basis for FPL's requested rate increase, intervenors would be greatly prejudiced if they were uncertain whether they could rely on such an admission in briefing. Absent a timely objection to the testimony on an evidentiary ground, there would be no basis for striking Mr. Silagy's testimony

from the record, and FPL cites no such basis—yet that is exactly what FPL requests. Therefore, in order to create a proper and reliable evidentiary record, FPL's requested relief will require intervenors to create the record twice—once as FAIR introduces it at the evidentiary hearing—and a second time via other parties to ensure that the evidence will not be removed from the record post-briefing, hence invalidating said briefs. This required duplication will unnecessarily delay the evidentiary hearing in this case, and the uncertainty of being able to rely on the testimony of FAIR-sponsored witnesses, even co-sponsored by Florida Rising, ECOSWF, and LULAC, will prejudice intervenors in briefing as intervenors will be unsure what parts of the evidentiary record they will be allowed to rely on.

For all of these reasons, the requested relief in footnote 1 of FPL's Motion for Summary Final Order is due to be summarily denied. Due to the impending evidentiary hearing and the uncertainty FPL has created regarding the evidentiary record, Florida Rising, ECOSWF, and LULAC request that the Commission issue an expedited decision regarding FPL's motion to strike contained in footnote 1 of its Motion for Summary Final Order.

RESPECTFULLY SUBMITTED this 11th day of August, 2021.

/s/ Bradley Marshall
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***Counsel for LULAC, ECOSWF, Florida Rising***

## 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.

/s/ Bradley Marshall
Attorney

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

| | | |
|---|---|---|
| In Re: Petition by Florida Power & Light Light Company for Rate Unification and for Base Rate Increase | ) ) ) | DOCKET NO. 20210015-EI FILED: August 17, 2021 |

**FLORIDIANS AGAINST INCREASED RATES, INC.'S RESPONSE TO JOINT MOTION FOR APPROVAL OF SETTLEMENT AGREEMENT**

Floridians Against Increased Rates, Inc. ("FAIR"), pursuant to Rule 28-106.204(1), Florida Administrative Code, hereby files its Response to the Joint Motion for Approval of Settlement Agreement filed herein on Tuesday, August 10, 2021, by Florida Power & Light Company ("FPL"), the Office of Public Counsel ("OPC" or "Public Counsel"), the Florida Industrial Power Users Group ("FIPUG"), the Florida Retail Federation ("FRF"), and the Southern Alliance for Clean Energy ("SACE"). (For convenience, FAIR's response is abbreviated as "Response" and the motion to which FAIR is responding is abbreviated as the "Joint Motion.") In summary, FAIR opposes the Joint Motion because the proposed settlement agreement will result in rates during the settlement period that are unfair, unjust, and unreasonable, in that such rates will produce revenues that are dramatically greater than FPL needs to provide safe and reliable service; this is demonstrated by overwhelming, readily available evidence that other utilities, including other Florida investor-owned utilities ("IOUs") as well as many other IOUs in the United States,

provide safe and reliable service with much lower rates of return on equity and much lower percentages of high-cost equity capital in their capital structures.

The proposed settlement should ***also*** be rejected, and the Joint Motion denied, because the proposed settlement will almost certainly result in rates following the settlement period, potentially beginning in 2026, that are also unfair, unjust, and unreasonable. This is because FPL will – almost certainly – have used up depreciation reserve funds to maintain earnings levels much greater than the "fair and reasonable" return determined by the Commission in this proceeding. If these depreciation funds were not used up, those funds would, under normal operation of regulatory accounting principles, be applied to reduce rate base and thus reduce customer rates in FPL's next rate case. For these over-arching reasons, the Commission must recognize that the proposed settlement will result in FPL's customers paying, both in the near term and in the longer term, billions of dollars more than is necessary for FPL to provide safe and reliable service. The Commission should deny the Joint Motion.

FAIR will present testimony and evidence in opposition to the proposed settlement agreement and reserves all of FAIR's rights provided by Chapter 120, Florida Statutes.

**WHEREFORE**, Floridians Against Increased Rates, Inc., respectfully requests that the Commission deny FPL's motion for approval of the settlement agreement filed herein on August 10, 2021.

Respectfully submitted this 17th day of August, 2021.

***/s/ Robert Scheffel Wright***
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## CERTIFICATE OF SERVICE

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by electronic mail on this 17th day of August, 2021, to the following:

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***/s/ Robert Scheffel Wright***
ATTORNEY

## Antonia Hover

**From:** Ellen Plendl
**Sent:** Friday, August 20, 2021 8:16 AM
**To:** 'Beatrice Balboa'
**Subject:** Consumer Inquiry - Florida Power & Light Company

Ms. Beatrice Balboa
beatricebalboa@gmail.com

Dear Ms. Balboa:

This is in response to your August 20 email and the related documents you attached to the Florida Public Service Commission (FPSC) regarding Florida Power & Light Company (FPL).

We will add your email to Docket No. 20210015.

If you have any questions or concerns please contact me at 1-800-342-3552 or by fax at 1-800-511-0809.

Sincerely,

Ellen Plendl
Regulatory Consultant
Florida Public Service Commission
Office of Consumer Assistance & Outreach
1-800-342-3552 (phone)
1-800-511-0809 (fax)