

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 20250011-EI

FILED: September 9, 2025

**CITIZENS' RESPONSE TO SIGNATORY INTERVENORS' JOINT MOTION FOR
PROTECTIVE ORDER REGARDING
CORPORATE REPRESENTATIVE DEPOSITIONS**

The Citizens of the State of Florida, by and through the Office of Public Counsel ("OPC"), pursuant to Rule 28-106.204(1), Florida Administrative Code ("F.A.C."), hereby file this Response to Signatory Intervenor's Joint Motion for Protective Order Regarding Corporate Representative Depositions ("Motion"), which was filed in this docket at approximately 7:30pm on Sunday, September 7, 2025. The Florida Public Service Commission ("Commission") should deny the Motion for the reasons stated below.

BACKGROUND

On August 28, 2025, at a Commission-noticed, informal meeting in this docket, OPC stated its intent to pursue corporate representative depositions to understand the benefits to the signatories¹ of their participation in the FPL Stipulation and Settlement Agreement ("FPL Settlement") and further asked for the SPs to begin thinking about availability. Dialogue involving multiple SPs ensued at that meeting, and counsel for Walmart, Inc. even specifically asked for the OPC to provide greater detail on the scope to the depositions, which the OPC agreed to and did provide. Telephone conversation between the OPC and one or more SPs occurred after the meeting. On Wednesday September 3, 2025, at approximately 4 p.m., OPC emailed all parties to the docket and Commission Staff that OPC would be seeking to set corporate representative

¹ OPC will refer to the signatory parties to the Motion as the "SPs."

depositions on September 11-12, 2025, pursuant to Fla. R. Civ. P. Rule 1.310(b)(6) (“Rule”). OPC included in the email a proposed scheduling chart with dates and times identified for each party, and OPC asked the SPs to let OPC know as soon as practicable if the dates and times were not acceptable. OPC also offered to attempt to rearrange the schedule, if necessary. In order for the parties to begin identifying the appropriate corporate representative(s) and their availability, OPC also included two draft “Attachment A” documents as samples of the specific subject areas intended to be explored at the deposition, one with questions for the direct customers of FPL and one with questions for an organization of customers. No party responded to OPC’s email until shortly before 5pm on Thursday, September 4, 2025, when counsel for Walmart, Inc., speaking on the collective behalf of all the SPs, emailed and acknowledged receipt of OPC’s email and advised that should OPC proceed with setting the depositions, the SPs intended to file a joint motion for a protective order.

The following morning, counsel for Florida Rising, Inc., the League of United Latin American Citizens, Inc, and the Environmental Confederation of Southwest Florida (collectively, “FEL”), replied to the email chain indicating that he, too, was considering setting depositions of the corporate representatives to inquire about whether the SPs believe the FPL Settlement was in the public interest and why the SPs signed the FPL Settlement. Counsel for FEL requested that the SPs provide the grounds for the motion for protective order that the SPs indicated they would seek. OPC waited to file the notices of deposition until a response to that email was received, so that in the event that the grounds were identified, OPC would have the opportunity to potentially modify the scope of the notice and avoid conflict. However, when the SPs responded that afternoon, they declined to provide any further information regarding the grounds for their motion for a protective order. In the absence of any substantive information about the basis of the SPs’ objection to the

depositions or any indication that the dates and times listed in the originally proposed scheduling chart were unworkable, OPC individually noticed each of the SPs corporate representative depositions pursuant to the Rule with no material changes to the Attachment A documents from what OPC shared on September 3, 2025. *(See Exhibit A to review the entirety of the email chain concerning the depositions).*

In the Motion, the Signatories stated in summary:

The scope and subjects identified in both the OPC Notice and the FEL Notice lack the requisite specificity required for a deposition pursuant to Rule 1.310(b)(6) of the Florida Rules of Civil Procedure, seek information and details regarding confidential settlement negotiations, seek information that is protected by attorney-client privilege, seek information that is already available in the record, are unduly burdensome, are irrelevant for this phrase [sic] of the proceeding, and seek discovery on matters that are untimely pursuant to the Order Establishing Procedure (“OEP”) and First Revised OEP, Order Nos. PSC-2025-0075-PCO-EI and Order No. PSC-2025-0323-PCO-EI, respectively. In short, OPC’s and FEL’s requested Rule 1.310(b)(6) depositions of Signatory Intervenors’ corporate representatives are not being conducted in good faith but, rather, for the purpose of harassment, annoyance, and to cause undue burden upon each Signatory Intervenor because they joined the proposed 2025 Stipulation and Settlement Agreement filed by Florida Power & Light Company (“FPL”) on August 20, 2025 (the “FPL Settlement Agreement”), which OPC and FEL oppose.

p. 2.

On September 8, 2025, at 9:30 a.m., (approximately 14 hours after the motion was filed), the Commission convened a previously-scheduled prehearing conference. During the conference, the Prehearing Officer required that any response to the Motion was due by 5 p.m. on Tuesday, September 9, 2025, so that an order on the issue could be rendered before the noticed depositions were scheduled to begin at 8:00 a.m. on Thursday, September 11, 2025. The OPC indicated a willingness to take the required steps to provide an expedited response.

ARGUMENT

As an initial matter, each of the Motion's legal contentions seeking the protective order are meritless and should be denied as discussed below. Similarly, all claims that the depositions "are not being conducted in good faith but, rather, for the purpose of harassment, annoyance, and to cause undue burden," are surprisingly lodged without evidence or support. Quite frankly, the tenor of this serious accusation falls short of the level of professionalism that practitioners before the Florida Public Service Commission typically display. The Florida Office of Public Counsel unequivocally denies this allegation and is disappointed with the Motion's signatories for making this baseless accusation and ask the Commission to summarily disregard all such allegations.

A. Response to Legal Standards

The SPs have made several broad contentions relating to the Florida Rules of Civil Procedure. First, they claim that the detailed list of specific topics contained in Attachment A to the Notices do not designate with reasonable particularity the matters upon which deposition examination is requested. They further contend that service of the Notices on all signatory parties "alike" is a *prima facie* violation of the standard. A simple reading of Attachment A to the Notice shows that these claims are without merit.

OPC exceeded the level of specificity required by a Fla. R. Civ. P. Rule 1.310(b)(6) corporate representative depositions. Each notice was individually filed and purposefully directed to the parties separately, and each notice reflected an individualized attachment based on whether the party was a direct customer of Florida Power & Light ("FPL"), or if they were a member of an organization of FPL customers. The Rule itself contemplates the complicated, unwieldy, and sometimes haphazard organizational structure that constitute some types of parties, which happens

to be true of several organizations who have petitioned for intervention in this case.² Also, a party is directed to provide multiple representatives, if necessary, to testify to matters noticed pursuant to Fla. R. Civ. P. Rule 1.310(b)(6).³ The Rule places the burden of compliance in this regard on the SPs as they are responsible for their own organizational structure. They are not entitled to evade answering discovery, regardless of their organizational structure.

Then, the SPs acknowledge that the scope of discovery is broad under Florida law, and they include several citations to Florida caselaw. Pursuant to the Amended Order Establishing Procedure, issued on August 22, 2025 (“Amended OEP”),⁴ which confined discovery to the FPL Settlement, OPC carefully specified throughout the attachment to each notice that the deposition questions would be in the context of the August 20, 2025, FPL Settlement. Within this limitation, however, the scope of discovery is more expansive in that it is only limited to evidence that is “reasonably calculated to lead to admissible evidence.”⁵ In this case, admissible evidence would be evidence used to determine whether the settlement agreement is in the public interest. This is the standard by which the discovery must be evaluated so long as it relates to the FPL Settlement. The validity of the settlement is also at issue. Some of the specific areas included in the notices are intentionally directed at whether the SPs possessed the representational status and authority to enter into the settlement. Discovery on this aspect of the case falls squarely within the scope of discovery pursuant to the Amended OEP and the Florida Rules of Civil Procedure.

² “In the notice a party may name as the deponent a public or private corporation, a partnership or association, or a governmental agency, or other entity, and designate with reasonable particularity the matters on which examination is requested.” Rule 1.310(b)(6), Fla. R. Civ. P.

³ “The organization so named must designate 1 or more officers, directors, or managing agents, or other persons who consent to do so, to testify on its behalf and may state the matters on which each person designated will testify. The persons so designated must testify about matters known or reasonably available to the organization.” *Id.*

⁴ PSC Order No. PSC-2025-0323-PCO-EI, issued on August 22, 2025, *In re: Petition for Rate Increase by Florida Power & Light Company*.

⁵ *Allstate Ins. Co. v. Langston*, 655 So. 2d 91, 94 (Fla. 1995).

The SPs curiously cite to two provisions of the Florida Evidence Code, sections 90.408 and 90.502. In doing so, it seems that the SPs have overlooked *Fla. Indus. Power Users Grp. v. Graham*, 209 So. 3d 1142 (Fla. 2017). Like it or not, the current law in Florida is that “the Florida Evidence Code is not applicable to administrative proceedings,” including those of the Commission. *Id.* at 1146. Regardless, the OPC is not seeking or pursuing information to which it is not entitled under Florida law. Rather, the OPC is seeking to explore facts that are not privileged in any event. To the extent that a party can demonstrate that a valid privilege exists as to communications, the OPC is amenable to further narrowing the scope of the deposition questions to avoid inquiry into such areas. However, any dispute as to whether an inquiry encroaches upon a privilege should be resolved through an in-camera review.

Given the limited time available, OPC will respond below to select arguments put forth in the Motion, but OPC maintains its objection to all aspects and argument put forth in the motion.

B. Response to Paragraph 17 of the Motion

The SPs allege that OPC failed to provide sufficient notice of the depositions, an allegation that is easily dispelled. Rule 1.310(b)(1), Fla. R. Civ. P., requires that “[a] party desiring to take the deposition of any person on oral examination must give reasonable notice in writing to every other party to the action.” As laid out in detail above and as is readily observable from Exhibit A, the SPs have certainly received abundant, timely, and reasonable notice of these depositions. The SPs have been aware of OPC’s intent to conduct corporate representative depositions about the benefits each received from signing the FPL Settlement since at least August 28, 2025, and the SPs were informed of the specific subject areas that OPC wishes to inquire about for just over a week before the depositions were scheduled to begin. The SP’s implied surprise regarding OPC’s September 5, 2025, service of the notices of deposition, which were only filed after the SPs

declined to provide any details of the basis of their objection and without any SP indication of witness unavailability, is not credible.

It is also important for this Commission to consider that these depositions have only become necessary since FPL and the SPs signed and filed the FPL Settlement on August 20, 2025, which resulted in the setting of a condensed time frame for discovery concerning the settlement agreement. The SPs' signatures on the FPL Settlement must not be allowed to be used as both a sword and a shield against OPC and the other signatories to the August 26, 2025, Customer Majority Stipulation and Settlement Agreement ("CMP Settlement").⁶

C. Response to Paragraph 20 of the Motion

FPL argues that when OPC stated it intends to seek discovery "generally concerning" the benefits of the FPL Settlement, that somehow this introductory language eliminates the specificity reflected throughout the entirety of the Notice of Deposition. OPC included very specific subject areas related to the FPL Settlement in Attachment A, which is the language that covers the scope of the deposition consistent with the Rule.

Paragraph 20 of the Motion also contains a claim (repeated throughout the Motion as a theme) that the FPL Settlement is a "multi-faceted agreement that reflects a carefully balanced compromise of many differing and completing parties representing a broad range of interests and customers." The settlement testimony of FPL witness Scott Bores, filed on September 3, 2025, repeats a similar claim, that "[t]aken as a whole, this Settlement Agreement represents a compromise between FPL and a diverse coalition of customer groups to the benefit of all

⁶ OPC also notes that the SPs' statement in Paragraph 20 that "it is not reasonably possible for each [SP] to identify an appropriate corporate representative that can adequately testify to the unidentified portions or aspects of the [FPL Settlement]," is inconsistent with the SPs' claim in Paragraph 19 that the some of the SPs potential corporate representatives are not available on the dates and times initially proposed by OPC on September 3, 2025.

customers.”⁷ And yet with this Motion, the SPs seek to prohibit OPC from asking any questions whatsoever about the veracity of that claim. The SPs’ signatures on the FPL Settlement cannot act as both a sword and a shield against OPC’s statutory duty to represent FPL’s customers before the Commission and to advocate for what is in the public interest.⁸ In an attempt to assist in the resolution of this dispute and identify corporate representatives with more precision, if needed, OPC is willing to work collegially with any SP to further specify that OPC’s line of inquiry would be limited to only the tangible benefits that each SP received, intends to receive, expects to receive, or will receive.

D. Response to Paragraphs 21 – 22 of the Motion

Again, as noted above, the SPs’ characterization of the term “generally concerning” is a red herring. The Attachment A contains the particularity and specificity required by the Florida Rules of Civil Procedure. The SPs know exactly what benefits they received, and they know that there is / are corporate representative(s) who should be able to answer questions about this. This is not a privileged matter. If any aspect of this information is confidential, that can be handled easily in the same manner that the Commission has previously established and in the same manner that large amounts of confidential FPL information has already been securely provided and maintained in this case. The assertions made in this Motion that the “[a]greement is a multi-faceted agreement that reflects a carefully balanced compromise of many differing and competing positions by parties representing a broad range of interests and customers” directly implicate the WHEREAS clauses of the FPL Settlement that contend that the settlement is valid as a compromise and exchange of consideration. These matters of competing interests and whether the parties were authorized to

⁷ Document No. 08980-2025, Docket No. 20250011-EI, p. 23, lines 9-10.

⁸ § 350.0611, Fla. Stat.

compromise and give consideration on interests they lawfully represented are ones squarely within the scope of discovery on the FPL Settlement, regardless of the inapplicability of the evidence code to this proceeding.

Furthermore, the tangible benefits that the SPs received is a matter that is highly relevant to the ultimate issue that the Commission must determine when evaluating the FPL Settlement – namely, whether it results in fair, just, and reasonable rates, and whether the settlement, as a whole, it is in the public interest. To know whether the FPL Settlement is in the public interest, it is imperative to explore all of the reasons why it might not be so instead of simply taking the word of FPL and the SPs.

E. Response to Paragraph 23 of the Motion

The OPC is not inquiring as to the standing of any intervenor. This argument is also a red herring. Rather, OPC’s corporate representative deposition questions will seek to inquire about the SPs’ representation interests and the SPs’ ability to enter into a valid agreement. Consider the final three “WHEREAS” clauses in the FPL Settlement:

WHEREAS, the Parties to this Agreement have undertaken to resolve the issues raised in Docket No. 2025001 1-EI so as to maintain a degree of stability and predictability with respect to FPL’s base rates and charges; and

WHEREAS, the Parties have entered into this Agreement in compromise of their respective positions taken in accord with their rights and interests under Chapters 350, 366 and 120, Florida Statutes, as applicable; and

WHEREAS, as a part of the negotiated exchange of consideration among the Parties to this Agreement, each Party has agreed to concessions to the others with the expectation that all provisions of the Agreement will be enforced by the Commission;

FPL Settlement at 2.

The public interest determination requires the Commission to have an understanding of the impacts created by the represented parties as well as the interests they represent as these matters affect the validity of the FPL Settlement. In the context of the Rule, it is unreasonable for the SPs to publicly claim to have undertaken to resolve the issues raised in this docket through the negotiated exchange of consideration “reflect[ing] a carefully balanced compromise of many differing and competing positions by parties representing a broad range of interests and customers,” while refusing to stand for questioning regarding these assertions. The SPs cannot hide behind their signatures on this agreement while making statements to support approval of the FPL Settlement. The Commission must not allow the SPs to ignore OPC’s statutory right to advocate for the public interest within the Rule.

F. Response to Paragraphs 33-38 of the Motion

In these paragraphs, the SPs again seek to use their signatures on the FPL Settlement as both a sword and shield. Mr. Bores has filed testimony about the “diverse coalition of customer groups” involved in the FPL Settlement, and the SPs assert on page 8 of the Motion that the purported agreement, “is a multi-faceted agreement that reflects a carefully balanced compromise of many differing and competing positions by parties representing a broad range of interests and customers.” However, at the first instance of the OPC seeking to test these claims via deposition, the SPs complain that any questioning about the make-up of this allegedly “broad” range of interests and customers would constitute “annoyance, embarrassment, oppression, or undue burden or expense” on the part of the SPs. Questions of the type included in OPC’s notices of deposition pursuant to the Rule fall squarely within the scope of the validity of the FPL Settlement, the public interest test, and the fair, just, and reasonable standard under which the settlement must be evaluated. To date, the evidence of this purported “broad range of interests and customers”

reflected in the filed FPL Settlement requires discovery as the scope of these interests is not apparent on the face of the settlement document, despite the scope of discovery. Without having the opportunity to explore this and other claims as specified in the notices of depositions, the unrepresented residential and small business customers (comprising the vast majority of FPL's customers) are at risk of being forced to pay unfair, unjust, and unreasonable rates beginning just a few months from now and ever-increasingly unfair, unjust, and unreasonable rates for at least the next four years and beyond. The representational interests of the SPs must be established to be able to determine if the FPL Settlement is valid, in the public interest, and will yield fair, just, and reasonable rates.

G. Response to Paragraphs 45-49 of the Motion

The purpose of this requested line of inquiry is related to whether the SPs are vested with the authority to represent the interests they purport to represent. The Commission is entitled to understand who represented the purported "broad range of interests and customers" given the clauses that are presented for the Commission to consider, as argued above.

H. Response to the Remaining Paragraphs of the Motion

The balance of the Motion reasserts and repeats various objections. Due to the limited time to respond to the Motion, the OPC reasserts, as set out above, its opposition to each argument made in support of the SPs' Motion.

CONCLUSION

In the depositions at issue, the Office of Public Counsel is not concerned with or seeking to discover subjective values, motives, privileged communications, or asses the standing of any party. OPC's purpose is to explore the meaning of the Settlement Agreement terms, evaluate and

establish the impact of those terms upon the majority of customers who are not signatories to the Settlement Agreement, and to test the veracity of the many relevant assertions made within that document and the resulting discovery responses. The Settlement Agreement itself was designed to be a public document that purports to resolve a case in controversy concerning rate increases initially intended to exceed \$10 billion and impacting approximately 12 million Floridians. The above subject discovery represents a minimum level of due process required to protect those interests. The Commission and the customers are entitled to the opportunity to explore, understand, and challenge the validity of this public document. Customers' rights in this regard outweigh the preferences of the signatories who would rather not talk about the contents, impacts, or credibility of the matters as they affect the public interest. As signatories and proponents of their special interests, that is their obligation and burden to prove. It is the Commission's duty to facilitate this public process. The mere fact that a minority of special interest companies signed the document fails to shield them from answering and publicly addressing these significant matters.

WHEREFORE, the OPC hereby requests that the Commission deny the Signatory Intervenor's Joint Motion for Protective Order Regarding Corporate Representative Depositions for the reasons outlined in the body of this motion above.

Respectfully submitted,

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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 9th day of September, 2025, to the following:

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EXHIBIT A

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Subject: RE: Rule 1.310(b)(6), Fla. R. Civ. P. Video-Conferencing Duces Tecum Deposition Scheduling - Docket No. 20250011-EI [STB-WORKSITE.FID1208246]
Date: Friday, September 5, 2025 2:42:00 PM

Hello Everyone,

Based on your response and the lack of any substantive information about the basis of your objection, OPC intends to proceed. For conferral purposes if you decide to file the motion, please reflect that OPC opposes any motion for a protective order.

Thank you,
Ali

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To: Bradley Marshall <bmarshall@earthjustice.org>; Wessling, Mary <Wessling.Mary@leg.state.fl.us>

Cc: Trierweiler, Walt <TRIERWEILER.WALT@leg.state.fl.us>; Christensen, Patty <CHRISTENSEN.PATTY@leg.state.fl.us>; Watrous, Austin <WATROUS.AUSTIN@leg.state.fl.us>; Ponce, Octavio <PONCE.OCTAVIO@leg.state.fl.us>; Howard, Bernadette <HOWARD.BERNADETTE@leg.state.fl.us>; Fletcher, Bart <FLETCHER.BART@leg.state.fl.us>; Price, Jena <Price.Jena@leg.state.fl.us>; Lewis, Sarah <Lewis.Sarah@leg.state.fl.us>; Adria Harper <aharper@psc.state.fl.us>; Alexander Judd <ajudd@duanemorris.com>; Ashley George <ashley.george.4@us.af.mil>; Brian Ardire <baardire@armstrongceilings.com>; Christopher Wright <christopher.wright@fpl.com>; D. Bruce May <bruce.may@hklaw.com>; Danielle McManamon <dmcmanamon@earthjustice.org>; discovery-gcl@psc.state.fl.us; Ebony Payton

<ebony.payton.ctr@us.af.mil>; Florida Case Updates <flcaseupdates@earthjustice.org>; Floyd R. Self <fself@bergersingerman.com>; James Brew <jbrew@smxblaw.com>; James Ely <james.ely@us.af.mil>; Jigar Shah <jigar.shah@electrifyamerica.com>; Joel Baker <joel.baker@fpl.com>; John T. Burnett <john.t.burnett@fpl.com>; John T. LaVia <jlavia@gbwlegal.com>; Jon Moyle <jmoyle@moylelaw.com>; Jordan Luebkekmann <jluebkekmann@earthjustice.org>; Joseph Briscar <jrb@smxblaw.com>; Karen Putnal <kputnal@moylelaw.com>; Katelyn Lee <katelyn.lee@evgo.com>; Kathryn Isted <kathryn.isted@hklaw.com>; Ken Hoffman <ken.hoffman@fpl.com>; Kevin Cox <kevin.cox@hklaw.com>; Laura Baker <lwb@smxblaw.com>; Leslie Newton <Leslie.Newton.1@us.af.mil>; Lindsey Stegall <Lindsey.Stegall@evgo.com>; Maria Moncada <maria.moncada@fpl.com>; Michael Rivera <michael.rivera.51@us.af.mil>; mqualls@moylelaw.com; Nikhil Vijaykar <nvijaykar@keyesfox.com>; Robert Montejó <remontejó@duanemorris.com>; Robert Schef Wright <schef@gbwlegal.com>; Ruth Vafek <rvafek@bergersingerman.com>; Sarah Newman <sbn@smxblaw.com>; Shaw Stiller <sstill@psc.state.fl.us>; Stephen Bright <steve.bright@electrifyamerica.com>; Steven Wing-Kern Lee <SLee@spilmanlaw.com>; Thomas Jernigan <thomas.jernigan.3@us.af.mil>; Timothy Sparks <tsparks@psc.state.fl.us>; William C. Garner <bgarner@wcglawoffice.com>; Yonatan Moskowitz <ymoskowitz@keyesfox.com>; Stephen Bright <steve.bright@electrifyamerica.com>
Subject: RE: Rule 1.310(b)(6), Fla. R. Civ. P. Video-Conferencing Duces Tecum Deposition Scheduling - Docket No. 20250011-EI [STB-WORKSITE.FID1208246]

Bradley,

Good afternoon. On behalf of the Settling Intervenor's group, we don't have any further information to share beyond my original e-mail yesterday. If OPC issues notices of deposition to each of the Settling Intervenor's on the topics that OPC originally sent to us on 9/3/25, then Settling Intervenor's will file a motion for protective order.

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From: Bradley Marshall <bmarshall@earthjustice.org>
Sent: Friday, September 5, 2025 9:34 AM
To: Stephanie U. Eaton <seaton@spilmanlaw.com>; Wessling, Mary <Wessling.Mary@leg.state.fl.us>
Cc: Trierweiler, Walt <TRIERWEILER.WALT@leg.state.fl.us>; Christensen, Patty <CHRISTENSEN.PATTY@leg.state.fl.us>; Watrous, Austin <WATROUS.AUSTIN@leg.state.fl.us>; Ponce, Octavio <PONCE.OCTAVIO@leg.state.fl.us>; Howard, Bernadette <HOWARD.BERNADETTE@leg.state.fl.us>; Fletcher, Bart <FLETCHER.BART@leg.state.fl.us>; Price, Jena <Price.Jena@leg.state.fl.us>; Lewis, Sarah <Lewis.Sarah@leg.state.fl.us>; Adria Harper

<aharper@psc.state.fl.us>; Alexander Judd <ajudd@duanemorris.com>; Ashley George <ashley.george.4@us.af.mil>; Brian Ardire <baardire@armstrongceilings.com>; Christopher Wright <christopher.wright@fpl.com>; D. Bruce May <bruce.may@hkllaw.com>; Danielle McManamon <dmcmanamon@earthjustice.org>; discovery-gcl@psc.state.fl.us; Ebony Payton <ebony.payton.ctr@us.af.mil>; Florida Case Updates <flcaseupdates@earthjustice.org>; Floyd R. Self <fself@bergersingerman.com>; James Brew <jbrew@smxblaw.com>; James Ely <james.ely@us.af.mil>; Jigar Shah <jigar.shah@electrifyamerica.com>; Joel Baker <joel.baker@fpl.com>; John T. Burnett <john.t.burnett@fpl.com>; John T. LaVia <jlavia@gbwlegal.com>; Jon Moyle <jmoyle@moylelaw.com>; Jordan Luebkekmann <jluebkekmann@earthjustice.org>; Joseph Briscar <jrb@smxblaw.com>; Karen Putnal <kputnal@moylelaw.com>; Katelyn Lee <katelyn.lee@evgo.com>; Kathryn Isted <kathryn.isted@hkllaw.com>; Ken Hoffman <ken.hoffman@fpl.com>; Kevin Cox <kevin.cox@hkllaw.com>; Laura Baker <lwb@smxblaw.com>; Leslie Newton <Leslie.Newton.1@us.af.mil>; Lindsey Stegall <Lindsey.Stegall@evgo.com>; Maria Moncada <maria.moncada@fpl.com>; Michael Rivera <michael.rivera.51@us.af.mil>; mqualls@moylelaw.com; Nikhil Vijaykar <nvijaykar@keyesfox.com>; Robert Montejó <remontejó@duanemorris.com>; Robert Schef Wright <schef@gbwlegal.com>; Ruth Vafek <rvafek@bergersingerman.com>; Sarah Newman <sbn@smxblaw.com>; Shaw Stiller <sstiller@psc.state.fl.us>; Stephen Bright <steve.bright@electrifyamerica.com>; Steven Wing-Kern Lee <SLee@spilmanlaw.com>; Thomas Jernigan <thomas.jernigan.3@us.af.mil>; Timothy Sparks <tsparks@psc.state.fl.us>; William C. Garner <bgarner@wcglawoffice.com>; Yonatan Moskowitz <ymoskowitz@keyesfox.com>; Stephen Bright <steve.bright@electrifyamerica.com>

Subject: RE: Rule 1.310(b)(6), Fla. R. Civ. P. Video-Conferencing Duces Tecum Deposition Scheduling - Docket No. 20250011-EI [STB-WORKSITE.FID1208246]

EXTERNAL SENDER

Hi Stephanie,

Is there any additional information you are able to share on the grounds of such a motion for protective order? What relief would you be requesting from a protective order – that no 1.310(b)(6) depositions be allowed regarding the signatories? We were also considering Rule 1.310(b)(6) depositions to understand why the signatories believe the settlement is in the public interest and why they signed the settlement. Am I to understand that all of the signatories would move for a protective order on such a scope? Although not framed as a conferral e-mail, but if it was intended as such, Florida Rising, LULAC, and ECOSWF object to your motion for protective order and would reserve our right to file a response once we see what protections you would be asking for.

Here's where I'm struggling. The signatories have largely objected or given non-responsive answers thus far to discovery regarding what they think of the settlement agreement. Broadly, are the signatories going to refuse to substantiate and answer questions regarding the representations they made in the settlement? With the lack of responsive answers to the

written discovery, corporate representative depositions are the proper tool to explore why the signatories believe the settlement is in the public interest and results in fair, just, and reasonable rates, especially given the disproportionate shifting of costs to residential and small business customers and the move further away from parity based on all filed cost of service studies and towards ever more discriminatory rates. We believe discovery is also necessary to substantiate the representations made within the settlement agreement itself that would be part of the basis for the Commission's approval. Thank you for any additional information you could share.

Best,
Bradley

Bradley Marshall
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If you think that you have received this email message in error, please notify the sender by reply email and
delete the message and any attachments.*

From: Stephanie U. Eaton <seaton@spilmanlaw.com>
Sent: Thursday, September 4, 2025 4:53 PM
To: Wessling, Mary <Wessling.Mary@leg.state.fl.us>
Cc: Trierweiler, Walt <TRIERWEILER.WALT@leg.state.fl.us>; Christensen, Patty <CHRISTENSEN.PATTY@leg.state.fl.us>; Watrous, Austin <WATROUS.AUSTIN@leg.state.fl.us>; Ponce, Octavio <PONCE.OCTAVIO@leg.state.fl.us>; Howard, Bernadette <HOWARD.BERNADETTE@leg.state.fl.us>; Fletcher, Bart <FLETCHER.BART@leg.state.fl.us>; Price, Jena <Price.Jena@leg.state.fl.us>; Lewis, Sarah <Lewis.Sarah@leg.state.fl.us>; Adria Harper <aharper@psc.state.fl.us>; Alexander Judd <ajudd@duanemorris.com>; Ashley George <ashley.george.4@us.af.mil>; Bradley Marshall <bmarshall@earthjustice.org>; Brian Ardire <baardire@armstrongceilings.com>; Christopher Wright <christopher.wright@fpl.com>; D. Bruce May <bruce.may@hklaw.com>; Danielle McManamon <dmcmanamon@earthjustice.org>;

discovery-gcl@psc.state.fl.us; Ebony Payton <ebony.payton.ctr@us.af.mil>; Florida Case Updates <flcaseupdates@earthjustice.org>; Floyd R. Self <fself@bergersingerman.com>; James Brew <jbrew@smxblaw.com>; James Ely <james.ely@us.af.mil>; Jigar Shah <jigar.shah@electrifyamerica.com>; Joel Baker <joel.baker@fpl.com>; John T. Burnett <john.t.burnett@fpl.com>; John T. LaVia <jlavia@gbwlegal.com>; Jon Moyle <jmoyle@moylelaw.com>; Jordan Luebkekmann <jluebkekmann@earthjustice.org>; Joseph Briscar <jrb@smxblaw.com>; Karen Putnal <kputnal@moylelaw.com>; Katelyn Lee <katelyn.lee@evgo.com>; Kathryn Isted <kathryn.isted@hklaw.com>; Ken Hoffman <ken.hoffman@fpl.com>; Kevin Cox <kevin.cox@hklaw.com>; Laura Baker <lwb@smxblaw.com>; Leslie Newton <Leslie.Newton.1@us.af.mil>; Lindsey Stegall <Lindsey.Stegall@evgo.com>; Maria Moncada <maria.moncada@fpl.com>; Michael Rivera <michael.rivera.51@us.af.mil>; mqualls@moylelaw.com; Nikhil Vijaykar <nvijaykar@keyesfox.com>; Robert Montejó <remontejó@duanemorris.com>; Robert Schef Wright <schef@gbwlegal.com>; Ruth Vafek <rvafek@bergersingerman.com>; Sarah Newman <sbn@smxblaw.com>; Shaw Stiller <ssiller@psc.state.fl.us>; Stephen Bright <steve.bright@electrifyamerica.com>; Steven Wing-Kern Lee <SLee@spilmanlaw.com>; Thomas Jernigan <thomas.jernigan.3@us.af.mil>; Timothy Sparks <tsparks@psc.state.fl.us>; William C. Garner <bgarner@wcglawoffice.com>; Yonatan Moskowitz <ymoskowitz@keyesfox.com>; Stephen Bright <steve.bright@electrifyamerica.com>
Subject: RE: Rule 1.310(b)(6), Fla. R. Civ. P. Video-Conferencing Duces Tecum Deposition Scheduling - Docket No. 20250011-EI [STB-WORKSITE.FID1208246]

Ali,

Good afternoon. The Settling Intervenor are collectively in receipt of your 9/3/25 email below and the two attachments containing proposed deposition topics. On behalf of all of the Settling Intervenor, we intend to jointly move for a protective order pursuant to FRCP 1.280(c) should OPC proceed with this plan, and we wanted to advise you in advance of the same.

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From: Wessling, Mary <Wessling.Mary@leg.state.fl.us>
Sent: Wednesday, September 3, 2025 3:59 PM
To: Adria Harper <aharper@psc.state.fl.us>; Alexander Judd <ajudd@duanemorris.com>; Ashley George <ashley.george.4@us.af.mil>; Bradley Marshall <bmarshall@earthjustice.org>; Brian Ardire <baardire@armstrongceilings.com>; Christopher Wright <christopher.wright@fpl.com>; D. Bruce May <bruce.may@hklaw.com>; Danielle McManamon <dmcmanamon@earthjustice.org>; discovery-gcl@psc.state.fl.us; Ebony Payton <ebony.payton.ctr@us.af.mil>; Florida Case Updates <flcaseupdates@earthjustice.org>; Floyd R. Self <fself@bergersingerman.com>; James Brew <jbrew@smxblaw.com>; James Ely <james.ely@us.af.mil>; Jigar Shah <jigar.shah@electrifyamerica.com>; Joel Baker <joel.baker@fpl.com>; John T. Burnett

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Cc: Trierweiler, Walt <TRIERWEILER.WALT@leg.state.fl.us>; Christensen, Patty <CHRISTENSEN.PATTY@leg.state.fl.us>; Watrous, Austin <WATROUS.AUSTIN@leg.state.fl.us>; Ponce, Octavio <PONCE.OCTAVIO@leg.state.fl.us>; Howard, Bernadette <HOWARD.BERNADETTE@leg.state.fl.us>; Fletcher, Bart <FLETCHER.BART@leg.state.fl.us>; Price, Jena <Price.Jena@leg.state.fl.us>; Lewis, Sarah <Lewis.Sarah@leg.state.fl.us>
Subject: Rule 1.310(b)(6), Fla. R. Civ. P. Video-Conferencing Duces Tecum Deposition Scheduling - Docket No. 20250011-EI

EXTERNAL SENDER

Hello Everyone,

We are trying to schedule depositions for next week. We would like to reserve Thursday and Friday (9/11-9/12) for depositions that we intend to set for the corporate representatives of all of the intervenor signatories to the August 20, 2025 stipulation and settlement agreement. I have put together a potential scheduling chart. Please let me know as soon as practicable if this proposed schedule will not work for you, and I will be happy to attempt to rearrange things.

	Thursday, September 11	Friday, September 12
8:00 a.m. EST	FIPUG	AACE
9:00 a.m. EST	FIPUG	Circle K
10:00 a.m. EST	FRF	RaceTrac
11:00 a.m. EST	FRF	Wawa
12:00 p.m. EST		Walmart
1:00 p.m. EST	FEIA	EVgo
2:00 p.m. EST	FEIA	Electrify America
3:00 p.m. EST	SACE	FEA

To assist you with identifying the best corporate representative(s), I am providing the scope of the deposition that we intend to include with the notice:

Pursuant to Rule 1.310(b)(6) of the Florida Rules of Civil Procedure, _____ shall designate one or more officers, directors, managing agents, or other persons, each of whom is or are the most knowledgeable of, and have direct knowledge of the specific subjects listed on Attachment A hereto. These subjects generally concern the tangible and intangible benefits that _____ received, intends to receive, expects to receive, or will receive, as a result of that party signing the August 20, 2025 Settlement Agreement in Docket No. 20250011-EI and the purpose of the signatory's participation in the docket, their understanding of the terms of the settlement agreement, and the impact of those terms. The organization is responsible for ensuring the designated deponent can provide complete and accurate answers to the specific subjects listed within Attachment A within the scope of the designated topics as to matters known or reasonably available to _____. These relevant facts may be considered by the Public Service Commission to determine whether the settlement agreement, when taken as a whole, resolves all the issues, results in fair, just and reasonable rates, and is in the

public interest. *Sierra Club v. Brown*, 243 So. 3d 903, 909 (Fla. 2018).

I am also attaching a template of Attachment A that reflects the specific subject areas to which the corporate representative will be required to respond. Attachment A will also be included with the notice of deposition.

Thanks,
Ali

Mary "Ali" Wessling, Esq.

FL Bar # 93590

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111 West Madison Street, Suite 812

Tallahassee, FL 32399-1400

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DOCKET NO. 20250011-EI, FPL 2025 RATE CASE

CITIZENS' NOTICE OF VIDEO-CONFERENCING DEPOSITION DUCES TECUM

ATTACHMENT A – SUBJECTS AND MATTERS UPON WHICH CORPORATE REPRESENTATIVE WILL BE DEPOSED

Definition:

“You” or “Your” refers to (customer).

1. All benefits, including both tangible and intangible benefits that you received, intend to receive, expect to receive, or will receive, as a result of that party signing the August 20, 2025, Stipulation and Settlement Agreement in Docket No. 20250011-EI;
2. The general nature of you, as a customer of FPL, including the rate classes under which you are being served;
3. The rates that you expect to be charged if the August 20, 2025, Stipulation and Settlement Agreement is approved as compared to the rates that you would be charged if FPL's originally requested rate increases were approved;
4. The purpose of your participation in Docket No. 20250011-EI;
5. Your corporate purposes;
6. Any documents that reflect your specific authorization to enter into the August 20, 2025, Stipulation and Settlement Agreement;
7. The identity or identities of the persons who authorized you to become a signatory to the August 20, 2025, Stipulation and Settlement;
8. The basis upon which the person or persons who authorized you to become a signatory to the August 20, 2025, Stipulation and Settlement gave their authorization to do so;

9. The understanding of those who authorized you to become a signatory to the August 20, 2025, Stipulation and Settlement of the terms of that Settlement;
10. The understanding of those who authorized you to become a signatory to the August 20, 2025, Stipulation and Settlement of the impact of the terms of that Settlement on you;
11. The understanding of those who authorized you to become a signatory to the August 20, 2025, Stipulation and Settlement of the impact of the terms of that Settlement on the residential customers served by FPL; and
12. The understanding of those who authorized you to become a signatory to the August 20, 2025, Stipulation and Settlement of the impact of the terms of that Settlement on non-demand-metered commercial or “General Service” customers served by FPL.

DOCKET NO. 20250011-EI, FPL 2025 RATE CASE

CITIZENS' NOTICE OF VIDEO-CONFERENCING DEPOSITION DUCES TECUM

ATTACHMENT A – SUBJECTS AND MATTERS UPON WHICH CORPORATE REPRESENTATIVE WILL BE DEPOSED

Definition:

“You” or “Your” refers to (organization).

1. All benefits, including both tangible and intangible benefits that you received, intend to receive, expect to receive, or will receive, as a result of that party signing the August 20, 2025, Stipulation and Settlement Agreement in Docket No. 20250011-EI;
2. The general nature of your members as customers of FPL, including the rate classes under which your members are served and including approximate numbers of your members who are served under each such rate class;
3. The rates that your members expect to be charged if the August 20, 2025, Stipulation and Settlement Agreement is approved as compared to the rates that your members would be charged if FPL's originally requested rate increases were approved;
4. The purpose of your participation in Docket No. 20250011-EI;
5. Your corporate purposes;
6. Provisions of your Articles of Incorporation or your Bylaws that confer upon you the authority to enter into the August 20, 2025, Stipulation and Settlement Agreement, on behalf of your members;
7. Any documents that reflect the specific authorization by any specific members of your organization to enter into the August 20, 2025, Stipulation and Settlement Agreement;

8. Any documents that reflect any specific requests by any specific members of your organization that you become a signatory to the August 20, 2025, Stipulation and Settlement in Docket No. 20250011-EI;
9. The identity or identities of the persons who authorized you to become a signatory to the August 20, 2025, Stipulation and Settlement;
10. The basis upon which the person or persons who authorized you to become a signatory to the August 20, 2025, Stipulation and Settlement gave their authorization to do so;
11. The understanding of those who authorized you to become a signatory to the August 20, 2025, Stipulation and Settlement of the terms of that Settlement;
12. The understanding of those who authorized you to become a signatory to the August 20, 2025, Stipulation and Settlement of the impact of the terms of that Settlement on your members;
13. The understanding of those who authorized you to become a signatory to the August 20, 2025, Stipulation and Settlement of the impact of the terms of that Settlement on the residential customers served by FPL; and
14. The understanding of those who authorized you to become a signatory to the August 20, 2025, Stipulation and Settlement of the impact of the terms of that Settlement on non-demand-metered commercial or “General Service” customers served by FPL.