

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricane Matthew by Florida Power & Light Company. | DOCKET NO. 20160251-EI
| DATED: MAY 22, 2018

**THE FLORIDA RETAIL FEDERATION'S
RESPONSE TO JOINT MOTION FOR APPROVAL
OF SETTLEMENT AGREEMENT**

The Florida Retail Federation (“FRF”), pursuant to Rule 28-106.204(1), Florida Administrative Code (“F.A.C.”), and the Second Order Revising Order Establishing Procedure (Order No. PSC-2018-0253-PCO-EI), hereby responds to the Joint Motion for Approval of Settlement Agreement (the “Joint Motion”). In summary, the FRF does not support the proposed settlement, principally because of the non-inclusive process that led to the agreement by two parties while completely excluding the FRF and the other Intervenor Party in the docket from the process. In support of this response, the FRF states:

1. On May 15, 2018, Florida Power & Light (“FPL”) and the Office of Public Counsel (“OPC”) filed the Joint Motion. Exhibit A to the Joint Motion is a copy of a Stipulation and Settlement between FPL and OPC dated May 14, 2018 (hereinafter, the “Settlement”). The Joint Motion states that FPL and OPC “have been engaged in negotiations for the purpose of reaching a comprehensive stipulation and settlement of all issues” in the docket. The FRF was not included in the negotiations between FPL and OPC and first learned of the Settlement on Friday, May 11, through a telephone call from an FPL representative who advised the FRF’s counsel that the agreement had been reached. At the request of the FRF, a copy of the term sheet between FPL and OPC was emailed to the FRF’s attorneys later on Friday afternoon.

2. On May 18, 2018, the Prehearing Officer issued the Second Order Revising Order Establishing Procedure, providing that the FRF’s response to the Joint Motion shall be filed no

later than May 22, 2018. Accordingly, this response is timely.

3. Since at least as early as 2002, the FRF has participated constructively in many settlement agreements with Florida's public utilities, including FPL, Duke Energy Florida and its predecessor Progress Energy Florida, Tampa Electric Company, and Gulf Power Company. Indeed, the FRF has joined in nearly all such settlement agreements over the past two decades.

4. The FRF is disappointed that FPL and OPC decided to enter into the proposed settlement agreement in this docket without consulting either the FRF or any other Intervenor Party in the docket. The FRF's experience bears out the fact that settlements are better and fairer when all parties are present at the table for transparent, good-faith negotiations. In fact, the FRF has been instrumental in bringing some contentious settlement negotiations in for safe landings, for the benefit of both customers and the utilities involved. In light of its long history of constructive participation in transparently negotiated settlements, as compared to the FRF's total exclusion from the process in this case, the FRF cannot and does not support the proposed Settlement.

5. Understanding that the Commission intends to hold a hearing on both the substantive issues identified in the Prehearing Order and on FPL's and OPC's Joint Motion, the FRF is willing to stipulate to the admission of the testimony and exhibits of all witnesses into the record of such hearing; that is, no witness need appear to be cross-examined by the FRF's attorneys. However, the FRF reserves the right to cross-examine any witness who is called to testify at the hearing, on either the issues in FPL's case as filed or on the proposed Settlement. With respect to the Commission Staff's proposed exhibits, the FRF does not object to their admission but reserves the right to cross-examine witnesses with respect to such exhibits. The FRF does not object to any witness presenting all of his or her testimony, i.e., on the issues in the case as filed and on the proposed Settlement, in one sitting.

6. The FRF reiterates and reaffirms its demonstrated willingness to participate constructively in settlement discussions with utilities and other consumer parties and intervenors in any and all proceedings before the Commission.

Respectfully submitted this 22nd day of May, 2018.



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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 22nd day of May, 2018, to the following:

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