

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by
Florida Power & Light Company

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DOCKET NO.: 20250011-EI
FILED: September 5, 2025

**THE FLORIDA RETAIL FEDERATION’S MOTION FOR PROTECTIVE ORDER
FROM OR, IN THE ALTERNATIVE, MOTION TO QUASH CERTAIN
INTERROGATORIES (NOS. 1-5) FROM FLORIDA RISING’S, LEAGUE OF UNITED
LATIN AMERICAN CITIZENS’, & ENVIRONMENTAL CONFEDERATION OF
SOUTHWEST FLORIDA’S FIRST SET OF INTERROGATORIES (NOS. 1-5) TO
FLORIDA RETAIL FEDERATION**

Pursuant to Rules 28-106.204 and 28-106.206, Florida Administrative Code, and Rule 1.280(d) of the Florida Rules of Civil Procedure, the Florida Retail Federation, by and through undersigned counsel, hereby moves for the entry of a protective order or, in the alternative, an order quashing certain Interrogatories (Nos. 1-5) from Florida Rising’s, League of United Latin American Citizens’, & Environmental Confederation of Southwest Florida’s (“FEL”) First Set of Interrogatories (Nos. 1-7) to Florida Retail Federation (“Contested Discovery”) dated August 29, 2025, and included hereto as Exhibit A.

1. Simply put, the Contested Discovery is well out of time and not within the limited scope of incremental discovery authorized in the First Order Modifying the Order PSC-2025-0323-PCO-EI, dated August 22, 2025, concerning the Settlement Agreement submitted on August 20, 2025.
2. On March 14, 2025, the Commission issued its *Order Establishing Procedure* (“OEP”) in this matter, Order No. PSC-2025-0075-PCO-EI. That Order specified that all discovery shall be completed by July 23, 2025.¹
3. On March 31, 2025, FRF submitted its petition to intervene in this docket. In preparing its petition, FRF conferred with the parties of record at the time, including the collection of parties

¹ OEP at 3.

that comprise FEL, and no party opposed or in any way challenged that petition or FRF's standing to participate as an intervenor. This was hardly surprising in light of the undisputed fact that FRF has been an active intervenor in Commission dockets on behalf of its retail business members throughout Florida for more than twenty years, and in particular that the Commission has granted FRF standing to intervene in all recent FPL base rate matters.² By Order No. PSC-2025-0130-PCO-EI, dated April 16, 2025, the Commission determined that FRF had satisfied three prong criteria for establishing associational standing³ and granted FRF's petition to intervene.

4. On June 9, 2025, in accordance with the schedule set in the OEP, FRF filed the direct testimony of Tony M. Georgis. Mr. Georgis' direct testimony recounted FRF's associational interest in the issues presented in the FPL base filing and offered expert testimony concerning numerous elements of that filing. No party, including FEL, served discovery on FRF regarding its associational standing prior to the July 23, 2025, discovery cut-off date.

5. On August 8, 2025, FPL filed a Notice of Settlement in Principle and Joint Motion to Suspend Schedule and Amend Procedural Order. That Joint Motion was supported by most of the active intervenors, including FRF, but not including FEL. At a hearing held on August 11, 2025, the Commission agreed to suspend the remaining procedural schedule pending the submission of a formal Settlement Agreement. On August 20, 2025, FPL and the other settlement signatories filed a Joint Motion for Approval of Settlement Agreement. The Commission subsequently issued Order No. PSC-2025-0323-PCO-EI, the *First Order Revising Order Establishing Procedure*

² See, e.g., Order PSC-2021-0134-PCO-EI granting FRF's petition to intervene in Docket No. 20210015-EI; Order PSC-16-0181-PCO-EI granting FRF's petition to intervene in Docket No. 20160021-EI; and Order PSC-2009-0217-PCO-EI, granting FRF's petition to intervene in Docket No. 20080677-EI.

³ See *Fla. Home Builders Ass'n v. Dep't of Lab. & Emp. Sec.*, 412 So. 2d 351, 354 (Fla. 1982).

(“Revised OEP”). The Revised OEP authorized additional discovery “limited to the issues in the Settlement Agreement.”⁴

6. On the afternoon of August 29, 2025, FEL served the Contested Discovery, consisting of seven interrogatories and an associated production of documents request. FEL’s Interrogatories 1-5 are squarely aimed at FRF’s membership, membership interests, associational standing and the scope of FRF’s representation in this proceeding.⁵ Interrogatories 6 and 7 seek FRF’s statements of position concerning certain aspects of the Settlement Agreement and FRF’s representational and membership interests.⁶

7. Notably, FEL makes no effort to explain its lack of timeliness in now seeking discovery directed at FRF’s petition to intervene, which plainly falls well beyond the established discovery cut-off for issues that FEL could have questioned months ago. We note, in contrast, that in FPL’s previous rate case, Docket No. 20210015-EI, FPL immediately questioned the associational *bona fides* of Florida Rising, League of United Latin American Citizens, and the Environmental Confederation of Southwest Florida, and Floridians Against Increased Rates (“FAIR”) when those organizations first appeared in that rate proceeding.⁷ Here, the FEL untimely discovery relating to FRF membership and representational interests appears only after FEL stated its opposition to a comprehensive Settlement Agreement that includes FRF as a signatory. Whatever its motivation may be, the FEL discovery is untimely and not excused.

⁴ Revised OEP at 2.

⁵ See Exh. A.

⁶ *Id.*

⁷ See Docket No. 20210015-EI, *In re: Petition by Florida Power & Light Company for Rate Unification and for Base Rate Increase*, Florida Power & Light Company’s Response to Floridians Against Increased Rates, Inc.’s Motion to Intervene (filed May 6, 2021) & Florida Power & Light Company’s Motion for Leave to File a Response to the Petition to Intervene of Florida Rising, the League of United Latin American Citizens, and the Environmental Confederation of Southwest Florida (filed Mar. 1, 2021).

8. Next, Commission's Revised OEP expressly limits the scope of permissible discovery to issues surrounding the Settlement Agreement. In doing so, the Revised OEP correctly precluded discovery on matters governed by the original discovery cut-off date. FEL's attempted discovery targeting FRF's membership make-up and representational interests impermissibly disregards that directive and should not in any way be countenanced. The new discovery window only authorizes discovery on new issues of fact or law that may have emerged as a direct result of the settlement. It does not permit discovery that could have been previously pursued but was not. FRF's standing, membership, and the rate schedules under which FRF's members are served are not new issues that are first raised in this Settlement Agreement.

9. Pursuant to Rule 28-106.211, F.A.C., the Prehearing Officer "may issue any orders necessary to effectuate discovery, to prevent delay, and to promote the just, speedy, and inexpensive determination of all aspects of the case." In limiting the scope of discovery in the Revised OEP expressly to issues surrounding the Settlement Agreement, the Prehearing Officer properly balances the interests of parties in this proceeding with the administration of justice.

10. Finally, good cause exists to prohibit the requested discovery in this matter. Rule 1.280(c) of the Florida Rules of Civil Procedure provides that trial courts "may make any order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense that justice requires, including . . . that the discovery not be had." Trial courts are afforded "broad discretion in determining whether a protective order is warranted under the circumstances."⁸ Critically, the Commission has denied requests for untimely discovery in previous cases.⁹ Thus,

⁸ *Smith v. Southern Baptist Hosp. cf Fla., Inc.*, 564 So. 2d 1115, 1118 (Fla.1st Dist. Ct. App. 1990).

⁹ See, e.g., Docket No. 120161-WS, *In re: Analysis cf Utilities, Inc.'s financial accounting and customer service computer system*, Order No. PSC-14-0143-PCO-WS (Mar. 28, 2014) (denying OPC's request regarding discovery on issues outside the scope allowed in the proceeding as untimely); Docket No. 920655-WS, *In Re: Application cf Southern States Utilities, Inc. for Increased Water and Wastewater Rates in Collier County (Marco Island Systems)*,

good cause exists in this case to respect the Revised OEP and limit discovery in this case to issues related to the Settlement Agreement.

11. Pursuant to Rule 28-106.204(3), FRF has conferred with all other parties regarding this motion. FIPUG, Electrify America, and Walmart support the motion. FPL, EVGo, and Southern Alliance for Clean Energy take no position. Office of Public Counsel, FEL, and FAIR oppose the motion. Armstrong World Industries, Florida Energy Innovation Association, the Federal Executive Agencies, and Americans for Affordable Clean Energy, Circle K Stores, RaceTrac, and WaWa did not respond to FRF's request for a position regarding the motion.

Wherefore, for the reasons stated above, the Florida Retail Federation respectfully requests that the Commission issue a protective order ordering FRF not to respond to Florida Rising's, League of United Latin American Citizens', & Environmental Confederation of Southwest Florida's ("FEL") First Set of Interrogatories (Nos. 1-5) to Florida Retail Federation.

Respectfully submitted,

s/ James W. Brew

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Order No. PSC-93-0463-PCO-WS (Mar. 25, 1993) (denying OPC's request for in camera review because it was filed after the discovery deadline).

EXHIBIT A

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Florida)	DOCKET NO. 20250011-EI
Power & Light Company)	
_____)	Dated: August 29, 2025

**FLORIDA RISING’S, LEAGUE OF UNITED LATIN AMERICAN CITIZENS’, &
ENVIRONMENTAL CONFEDERATION OF SOUTHWEST FLORIDA’S
FIRST SET OF INTERROGATORIES (NOS. 1-7)
TO FLORIDA RETAIL FEDERATION**

Pursuant to Rule 28-106.206, F.A.C. and Florida Rule of Civil Procedure 1.340, Florida Retail Federation (“FRF”) is required to answer the following interrogatories in writing and under oath, and shall serve such answers upon the attorneys for the League of United Latin American Citizens of Florida (“LULAC”), Environmental Confederation of Southwest Florida (“ECOSWF”), and Florida Rising, within seven days of service hereof.

INSTRUCTIONS

1. The term “FRF,” “Respondent,” “you,” or “yours” refers to the entity to whom this interrogatory is directed, and includes all employees, agents, servants, attorneys, contractors, and representatives of said entity.
2. The terms “referring” and “relating” as used herein shall mean constituting, containing, concerning, indicating, alluding to, responding to, connected with, commenting on, in respect to, discussing, describing, reflecting, analyzing, projecting, embodying, identifying, stating, dealing with, or in any way pertaining to.
3. The words “document” and “documents” shall have the same meaning given to them under the Florida Rules of Civil Procedure.

4. “Communications” means any correspondence, contact, discussion or exchange between any two or more persons, including, but not limited to, documents, telephone conversations, face-to-face conversations, e-mails, meetings, and conferences.
5. “Person” shall mean the plural as well as the singular and includes any natural person, and any firm, agency, company, corporation, association, partnership, the government, or other form of legal entity.
6. “Identify” as used herein shall mean: a) the name, position, current address, and telephone number of the person identified; or b) the author, addressee, description/title, and the date of any document identified.

INTERROGATORIES

1. Please identify a member of FRF that is an FPL customer. Please identify what customer class that member takes service under.
2. Please confirm whether Publix Super Markets, Inc., d/b/a/ Publix is a member of FRF.
3. Please identify every customer class represented by FRF’s members.
4. Does FRF claim to represent the interests of FPL’s residential (RS) customers?
5. Does FRF claim to represent the interests of FPL’s small business (GS) customers?
6. If FRF does claim to represent the interests of FPL’s GS customers, please explain how FRF contends it is in the interest of small business customers that, under the “settlement” filed August 20, 2025, the GS class will receive a rate increase that is more than three times what it would have if FPL’s originally filed case had been approved in full?
7. If FRF does claim to have entered the “settlement” filed August 20, 2025 representing the interests of FPL’s GS customers, please explain how FRF ascertained that FPL’s GS

customers desired to have more than three times the rate increase than they would have received if FPL's originally filed case had been approved in full.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail on this 5th day of September, 2025, to the following:

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