

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 20210015-EI
Date: May 7, 2021

**FLORIDA POWER & LIGHT COMPANY'S AMENDED RESPONSE TO
FLORIDIANS AGAINST INCREASED RATES, INC.'S MOTION TO INTERVENE**

Florida Power & Light Company ("FPL"), pursuant to Rule 28-106.204(1), Florida Administrative Code, hereby filed this Amended¹ Response to Floridians Against Increased Rates, Inc.'s ("FAIR") Motion To Intervene, filed on May 4, 2021. In support, FPL states:

1. On May 4, 2021, FAIR filed its motion to intervene in this matter. In that motion, FAIR alleges that it is a not for profit organization organized to advocate on behalf of Florida consumers for lower electric rates in Florida. FAIR also alleges that "the substantial majority of FAIR's members are retail customers of Florida Power and Light."

2. Upon review of FAIR's articles of incorporation (attached hereto), it appears that FAIR was created on March 16, 2021, within a week after FPL filed its direct testimony and MFRs, for the purpose of intervening in this proceeding. FAIR's principal place of business is Orlando, Florida at the Gray Robinson law firm and its directors and corporate officers live in Jacksonville and Tallahassee. Thus, it appears that FAIR is not an FPL customer, nor are its directors or officers. Additionally, while FAIR represents in its motion that its "membership is growing" (this is an entity that was created less than seven weeks ago), FAIR does not disclose the names of any of its members nor does it disclose how many members it has obtained in less than two months of existence.

¹ Amended only for the purpose of including the attachment identified in paragraph 2, which was inadvertently omitted from the original filing.

3. Until FPL has the opportunity to test the allegations made in FAIR's motion to intervene through discovery, FPL objects to FAIR's intervention in this matter and reserves the right to conduct discovery and file appropriate motions and testimony addressing the evidentiary basis for FAIR's standing under Florida law should the Commission grant FAIR's motion.

4. Significantly, FAIR neither identifies any of its members whether individually or as a uniquely situated class of customers, nor attempts to indicate how its members' interests will not be adequately represented by the Office of Public Counsel or by other intervenors who have identified the customers or class of customers that they represent. At this point, FPL has only FAIR's unsupported and untested assertions that FAIR is a bona fide customer-driven association formed for the purpose of promoting legitimate customer-driven issues. Granting intervention on the basis of such bare allegations creates an open invitation for organizations or special interests to file interventions in proceedings for the asserted purpose of representing "customer" interests, yet able to shield themselves in the cloak of anonymity.

WHEREFORE, for the reasons expressed herein, FPL respectfully requests that the prehearing officer deny FAIR's petition to intervene. To the extent FAIR does have members that are FPL customers, those customers are adequately represented by the Office of Public Counsel in this proceeding. If the prehearing officer grants the motion to intervene, FPL requests the prehearing officer to explicitly confirm that FPL retains its right to conduct discovery and file

appropriate motions and testimony addressing the evidentiary basis for FAIR's standing under Florida law.

Respectfully submitted,

FLORIDA POWER & LIGHT COMPANY

By: /s/ R. Wade Litchfield

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CERTIFICATE OF SERVICE
20210015-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished
by electronic mail this 7th day of May 2021 to the following parties:

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Bianca Lherisson
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By: /s/ R. Wade Litchfield
R. Wade Litchfield
Authorized House Counsel No. 0062190

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Email Address: William.Boyles@gray-robinson.com

FLORIDA PROFIT/NON PROFIT CORPORATION
Floridians Against Increased Rates, Inc.

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**ARTICLES OF INCORPORATION
OF
FLORIDIANS AGAINST INCREASED RATES, INC.**

The undersigned hereby associate themselves to form a corporation not for profit under Chapter 617 of the Florida Statutes, and, for these purposes, do hereby adopt the following Articles of Incorporation.

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TALLAHASSEE, FLORIDA

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ARTICLE I - NAME

The name of the corporation shall be FLORIDIANS AGAINST INCREASED RATES, INC.

ARTICLE II - PURPOSES

The purposes for which the corporation is organized are: to advance the welfare of the State of Florida, residential, business, institutional, and governmental customers served by investor-owned electric utilities whose rates are set by the Florida Public Service Commission, and of all Florida citizens, businesses, institutional and governmental entities generally, by advocating for and providing analyses to the general public concerning State of Florida governmental policies and regulatory or administrative actions that will lead to retail electric rates that are as low as possible while ensuring safe and reliable electric service. Similarly, such purposes include advancing the welfare of the State of Florida, residential, business, institutional and governmental customers served by investor-owned electric utilities, and of all Florida citizens, businesses, institutional and governmental entities generally by opposing and advocating against, and providing analyses to the general public concerning State of Florida governmental policies and regulatory or administrative actions that the corporation determines will adversely impact the economy of the State of Florida, the customers of investor-owned electric utilities and Florida's citizens, businesses, institutional and governmental entities

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generally, because such policies and actions are likely to result in electric rates being greater than necessary to ensure the provision of safe and reliable electric service. Such purposes will further include other matters that the corporation determines are in the best economic interests of the citizens of the State of Florida, its electric utility customers and its citizens generally; and, in general, to do any and all acts and things, and to exercise any and all powers which now or hereafter are lawful for the corporation to do or exercise under and pursuant to the laws of the State of Florida for the purpose of accomplishing any of the purposes of the corporation.

The purposes for which the corporation is organized shall be limited to those which it determines are in the best economic interests of the State of Florida, the residential and business customers of investor-owned electric public utilities, and the state's citizens generally; including, but not limited to, directly advocating before Florida policy-makers and decision-makers in support of governmental policies and regulatory or administrative actions that advance the goal of lower electric rates for electric utility customers in Florida whose rates are set by the Florida Public Service Commission, and opposing proposed governmental policies and regulatory or administrative actions that have the potential to increase the electric rates charged to those customers. The corporation plans to provide information and analyses to the general public of the State of Florida to inform members of the public of existing or proposed governmental policies, including proposed regulations, and regulatory or administrative actions that affect the electric rates charged to and paid by the residential and business customers of investor-owned public electric utilities in Florida. In no event shall the corporation engage in any activity which would be contrary to the purposes and activities permitted to be engaged in by any organization the activities of which are exempt from federal income tax under Section 501(c)(4) of the Internal Revenue Code of 1986, as hereafter amended, and the applicable rules and regulations thereunder (the "Code").

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The corporation shall not participate in or intervene in (including the publishing or distributing of statements) any political campaign on behalf of any candidate for public office, nor shall the corporation engage in activities subversive to the United States of America.

The corporation shall not be operated for the primary purpose of carrying on an unrelated trade or business as defined in Section 513 of the Code.

No compensation shall be paid to any Member, officer, director, trustee, creator or organizer of the corporation or substantial contributor to the corporation for such person's or entity's service or status in such capacity, provided, however, that the corporation may pay fair and reasonable compensation to any such person or entity for services actually rendered to or for the corporation, beyond those services that are expected and directly associated with such person's or entity's status as a Member, officer, director, trustee, creator, organizer or substantial contributor; and provided further that any such person may be reimbursed for actual out-of-pocket costs incurred by such person in furtherance of the ongoing business of the Corporation.

The corporation shall not conduct its business or affairs in such a manner as to discriminate against any person on the basis of race, color, religion, sex, or age. It is the specific intention of the incorporator that the purposes and application of the corporation be as broad as permitted by Section 617.0301 of the Florida Not For Profit Corporation Act, but only to the extent that the corporation qualifies as a tax-exempt organization within the meaning of Section 501(c)(4) of the Code.

The corporation is organized to serve public interests. Accordingly, it shall not be operated for the benefit of private interests.

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ARTICLE III - POWERS

The corporation shall have all the powers granted to not for profit corporations under the laws of the State of Florida which are necessary or convenient to effect any and all purposes for which the corporation is organized. In no event, however, shall the corporation have or exercise any power which would cause it not to qualify as a tax-exempt organization under Section 501(c)(4) of the Code; nor shall the corporation engage directly or indirectly in any activity which would cause the loss of such qualification. No part of the assets or the net earnings, current or accumulated, of the corporation shall inure to the benefit of any private individual or organization.

ARTICLE IV - MEMBERS

Membership in the corporation shall be comprised of one (1) or more classes of Membership admitted in such manner as is set forth in the Bylaws and Members shall have all rights and privileges of Members of the corporation as outlined in the Bylaws.

ARTICLE V - TERM OF EXISTENCE

The corporation shall have perpetual existence.

ARTICLE VI - OFFICERS AND DIRECTORS

The affairs of the corporation shall be managed by a Board of Directors and managed on a day-to-day basis by officers elected by a majority vote of the Board of Directors. The officers of the corporation shall consist of a President, Secretary and Treasurer. Such other officers and assistant officers and agents (including, but not limited to, a Vice President, Assistant Secretaries or Assistant Treasurers) as may be deemed necessary may be elected or appointed by the Board of Directors from time to time. The length of terms to be served, qualifications, manner of election and removal of officers shall be set forth in the Bylaws of this corporation.

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ARTICLE VII - FIRST BOARD OF DIRECTORS

The number of persons constituting the first Board of Directors shall be three (3); provided, however, that the number of directors may expand as provided for in the corporation's Bylaws but shall never be less than three (3). The names and addresses of the persons who are to serve as directors until their successors are duly elected and qualified in accordance with the Bylaws of the corporation are as follows:

<u>Name</u>	<u>Address</u>
Michael R. Hightower	2662 Beauclerc Road Jacksonville, Florida 32257
John Thomas Herndon	552 Woodfern Court Tallahassee, Florida 32312
Frederick Bryant	447 Shantilly Terrace Tallahassee, Florida 32312

The length of terms to be served, qualifications, number of Directors and the manner of their election and removal shall be set forth in the Bylaws of this corporation.

ARTICLE VIII - INITIAL OFFICERS

The names of the initial officers who are to serve until their successors are duly elected and qualified in accordance with the Bylaws of the corporation are as follows:

<u>Name</u>	<u>Office</u>
Michael R. Hightower	President
John Thomas Herndon	Secretary
Nancy H. Watkins	Treasurer

ARTICLE IX - BYLAWS

The Bylaws of the corporation shall be initially approved by a majority vote of the Board of Directors, and thereafter may be altered or rescinded by a majority vote of the Board of Directors at a duly called meeting of the Board of Directors in accordance with the Bylaws.

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ARTICLE X - AMENDMENTS TO THE ARTICLES OF INCORPORATION

These Articles of Incorporation may be amended in the manner provided by law.

ARTICLE XI - DISSOLUTION

Upon the liquidation or dissolution of the corporation, its assets, if any, remaining after payment (or provision for payment) of all liabilities of the corporation, shall be distributed to, and only to, any one or more organizations qualified as exempt under Section 501(c)(3) or 501(c)(4) of the Code as determined by the Board of Directors. Any such assets not so disposed of shall be distributed by the Circuit Court of the County in which the principal office of the corporation is located, exclusively for the purposes described herein, to such organization or organizations as said Court shall determine. No part of the assets or the net earnings, current or accumulated, of the corporation shall inure to the benefit of a private individual.

ARTICLE XII - INITIAL REGISTERED OFFICE AND AGENT

The street address of the initial registered office of the corporation shall be:

GrayRobinson, P.A.
301 E. Pine Street, Suite 1400
Orlando, Florida 32801

The name of the initial registered agent of the corporation shall be:

William A. Boyles, Esq.

ARTICLE XIII - CORPORATION'S PRINCIPAL OFFICE AND MAILING ADDRESS

The corporation's principal office and mailing address shall be:

GrayRobinson, P.A.
c/o William A. Boyles, Esq.
301 E. Pine Street, Suite 1400
Orlando, Florida 32801

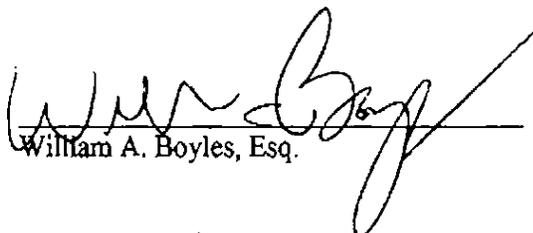
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ARTICLE XIV - INCORPORATOR

The following is the name and street address of the incorporator signing these Articles:

William A. Boyles, Esq.
GrayRobinson, P.A.
301 E. Pine Street, Suite 1400
Orlando, Florida 32801

IN WITNESS WHEREOF, I submit these Articles of Incorporation and affirm that the facts stated herein are true. I am aware that any false information submitted in a document to the Florida Department of State constitutes a third degree felony as provided for in Section 817.155 of the Florida Statutes. I have set my hand and seal this March 16, 2021.

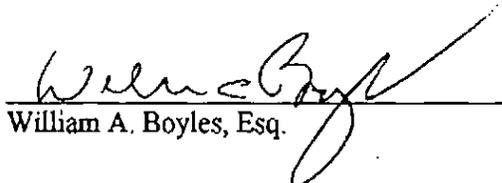


William A. Boyles, Esq.

CERTIFICATE OF ACCEPTANCE AS REGISTERED AGENT

Having been named as Registered Agent to accept service of process for FLORIDIANS AGAINST INCREASED RATES, INC. at the place designated in Article XII of these Articles of Incorporation, I am familiar with and accept the appointment as Registered Agent and agree to act in this capacity.

Dated: March 16, 2021.



William A. Boyles, Esq.

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