

**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: August 4, 2021

**FLORIDA POWER & LIGHT COMPANY'S  
MOTION FOR SUMMARY FINAL ORDER REGARDING  
FLORIDIANS AGAINST INCREASED RATES, INC.**

Florida Power & Light Company (“FPL”) pursuant to section 120.57(1)(h), Florida Statutes (“F.S.”), Rule 28-106.305, Florida Administrative Code (“F.A.C.”), and Rule 1.280(c), Florida Rules of Civil Procedure, hereby moves the Florida Public Service Commission (“Commission”) for a summary final order dismissing Floridians Against Increased Rates, Inc. (“FAIR”) from this proceeding for lack of standing after the hearing in this matter has concluded and as part of the Commission’s determination of Issue 9 in the Pre-Hearing Order<sup>1</sup>. In its Motion to Intervene, FAIR told the Commission that it was a membership organization which qualified for associational standing based on injuries to its members. In discovery, FAIR witnesses admitted that the organization had no members when it filed its Motion to Intervene and only acquired members after the Commission allowed FPL to test FAIR’s standing allegations. Discovery also revealed that FAIR is not the functional equivalent of a traditional membership association, but rather is a shell organization controlled by a small group of people who are not FPL customers and who are not accountable to the persons who purport to be members. The Commission should dismiss FAIR from this proceeding for lack of standing on these undisputed facts at the conclusion of the hearing in this matter.

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<sup>1</sup> FPL recognizes that the Commission has decided to address the issue of FAIR’s standing on both legal and factual grounds at the conclusion of this hearing and as part of the resolution of Issue 9 in the Pre-Hearing Order. Therefore, the Company understands that the resolution of this motion will be held in abeyance until that time. However, FPL respectfully requests that the substantive pre-filed testimony offered by FAIR and any substantive evidence that they present at the hearing be struck from the record should the Commission rule in FPL’s favor on this motion.

## BACKGROUND AND FACTUAL SUMMARY

### I. Procedural History of FAIR's Intervention

1. On May 4, 2021, FAIR filed its Motion to Intervene. In that Motion, FAIR stated that it had “members who are retail electric customers [of] FPL,” and that “Commission approval of any rate increase will adversely affect FAIR’s members who are FPL customers.” Motion to Intervene, at 4, ¶ 6; *see also* page 1 and ¶¶ 5, 7 and 9 (statements that FAIR had members who are FPL customers). FPL opposed FAIR’s Motion and asked for the right to test the standing allegations in discovery. *See* FPL’s Response to FAIR’s Motion to Intervene (filed May 6, 2021). On May 19, 2021, the Commission issued an Order Provisionally Granting Floridians Against Increased Rates, Inc.’s Motion to Intervene, a stated (on page 3) that:

“... FPL has objected to the factual allegations supporting FAIR’s associational status and is entitled to conduct discovery and to present evidence, testimony, and argument regarding FAIR’s associational standing. Therefore, FAIR’s associational standing shall be issues in this proceeding, and FAIR shall have the burden of proof with regard to this issue.”

2. On June 21, 2021, FAIR filed the direct testimony of two witnesses who addressed the organization’s standing. A member of FAIR’s board of directors, John Thomas Herndon, testified that “as of the date on which this testimony is being filed, FAIR has more than 500 members.” Herndon Direct, at 6:11-13. FAIR’s treasurer, Nancy Watkins, testified that she had emailed the individuals who submitted membership applications to the organization and “[a]s of June 15, 2021, FAIR had 513 members who intended to join FAIR.” Watkins Direct, at 10:1-2.

3. Pursuant to the Commission’s order, FPL served interrogatories and requests for production on FAIR related to the issue of their standing. FPL also took the depositions of Mr. Herndon on July 19, 2021 (attached hereto and marked for identification as Appendix A, “Herndon

Depo”) and Ms. Watkins on July 29, 2021 (attached hereto and marked for identification as Appendix B, “Watkins Depo”). Based on that discovery, FPL has established the following facts.

## **II. Undisputed Facts**

4. FAIR was incorporated after FPL filed its rate petition at least in part for the purpose of intervening in this proceeding. Herndon Depo, p. 34:6-9, 34:16-19, 35:11-14. FAIR’s Board of Directors and officers live outside of FPL’s service territory and are not FPL customers. Watkins Depo, p. 13:17-21; Herndon Depo, p. 8:9-24, 35:19-36:3. FAIR is financed by undisclosed third parties, which FAIR refuses to identify. Herndon Depo, p. 55:21-24, 58:19-24.

5. FAIR has few characteristics of a real organization. It has no office (its address is the Gray Robinson law office in Orlando), Herndon Depo, p. 16:4-24; no employees, *id.* 17:6-7; no telephone, *id.* 17:8-9; and no email address, *id.* 19:24-20:10. The primary things it has are a bank account and a website, [www.fairfl.org](http://www.fairfl.org). *Id.* 17:10-14, 24:4-5.

6. FAIR purports to be a membership organization. Its Bylaws provide that to be eligible for membership, a person must be a “retail customer of an investor-owned utility in the State of Florida” and meet other criteria. Herndon Depo, Ex. 2, at 10 (Bylaws, Art. II, § 1). The Bylaws further provide that “[p]ersons eligible for membership in the Corporation shall consist of individuals 18 years of age or older or entities elected to membership by a majority vote of the Board of Directors, or a Committee thereof as may be designated by the Board of Directors.” *Id.* Both of FAIR’s witnesses confirmed that persons do not become members until the Board of Directors admits them into membership. Watkins Depo, p. 67:16-19; Herndon Depo, p. 39:10-17, 41:21-25.

7. FAIR hired a public relations firm to recruit members. Herndon Depo, p. 61:10-23, & Ex. 4, at 13 (FAIR response to FPL Interrogatory No. 13). That firm recruits members for

FAIR by running an advertisement on Facebook and conducting online search optimization for its website. *Id.*; Watkins Depo, p. 29:9-24. Individuals apply for membership by filling out an online form found at [www.fairfl.org](http://www.fairfl.org), Herndon Depo, p. 23:15-22, or by printing the form and mailing it in, Watkins Depo, p. 36:16-21.

8. Members of FAIR have no substantive rights in the organization. Members play no role in choosing the Board of Directors; the Board of Directors chooses itself. Herndon Depo, p. 43:6-13, & Ex. 2 (Bylaws, Art. II, § 3: “All members shall be non-voting and will have no right to elect or remove members of the Board of Directors.”). Members play no role in the financing of the organization: they are not asked for money, and no members have given money to FAIR. Herndon Depo, p. 52:13-20, 55:13-20. Members are not asked for input on litigation positions, witnesses or other matters related to this proceeding. *Id.* p. 67:17-25; Watkins Depo, p. 47:2-9. FAIR board member John Herndon testified that members have no way to contact FAIR other than to mail a letter or to write “call me” in one of the blanks in the online form on FAIR’s website. Herndon Depo, p. 45:2-46:24.

9. FAIR has little information about prospective members. The only information FAIR has about its members comes from the application form on its website. Herndon Depo, p. 67:3-6; Watkins Depo, p. 34:14-16. The online form asks only for a person’s name, address, telephone number, email address, utility and whether the person is a residential or commercial customer. *See* [www.fairfl.org](http://www.fairfl.org); Herndon Depo, p. 66:10-67:2. FAIR does not ask prospective members their age, the rate schedule by which they receive electrical service, their average power bills, or how FPL’s rates will affect their monthly payments. Herndon Depo, p. 67:14-25, 68:14-69:5. FAIR has never had an in-person meeting with its members. *Id.* p. 52:13-15.

10. FAIR's treasurer, Nancy Watkins, stated in her direct testimony that she "verified" FAIR's membership roster by sending emails to all applicants on FAIR's roster who had provided email addresses. Watkins Direct, at 7:13-9:4. She sent emails to 507 individuals, 17 people responded, and 490 people did not respond. *Id.* p. 42:1-14. Ms. Watkins testified that she is not personally acquainted with the applicants, so she does not know whether the 490 individuals who failed to respond in fact are real people. *Id.* p. 44:1-19. Ms. Watkins also testified that she does not know the applicants' ages, which is relevant because FAIR's Bylaws provide that only persons 18 years or older are eligible for membership. *Id.* p. 70:13-71:2.

11. According to Ms. Watkins, FAIR acquired purported members only after it filed its Motion to Intervene. None of the officers or board members are on the membership roster. Watkins Depo, p. 64:6-65:6. When FAIR filed its Motion to Intervene on May 4, 2021, Ms. Watkins testified that no one had even applied to become a member. *Id.* p. 64:15-65:6, 69:8-13. She testified that the first time that anyone applied to become a member was sometime in early June 2021, after the Commission issued its order allowing FPL to test the standing allegations in FAIR's Motion. *Id.* p. 59:12-60:5, 60:17-20. The FAIR Board of Directors did not admit any applicants to the membership until July 27, 2021, *id.* p. 67:16-23, -- nearly three months later -- after John Herndon was asked in his deposition whether the board had admitted any members, Herndon Depo, p. 80:9-14. Because this vote did not take place until months after FAIR petitioned to intervene in this proceeding, FAIR did not have any members at the time its Motion to Intervene was filed.

### **APPLICABLE LEGAL STANDARD**

12. In order to participate in this proceeding, a party must have standing. "As a general proposition, 'standing is a legal concept that requires a would-be litigant to demonstrate that he or

she reasonably expects to be affected by the outcome of the proceedings, either directly or indirectly.” *Peace River/Manasota Reg’l Water Supply Auth. v. IMC Phosphates*, 18 So.3d 1079, 1082-83 (Fla. 2d DCA 2009) (quoting *Hayes v. Guardianship of Thompson*, 952 So.2d 498, 505 (Fla. 2006)). A party must have standing at the start of the proceeding, and cannot acquire standing after the fact. *LaFrance v. U.S. Nat’l Bank Ass’n*, 141 So.3d 754, 756 (Fla. 4<sup>th</sup> DCA 2014) (“A ‘plaintiff’s lack of standing at the inception of the case is not a defect that can be cured by the acquisition of standing after the case has been filed’ and cannot be established ‘retroactively by acquiring standing to file a lawsuit after the fact.’”) (quoting *McLean v. JP Morgan Chase Nat’l Ass’n*, 79 So.3d 170, 173 (Fla. 4<sup>th</sup> DCA 2012)).

13. In chapter 120 proceedings, the standing requirement is set forth in section 120.52(12)(b), Florida Statutes, which provides that a person may become a party if his or her “substantial interests are affected by the proposed agency action.” A person’s substantial interests are affected if 1) he or she suffers an injury in fact, and 2) the injury is of a type or nature that the proceeding is designed to protect. *AmeriSteel Corp. v. Clark*, 691 So.2d 493, 496 (Fla. 1997) (quoting *Agrico Chemical Co. v. Dept. of Environmental Reg.*, 406 So.2d 478 (Fla. 2d DCA 1981)).

14. The Florida Supreme Court has recognized, based on federal case law, that trade and professional associations can establish so-called “associational standing” through injuries to their members. *Fla. Home Builders Ass’n v. Dept. of Labor & Employment Security*, 412 So.2d 351, 353-54 (Fla. 1982) (extensively quoting *Hunt v. Washington State Apple Adv. Comm’n*, 432 U.S. 333 (1977)). The doctrine of associational standing applies also to other types of organizations that are the functional equivalent of trade associations, e.g., those that represent a specialized segment of the community, and whose where members select the organization’s leadership, serve

in the organization's leadership, and finance the organization's activities. *Florida Home Builders Ass'n*, 412 So.2d at 353 (authorizing associational standing for trade associations and "any similarly situated association"); *Hunt*, 432 U.S. at 344-45 (holding that organization qualified for associational standing where it was the functional equivalent of a traditional trade associations, and outlining factors indicating functional equivalent to traditional association). A trade association or equivalent organization can claim associational standing by demonstrating that 1) a substantial number of its members are substantially affected by the proposed action, 2) the subject matter of the challenged action is within the association's general scope of interest and activity, and 3) the relief requested is of a type appropriate for a trade association to receive on behalf of its members. *Florida Home Builders Ass'n*, 412 So.2d at 353.

15. Section 120.57(1)(h), F.S., provides that a summary final order shall be granted if it is determined from the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, that no genuine issue as to any material fact exists and that the moving party is entitled as a matter of law to entry of a final order. "[T]he purpose of summary judgment, or in this instance, summary final order, is to avoid the expense and delay of trial when no dispute exists concerning the material facts." Order No. PSC-01- 1427-FOF-TP at p. 13, *In re: Request for arbitration concerning complaint of TCG South Florida and Teleport Communications Group against BellSouth Telecommunications, Inc. for breach of terms of interconnection agreement*.

## **LEGAL ARGUMENT**

16. The undisputed facts establish that FAIR lacks standing to participate in this proceeding. FPL's discovery has uncovered the truth that FAIR is shell organization that made incorrect statements to the Commission about its membership when it filed its Motion to Intervene.

Despite what it told the Commission when it filed its Motion, FAIR had no members until months later (at best). The organization also is not the functional equivalent of a trade association, and therefore cannot rely on the doctrine of associational standing. FAIR cannot carry its burden of proof on the issue of standing, and Issue 9 in the Pre-Hearing order should be summarily determined in FPL's favor at the conclusion of this proceeding.

**I. FAIR Lacked Standing When it Filed its Motion to Intervene, and Has Improperly Attempted to Manufacture Standing After the Fact**

17. FAIR had no members when it filed its Motion to Intervene, therefore it could not have had associational standing based on injury to members. FAIR moved to intervene on May 4, 2021. FAIR did not receive any applications for membership (i.e., the online form) until June 2021 according to FAIR witness Watkins. Watkins Depo, p. 60:17-20. However, even if FAIR were to have had applications for membership at the time it filed its Motion to Intervene in this proceeding, it is completely undisputed that FAIR did not admit any of the applicants to membership until July 27, 2021, when the Board of Directors voted to admit the applicants. Watkins Depo, p. 67:16-23. In order to become a member of FAIR, not only must a person be eligible, but the Board of Directors must admit the person into the membership. Watkins Depo, p. 67:16-19; Herndon Depo, p. 39:10-23. The FAIR board did not vote to admit anyone as members until after FPL took the deposition of John Herndon on July 19, 2021 and realized that the board had never admitted any members as required by the organization's bylaws. Herndon Depo, p. 80:9-14. FAIR apparently scrambled and voted to admit the applicants into membership two days before the deposition of Nancy Watkins. Watkins Depo, p. 67:20-68:1. This means that the statements in the direct testimony of John Herndon and Nancy Watkins filed June 21, 2021, where they testified that FAIR had members, were false.

18. Even today, it is not clear how many people are members of FAIR. The Bylaws provide that only persons 18 years or older are eligible to become members, Herndon Depo, p. 42:1-9, yet FAIR has never asked the applicants their age, *id.* 67:14-16; Watkins Depo, p. 70:13-16. Moreover, it appears that no one from FAIR has actually spoken with the “people” on FAIR’s membership roster, *see, e.g.*, Watkins Depo, p. 47:17-20, and when a FAIR representative sent emails to them in June 2021, 490 out of 507 individuals (96%) on the roster did not respond, *id.* p. 42:1-17. The person who purportedly verified the roster, Nancy Watkins, testified that she does not know if the people who failed to respond are real people. Watkins Depo, p. 44:1-19. FAIR cannot carry its burden of demonstrating standing if it lacks basic information that its purported members exist and, if they do, whether they are even eligible to be a member.

19. By any measure, FAIR lacked members when it filed its Motion to Intervene, Without members, it could not have had associational standing. At most, FAIR has tried to acquire members and manufacture standing after the fact. A party must have standing when it initiates a proceeding and cannot cure its lack of standing after the fact. *LaFrance*, 141 So.3d at 756; *People’s Trust Ins. Co. v. Island Roofing & Restoration, LLC*, -- So.3d --, 2021 WL 1278979, \*2 (Fla. 2d DCA 2021) (“[A] ‘party must have standing to file its suit at inception and may not remedy this defect by subsequently obtaining standing.’”) (quoting *Figueroa v. Fed. Nat’l Mortg. Ass’n*, 180 So.3d 1110, 1115 (Fla. 5<sup>th</sup> DCA 2015), and *Venture Holdings & Acquisition Corp. LLC v. A.I.M. Funding Corp., LLC*, 75 So.3d 773, 776 (Fla. 4<sup>th</sup> DCA 2011)); *see also Uzuegbunam v. Preczewski*, 141 S.Ct. 792, 796 (2021) (“At all stages of litigation, a plaintiff must maintain a personal interest in the dispute. The doctrine of standing generally assesses whether that interest exists at the outset...”).

## II. FAIR Is Not a True Membership Organization That Qualifies for Associational Standing

20. In order to qualify for associational standing, an organization must be an association. The Florida Supreme Court, in adopting the federal case law on associational standing, held that it applied to “trade and professional associations.” *Florida Home Builders Ass’n*, 412 So.2d 351, 353 (Fla. 1982). In *Hunt v. Washington State Apple Adv. Comm’n*, the federal case that is the basis of *Florida Home Builders Association*, the U.S. Supreme Court held that organizations other than traditional trade associations can assert associational standing if they “perform the functions of a traditional trade association” and their members “possess all of the indicia of membership in an organization.” *Hunt*, 432 U.S. at 344-45. Neither *Florida Home Builders Ass’n* nor *Hunt* held that other types of organizations can benefit from the doctrine of associational standing. See, e.g., *Palm Point Property Owners’ Ass’n v. Pisarski*, 626 So.2d 195 (Fla. 1993) (refusing to extend associational standing principles in *Hunt* to homeowners association seeking to enforce restrictive covenants).

21. FAIR admits that it is not an association. Herndon Depo, p. 10:11-12. The organization also is not the functional equivalent of a traditional association, because it is structured in such a way that it represents the control group of the corporation and their undisclosed third-party funders, not the members.

22. First, FAIR lacks basic indicia of being an actual operating entity or business of any type. It has no office, no employees, no telephone number, and no email address. Herndon Depo, p. 16:4-21, 17:6-9, 19:24-20:10. All that FAIR has is a bank account and website. Watkins Depo, p. 15:24-25. Compared to the actual trade associations found to qualify for associational standing in *Florida Home Builders Ass’n* and *Hunt*, FAIR is an empty shell. In *Florida Home Builders Ass’n*, the plaintiff was a large, traditional trade organization. 412 So.2d at 352. In *Hunt*,

the plaintiff was a state agency with elected leadership that engaged in a variety of activities related to the promotion of state products, including advertising and scientific research. 432 U.S. at 337.

23. Second, FAIR is controlled by people who are not members. None of FAIR's officers and directors are on the organization's membership roster. Watkins Depo, p. 64:6-65:6. None of them live in the FPL service area, and none of them are FPL customers. *Id.* p. 13:17-21; Herndon Depo, p. 8:9-24, 35:19-36:3. This contrasts with the facts in the *Hunt* case, where the only people who could be on the state commission were members of the organization. 432 U.S. at 344 ("they alone may serve on the Commission"); *see also Washington Legal Found. v. Leavitt*, 477 F.Supp.2d 202, 208-10 (D.D.C. 2007) (members "serving in the entity" is one of the essential "indicia of membership" for an organization to be the functional equivalent of a membership association; lack of this factor weighed against finding associational standing).

24. Third, FAIR's board and officers are not chosen by its members. Members have no right to elect or remove directors. Herndon Depo, p. 43:3-8, & Ex. 2 (Bylaws, Art. II, § 3). Instead, FAIR's directors choose themselves. *Id.* p. 43:6-13. This organization is completely different than the facts in *Hunt*, where the members "alone elect the members of the Commission." *Hunt*, 432 U.S. at 344-45. Federal courts have found that this factor weighs against finding an organization to represent members for purposes of standing. *See, e.g., Gettman v. Drug Enforcement Admin.*, 290 F.3d 430, 435 (D.C. Cir. 2002) (no associational standing for individual and magazine where there was no showing that alleged members "played any role in selecting its leadership"); *American Legal Found. v. FCC*, 808 F.2d 84, 90 (D.C. Cir. 1987) (holding that foundation did not qualify for associational standing, in part because "it does not appear from the record that ALF's 'supporters' play any role in selecting ALF's leadership"); *Washington Legal Found.*, 477 F.Supp.2d at 208-10 (D.D.C. 2007) (members "electing the entity's leadership" is one

of the essential “indicia of membership” for an organization to be the functional equivalent of a membership association; lack of this factor weighed against finding associational standing).

25. Fourth, FAIR is funded by secretive third parties, not by its members. FAIR’s members are not asked for money, Herndon Depo, p. 52:16-53:4, and no members have contributed to the organization, *id.* p. 55:13-20. In this way, FAIR is different than the entity found to have associational standing in *Hunt*, where the members “alone finance its activities, including the costs of this lawsuit.” *Hunt*, 432 U.S. at 344-45. An entity is not the functional equivalent of a membership organization when the purse strings are held by unaccountable non-members. *Gettman*, 290 F.3d at 435 (lacking of showing that alleged members “played any role in ... financing its activities” was factor in finding no associational standing); *Fund Democracy LLC v. SEC*, 278 F.3d 21, 26 (D.C. Cir. 2002) (fact that organization did not received funding from purported members weighed against claim of associational standing); *American Legal Found.*, 808 F.2d at 90 (foundation did not qualify for associational standing in part because “it does not appear from the record that ALF’s ‘supporters’ play any role in ... financing [the organization’s] activities”); *Washington Legal Found.*, 477 F.Supp.2d at 208-10 (D.D.C. 2007) (members “financing the entity’s activities” is one of the essential “indicia of membership” for an organization to be the functional equivalent of a membership association; lack of this factor weighed against finding associational standing).

26. Fifth, there is virtually no communication between FAIR’s members and its control group, which makes it impossible for the FAIR board to represent the members’ interests. FAIR knows little more about its members than their names, addresses, and power utility. Herndon Depo, p. 66:10-67:2. FAIR does not know how much the members pay in electric bills, the schedules under which they take service, or other basic facts that are relevant to this proceeding. Herndon

Depo, p. 67:14-25, 68:14-69:5. Members have no easy way to communicate with FAIR's officers and directors, because the organization does not have a phone number or an email address. *Id.* p. 17:6-7, 19:24-20:10, 46:13-24. Moreover, FAIR's officers and directors do not even ask members for their input or opinions on the issues in this proceeding, such as positions to take or witnesses to call. FAIR cannot represent the interests of its members if it knows almost nothing about them and there is no communication between them. *Cf. American Legal Found.*, 808 F.2d at 90 (foundation did not qualify for associational standing in part because "it does not appear from the record that ALF's 'supporters' play any role in ... guiding ALF's activities").

27. Finally, FAIR does not represent a specialized segment of the community like a trade or professional association. FAIR purports to represent any customer of an investor-owned utility in Florida. Investor owned utilities provide electricity to the general public in their service area. This is not a specialized group of people who have a unique perspective to offer the Commission, but rather purports to be the public at large which already is represented by Office of Public Counsel. Federal courts addressing organizations with similar sweeping assertions of membership have found them not to be the equivalent of traditional membership associations. *See, e.g., American Legal Found.*, 808 F.2d at 90 (finding no associational standing in part because "ALF's constituency of members is completely open-ended"); *Washington Legal Found.*, 477 F.Supp.2d at 208-10 (D.D.C. 2007) (finding no associational standing in part because the plaintiff served "no discrete, stable group of persons with a definable set of common interests"). The only thing that the putative members of FAIR appear to have in common is that they were solicited to lend their names to an ill-conceived attempt to create standing in order to gain entry into this base rate proceeding.

28. FAIR's assertion that it has members and is the functional equivalent of a traditional membership organization does not hold up under any scrutiny. It is a shell organization that is run and financed by a group of individuals who are not affected by FPL's rate petition. FAIR was created so that these undisclosed individuals or interests could intervene and participate in this proceeding. FAIR only claims to have "members" so that it can seek associational standing, but the lack of any role or power of those members to run the organization demonstrates that FAIR is not the functional equivalent of a trade association.

### **CONCLUSION**

WHEREFORE, Florida Power & Light Company respectfully requests that the Commission enter a final summary order dismissing Floridians Against Increased Rates, Inc. from this proceeding for lack of standing based on these undisputed facts at the conclusion of the hearing in this matter.

Respectfully submitted,

FLORIDA POWER & LIGHT COMPANY

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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 Hand Delivery\* and/or electronic mail this 4<sup>th</sup> day of August, 2021 to the following parties:

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**Appendix A**

**Transcript of Deposition of John T. Herndon**

**Docket No. 20210015**

**July 19, 2021**

1 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

2 DOCKET NO. 20210015-EI  
3 DATE: July 15, 2021

4  
5 In Re:

6 PETITION BY FLORIDA POWER & LIGHT  
7 COMPANY FOR RATE UNIFICATION AND  
8 FOR BASE RATE INCREASE

---

9  
10  
11 TRANSCRIPT OF PROCEEDINGS  
12 DEPOSITION OF JOHN T. HERNDON

13  
14  
15 Monday, July 19, 2021  
16 Remote Videoconference  
17 2:05 p.m. - 4:20 p.m.

18  
19  
20 Stenographically Reported By:  
21 LAUREL A. MAZUR  
22 Florida Professional Reporter

Page 2

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JODY STIEFEL

Page 4

I N D E X

	DIRECT	CROSS	REDIRECT	RE CROSS
3	By Mr. McAliley	5		83
	By Mr. Wright		81	

DEPOSITION EXHIBITS

NUMBER	DESCRIPTION	PAGE
8	No. 1 FAIR Website	18
9	No. 2 Response to RFP No. 3	26
10	No. 3 FPL Petition to POC	30
11	No. 4 Answers to Interrogatories	33
12	No. 5 Response to RFP No. 4	49
13	No. 6 Herndon Direct Testimony	62
15	Certificate of Oath.....	86
16	Reporter's Certificate.....	87
17	Certificate and Jurat.....	88
18	Errata Sheet.....	89
19	Witness Notification Letter.....	90

Page 5

P R O C E E D I N G S

(The witness is duly sworn.)

1 Thereupon,

2

3 JOHN T. HERNDON,

4

5 being by the undersigned notary public first duly

6 sworn, was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. MCALILEY:

9 Q Mr. Herndon, state your full name for the

10 record and please spell your last name?

11 A John T, as in Thomas, Herndon, H-E-R-N-D-O-N.

12 And I go by Tom.

13 Q Okay. Thank you, sir.

14 So before we get into the actual questioning,

15 I just want to go over a few basic procedures here for

16 the deposition today.

17 Sir, have you ever had your deposition taken

18 before?

19 A Yes.

20 Q Okay. Have you ever had your deposition

21 taken over a virtual platform like today on Webex?

22 A No, no.

23 Q So let me just explain how this is -- will

24 be -- this will work and just the slight differences

25 maybe from how you have had your deposition taken

Page 6

1 before.

2 So my name is Neal McAliley, and we have

3 spoken as we have been waiting here. I am outside

4 counsel for Florida Power & Light, and I am taking the

5 deposition. I know you have your counsel there with

6 you, Mr. Wright.

7 This deposition is going to happen like a

8 regular deposition; I am going to ask questions and you

9 are going to answer questions, if your counsel wants to

10 make an objection, he will do that on the record, and a

11 court reporter is taking a transcript just like she

12 would in a regular deposition.

13 Do you understand this?

14 A I do.

15 Q I will also be in all likelihood showing you

16 some exhibits, and when I do that I am going to be

17 putting them up on the screen. So I may ask you can

18 you see the exhibit, and I just want to make sure that

19 we can visually see it. So it's the equivalent of

20 putting the document physically in front of you.

21 Are you following me so far?

22 A I follow you so far, but let me make one note

23 if I might. I suffer from glaucoma. It does impair my

24 vision. I may or may not be able to see what you are

25 putting up there. I will try to let you know. It's

Page 7

1 not, you know, trying to be avoiding it, but if I can't

2 see it, I can't see it. So be aware of that.

3 Q Okay, fair enough.

4 The other thing I wanted to let you know is

5 sometimes there can be technical issues when we do a

6 deposition on a virtual platform like this. And we

7 have talked about this a little while ago. Sometimes

8 the power can go out or there can be a slow down in

9 service. I have noticed that every once in a while

10 some words get garbled and so on, and often there is a

11 little bit of a delay between when you speak and I hear

12 it or I speak and you hear it.

13 So I would just ask that we -- that if there

14 is anything that you don't understand, if something was

15 garbled when I say it, please tell me and I will reask

16 the question. And if -- and if I am not understanding

17 you, your answer, I may ask you to repeat it again, and

18 that is to make sure we are all understanding each

19 other.

20 Does that make sense?

21 A Sure.

22 Q The last thing is I just remind you, sir, as

23 a -- and this is just standard deposition practice, but

24 just it's always good to remind -- if I ask you a

25 question, I need an audible answer, a yes or a no

Page 8

1 rather than uh-huh. It will make the transcript read a

2 lot more clear for everybody. So I just remind you

3 that will be very helpful.

4 A I hear you.

5 Q Are there any questions you have for me

6 before we get started?

7 A No.

8 Q Okay. Thank you, sir.

9 Well, let's start with, Mr. Herndon, what is

10 your address?

11 A My mailing address is 9062 Eagle Ridge Drive,

12 Tallahassee, Florida 32312. I am currently out of

13 state, and I can give you that out-of-state address if

14 you would like.

15 Q I don't need that. So you just -- the

16 address on Eagle Ridge Drive, is that your normal home

17 address?

18 A Yes.

19 Q So am I right that you live outside of FPL

20 service territory?

21 A Yes.

22 Q So you are not an FPL rate payer yourself,

23 are you?

24 A I am not.

25 Q Now, and you are -- are you aware that your

Page 9

1 counsel submitted to the commission a copy of direct

2 testimony for your testimony in this matter?

3 A Yes.

4 Q And so -- and I am going to be referring to

5 this at various points. I will probably -- especially

6 given the challenges with the glaucoma and looking at

7 this on a screen, I will try to avoid putting documents

8 up, but am I right that in your direct testimony you

9 indicated that you are retired from full-time

10 employment?

11 A That is correct.

12 Q And but you still do some work as an

13 independent contractor; am I understanding that right?

14 A Yes.

15 Q And today you are here testifying on behalf

16 of Floridians Against Increased Rates, Incorporated; is

17 that right?

18 A Yes.

19 Q Am I right in understanding that the purpose

20 of your testimony in this proceeding is -- at least in

21 part -- to provide the commissioners with the

22 description of FAIR?

23 A Yes, that is correct.

24 MR. MCALILEY: And just for the record, madam

25 court reporter, when I say FAIR, I am referring to

Page 10

1 the acronym F-A-I-R, which stands for Floridians  
2 Against Increased Rates just for the record.  
3 BY MR. MCALILEY:  
4 Q Mr. Herndon, you are sufficiently familiar  
5 with FAIR to testify about it; is that right?  
6 A I believe so.  
7 Q FAIR is a corporation, isn't it?  
8 A Yes, it is.  
9 Q It's not an LLC, right?  
10 A Right.  
11 Q And it's not an association, is it?  
12 A No.  
13 Q What is your position at FAIR?  
14 A I am a member of the board and the secretary.  
15 Q So can you tell me who else is on the board  
16 of directors at FAIR other than yourself?  
17 A Mike Hightower, who is the president, Fred  
18 Bryant, who is an additional board member, and -- that  
19 is it. Yeah.  
20 Q That is it, just the three of you, right?  
21 A Yes.  
22 Q Am I right that Mr. Hightower's address is in  
23 Jacksonville?  
24 A I believe so. I don't know for a fact.  
25 Q Am I right in understanding that

Page 11

1 Mr. Hightower himself is not personally an FPL  
2 customer?  
3 A I wouldn't know the answer to that. I don't  
4 know.  
5 Q How about Mr. Bryant, am I right he lives in  
6 Tallahassee?  
7 A Yes.  
8 Q And so am I right in assuming that he is also  
9 not an FPL customer?  
10 A I don't know for a fact. I would assume that  
11 that is correct.  
12 Q Are you aware, sir, that when FAIR was  
13 incorporated there were Articles of Incorporation filed  
14 with the Florida Secretary of State?  
15 A Yes, and that is one of the exhibits attached  
16 to my testimony.  
17 Q Are you aware that the Articles of  
18 Incorporation provide addresses for each of the  
19 directors of FAIR?  
20 A Yes.  
21 Q Is there -- do you have any reason to believe  
22 that the addresses for each of the directors of FAIR  
23 are incorrect there on the articles?  
24 A I have no reason to believe that. However, I  
25 want to be sure that -- in my case we were moving into

Page 12

1 a new home in Tallahassee. So there may have been a  
2 transitional period where the address is incorrect, but  
3 I don't know that and I haven't looked at it lately.  
4 Q But other than that, to the best of your  
5 knowledge all the information that is provided in the  
6 Articles of Incorporation is accurate?  
7 A Yes.  
8 Q Sir, what are your duties as secretary of  
9 FAIR?  
10 A I am responsible for the minutes of the  
11 organization and any recording of official documents as  
12 needed, maintaining those minutes, records, and any  
13 other duties that would normally apply to secretary.  
14 Q So you say the minutes of the organization.  
15 Are you referring to minutes of board meetings?  
16 A Yes.  
17 Q How many meetings of the board have there  
18 been for FAIR?  
19 A None as of yet. One, sorry. One.  
20 Q Sir, I just want to say for the record -- I  
21 know you have your counsel there. Did you just get the  
22 answer there from your counsel?  
23 A I did.  
24 MR. MCALILEY: Okay. I would just ask that  
25 for -- for Mr. Wright, even though we are doing

Page 13

1 this virtually, we need to do this the  
2 old-fashioned way, which is the witness needs to  
3 answer the question, and if you need to ask a  
4 follow-up question you can, but it's not going to  
5 be a very good record if the witness is  
6 communicating directly with you between my  
7 question and the answer. Fair enough?  
8 MR. WRIGHT: Okay.  
9 BY MR. MCALILEY:  
10 Q Okay. How many meetings of the board of  
11 directors of FAIR have there been to date, none or one?  
12 A One.  
13 Q And when was that meeting of the -- the one  
14 meeting of the FAIR board of directors?  
15 A I can't give you a date. I am sorry.  
16 Q Can you give me a month?  
17 A May or June.  
18 Q And what business was conducted at that  
19 meeting?  
20 A We adopted the bylaws and agreed to the draft  
21 of the corporate documents, the incorporation --  
22 Articles of Incorporation.  
23 Q Anything else?  
24 A To be honest I think there was other  
25 discussion, but I don't recall what it was.

Page 14

1 Q And did you take minutes?  
2 A There are minutes, yes.  
3 Q And do you still have them?  
4 A I do.  
5 Q Would those minutes accurately reflect the  
6 business that was conducted at that one board meeting  
7 of FAIR?  
8 A I hope so.  
9 Q Sir, you took them. So my question is did  
10 you accurately take minutes of what happened at the  
11 FAIR board meeting?  
12 A Yes.  
13 Q Has the board of directors of FAIR taken any  
14 actions outside of that meeting?  
15 A How do you mean outside of that meeting?  
16 Q I have been on boards before where sometimes  
17 there is -- there will be an e-mail that goes out to  
18 the board and they will say we need a vote of the board  
19 virtually by e-mail, something like that, but there  
20 would be a decision of the board as the board, it's not  
21 where people are physically sitting in the same room.  
22 A I don't recall any official board action.  
23 There have been telephonic discussions by members of  
24 the board and our advisors, consultants; but as far as  
25 official actions of the board, I don't recall, although

Page 15

1 we may have authorized the intervention in this rate  
2 case at one point.  
3 Q If I wanted to learn what actions the board  
4 of directors of FAIR has taken, what would be the right  
5 documents for me to look at?  
6 A Minutes of the meeting.  
7 Q Okay. Has the board of directors of FAIR  
8 established any committees?  
9 A No.  
10 Q Okay. So I just want to get more basic  
11 information about your organization.  
12 What is FAIR's address?  
13 A It's the same address as that of the law  
14 firm.  
15 Q And what law firm is that?  
16 A Gardner Bist.  
17 Q So FAIR's address is at the law firm of  
18 Gardner Bist?  
19 A Correct.  
20 Q And do you know the street address for that  
21 law firm address?  
22 A I do not.  
23 Q Is that a law firm office that is in Orlando?  
24 A Tallahassee. The Articles of Incorporation  
25 were filed by an attorney with the law firm in Orlando,

Page 16

1 Gray Robinson, but I don't know if those are listed as  
2 the official address of the corporation or not. I  
3 don't recall. Could be.  
4 Q Okay. If -- okay, so the address of FAIR is  
5 the address of an office of a law firm; am I  
6 understanding that right?  
7 A Yes.  
8 Q If I was to go to that address, would I find  
9 the name FAIR or Floridians Against Increased Rates on  
10 the door?  
11 A I don't have any idea.  
12 Q Have you ever been to the address of the --  
13 of your organization?  
14 A If the address is the Gardner Bist office,  
15 then yes; if it's the Gray Robinson office in Orlando,  
16 then the answer is no.  
17 Q Is there any room in the law firm's office  
18 that is dedicated for your organization, like a  
19 conference room or one of offices within the law firm's  
20 office?  
21 A No, not that I am aware of.  
22 Q Does FAIR pay rent to the law firm where your  
23 office is located?  
24 A I don't believe so.  
25 Q Am I right that FAIR does not have its own

Page 17

1 customer account with Florida Power & Light?  
2 A I believe that is correct.  
3 Q So basically the law firm provides the  
4 electricity at that office, right?  
5 A Yes.  
6 Q Does FAIR have any employees?  
7 A No.  
8 Q Does FAIR of a telephone number?  
9 A No.  
10 Q Does FAIR have an e-mail address?  
11 A We have a website, and on that website is a  
12 reply mechanism to the membership application. I don't  
13 recall whether it is the e-mail address or not. I  
14 think so, but I am not sure.  
15 Q What I would like to do is I would like to  
16 show you a print copy of the FAIR website, and if I can  
17 ask you some questions about it. And I have printed  
18 it, so it would be -- and when I say printing it, it's  
19 a PDF. I have done that so we can have a record for  
20 the deposition today. So I would like to put that up  
21 on the screen. Give me one second.  
22 Before I do that, sir, can you just state for  
23 the record what is the address of your organization's  
24 website?  
25 A I think it's www.FAIRFL.org.

Page 18

1 Q Now, I am going to share my screen now.  
2 Can you see on the screen a -- you will see  
3 it's a printout of the FAIR website. Is that your logo  
4 of FAIR on the top, and in the upper left-hand corner  
5 it says 7/19/2021?  
6 A I see what you are describing.  
7 Q And I will scroll down a little bit, not  
8 expecting you to read the whole thing, but just to ask  
9 the question.  
10 Does this appear to be a printed copy of the  
11 FAIR website?  
12 A It does.  
13 Q Okay, thank you.  
14 MR. MCALILEY: Madam court reporter, I would  
15 like to just for the record mark this as Exhibit 1  
16 for the deposition today, which is a printed copy  
17 of the FAIR website.  
18 (Thereupon, Deposition Exhibit No. 1  
19 is marked for identification.)  
20 BY MR. MCALILEY:  
21 Q So Mr. Herndon, can you tell me where on this  
22 website I can find an e-mail address for your  
23 organization?  
24 A I don't know offhand. A good portion of the  
25 display is blocked by some instructions -- I presume to

Page 19

1 you -- on how to display it. So I can't see it all.  
2 Q Well, I can scroll -- I am actually -- I am  
3 seeing it pretty clearly myself.  
4 MR. MCALILEY: I will just ask other counsel,  
5 are you all having trouble seeing the document?  
6 BY MR. MCALILEY:  
7 Q Well, Mr. Herndon, nobody else spoke there.  
8 Can I ask you where I would look on the FAIR  
9 website to find an e-mail address for FAIR?  
10 A Well, you know, I mean, I guess if you looked  
11 at the bottom of the page you would see a website  
12 address. Is that sufficient, or are you looking for  
13 something else?  
14 Q I am looking for an e-mail address. Not the  
15 website domain, but the e-mail address.  
16 A I am looking at a better copy that I have in  
17 my hand, and I do not see a noticed e-mail address. I  
18 do see the website address on a couple of locations.  
19 Q Okay, but I am focused on an e-mail address.  
20 As you sit here today, sir, are you aware  
21 that FAIR has its own e-mail address?  
22 A I am not sure I understand your question.  
23 What do you mean?  
24 Q Does your organization have an e-mail address  
25 that somebody can send an e-mail to it?

Page 20

1 A I am not sure that that is the case, no.  
2 They can certainly fill out the form and send it back  
3 in. I don't know whether that constitutes an e-mail  
4 address or not.  
5 Q All right. But there is no address that I  
6 can go into my e-mail system, like Outlook, and type in  
7 an e-mail, like, this is the FAIR e-mail address and  
8 send an e-mail, right?  
9 A No, but you can go into your Outlook and type  
10 out the URL and get a website address.  
11 Q Okay. So I can go and look at the web page  
12 for FAIR, but I don't have an e-mail that I can  
13 initiate a correspondence with FAIR; is that right?  
14 A That may be correct.  
15 Q Thank you. Now, this website that FAIR has,  
16 did it create this web domain or did it purchase it  
17 from another party?  
18 A I guess the correct answer is purchase, but  
19 that is -- I am not sure that is exactly --  
20 MR. WRIGHT: I am going to object to the form  
21 as to vagueness of the word purchase in this  
22 context; if you are asking if it was a  
23 pre-existing e-mail domain, web domain that he  
24 bought, or something else.  
25 MR. MCALILEY: Okay.

Page 21

1 MR. WRIGHT: You can continue and he can  
2 answer, but purchase in this context is vague.  
3 MR. MCALILEY: That is fine. I understand  
4 your objection.  
5 BY MR. MCALILEY:  
6 Q Mr. Herndon, did this web address,  
7 FAIRFL.org, exist before Floridians Against Increased  
8 Rates was formed?  
9 A Not to my knowledge, no.  
10 Q Okay. So are you aware that that website  
11 formally was used by a group called the Florida  
12 Association for Insurance Reform?  
13 A No, I am not.  
14 Q Are you aware that your website previously  
15 was used by a group called Floridians Against Injustice  
16 to Residents of Manufactured Homes?  
17 A No, I am not.  
18 Q Okay. So when did Floridians Against  
19 Increased Rates first acquire the rights to that web  
20 domain, FAIRFL.org?  
21 A I don't know the answer to that.  
22 Q Was it before or after your organization was  
23 created?  
24 A Slightly after.  
25 Q You said slightly. What do you mean by that?

Page 22

1 A I mean we were organized, and as part of that  
2 organizational effort we asked one of the consultants  
3 to FAIR to create and populate the website.  
4 Q Okay. Which consultant was that?  
5 A John Sowinski.  
6 Q John Sowinski. Can you spell that?  
7 A S-O-W-I-N-S-K-I I believe is the correct  
8 spelling.  
9 Q When did Floridians Against Increased Rates  
10 first put up the website that we see today when we go  
11 that web domain?  
12 A I don't know the actual date.  
13 Q Are you aware that if you put in a web domain  
14 into the Google search bar, it will give you the date  
15 that the website came up? Are you aware of that?  
16 A No, I am not. If that is the case, you ought  
17 to go ahead and do it.  
18 Q When I have gone and typed it in, I get  
19 April 13, 2021. Does that sound about right for when  
20 this website went up?  
21 A I really don't have any idea. I am sorry.  
22 Q Okay. That is quite all right.  
23 So am I right then that you are -- the FAIR  
24 website consists of a single page of content? It's  
25 just, like, one page that describes what the

Page 23

1 organization is about?  
2 A When you say a single page, when I printed  
3 out a copy of the content on the website it came out to  
4 two pages.  
5 Q Okay. But if I go on the internet and I look  
6 at it, it's just one page that I can scroll up and down  
7 on but, there is not multiple pages of content at that  
8 website, is there?  
9 A Well, two is multiple if you ask me; but if  
10 you are trying to suggest that there aren't hundreds of  
11 pages, that is correct.  
12 Q There is only one page, correct?  
13 A I see two when I print it. I don't know  
14 where the page break is on the screen.  
15 Q Okay. So when I go to the FAIR website, I  
16 see there is a form that somebody can fill out to  
17 request to become a member of the organization; isn't  
18 that right?  
19 A Yes.  
20 Q Is that website form the primary way that  
21 people join FAIR?  
22 A Yes.  
23 Q Okay, I am going to take this off the screen.  
24 So Mr. Herndon, does FAIR also have a  
25 Facebook page?

Page 24

1 A I don't know.  
2 Q Does FAIR have a Twitter account?  
3 A I don't know.  
4 Q Does FAIR have a bank account?  
5 A Yes.  
6 Q And what is FAIR's annual budget?  
7 A I couldn't tell you. I don't know.  
8 Q What is FAIR's fiscal year?  
9 A I believe it's the calendar year.  
10 Q And what is the basis for that belief?  
11 A That is a normal practice, and in this  
12 instance given the creation of the organization that  
13 would have made sense at the time.  
14 Q Okay. So it sounds like you don't know, but  
15 that is just what you think would likely be the fiscal  
16 year; is that fair to say?  
17 A Yes.  
18 Q So when was Floridians Against Increased  
19 Rates, Inc., incorporated?  
20 A I would have to look at the Articles of  
21 Incorporation, which is one of the exhibits attached to  
22 my testimony. I don't remember the date off the top of  
23 my head. I can look it up if you would like, or you  
24 can.  
25 Q Why don't I put up the Articles of

Page 25

1 Incorporation just so we make a good record, and we  
2 will have this as an exhibit.  
3 So what I am going to do now is share my  
4 screen again and -- so can you see up on the screen  
5 there I have -- it's the -- it's Floridians Against  
6 Increased Rates, Inc., Response to FPL's Request for  
7 Production of Documents No. 3. Do you see that there  
8 on the screen?  
9 A Well, again -- I am sorry. Apparently I am  
10 the only one that does this or has this, but there is a  
11 block of some sort that has within it the wording  
12 "Customize your view by dragging one other more videos  
13 to the stage. Got it." And then there is little  
14 figures, and it's blocking a portion of the text, the  
15 content that you are referring to.  
16 I am not disputing what you are saying, but I  
17 am telling you that that exists on my screen.  
18 Q You can't see anything that I am putting up  
19 on the screen?  
20 A No, I can see quite a bit of it, but I can't  
21 see all of it.  
22 MR. REHWINKEL: Neal, this Charles Rehwinkel.  
23 I think if you click on the "got it" thing, I  
24 think it will go away for everybody.  
25 MR. MCALILEY: I think the witness needs to

Page 26

1 click on it.

2 THE WITNESS: Yes, that made it go away.

3 MR. MCALILEY: Thank you, Charles.

4 Again, this is our new virtual world we have

5 come into in the last two years, so bit-by-bit we

6 are working our way through it. Thank you.

7 Madam court reporter, I would like to mark as

8 Exhibit 2 -- this would be FAIR's Response to

9 FPL's Request for Production No. 3.

10 (Thereupon, Deposition Exhibit No. 2

11 is marked for identification.)

12 BY MR. MCALILEY:

13 Q I am going to scroll down.

14 Am I right, Mr. Herndon, on the second page

15 this is the start of the Articles of Incorporation for

16 Floridians Against Increased Rates?

17 A Yes. If the wording Articles of

18 Incorporation of Floridians Against Increased Rates

19 signifies the start of the articles, then yes.

20 Q So does this appear from on the screen here

21 to be a copy of the Articles of Incorporation of FAIR?

22 A It does.

23 Q Thank you. So, sir, do you see it has both a

24 fax stamp and a file stamp on this page showing

25 March 16, 2021?

Page 27

1 A Yes.

2 Q Does that appear to be the date that

3 Floridians Against Increased Rates, Inc., was

4 incorporated?

5 A That would be my expectation, yes.

6 Q Would you agree with me that a corporation

7 doesn't exist before you file Articles of Incorporation

8 with the Secretary of State?

9 MR. WRIGHT: Object to the extent it calls

10 for legal conclusion, but he can answer. He

11 probably knows.

12 THE WITNESS: You know, in an official

13 context you are correct that it does not exist --

14 or it certainly can exist in a physical sense

15 prior to the articles being filed.

16 BY MR. MCALILEY:

17 Q What do you mean in a physical sense?

18 A Well, I mean the parties could get together

19 and decide to create a corporation and, you know,

20 authorize its articles to be filed and review a draft

21 of the articles and, you know, have a physical

22 expectation and presence but not having filed it at

23 that point.

24 Q So Mr. Herndon, earlier I asked you about

25 whether the board of directors had met, and you

Page 28

1 indicated it had met once to go over the Articles of

2 Incorporation and the bylaws.

3 Was that meeting before the Articles of

4 Incorporation were filed with the Secretary of State to

5 the best of your knowledge?

6 A I believe so, but I don't remember the exact

7 date.

8 Q Okay, thank you.

9 Mr. Herndon, when did Florida Power & Light

10 submit its rate petition to the Public Service

11 Commission that is the subject of this proceeding?

12 A Sometime in April as I recall.

13 Q Okay. So do you believe that Floridians

14 Against Increased Rates was incorporated before FPL

15 filed its rate petition?

16 A That would be correct if my recollection of

17 the dates is correct.

18 Q Okay. As you sit here today, is it your best

19 recollection that Floridians Against Increased Rates

20 was incorporated before FPL filed its rate petition?

21 A My recollection of the dates is that based on

22 these Articles of Incorporation they were filed before

23 the rate case, MFRs and so forth were filed.

24 But it was also something that virtually

25 every party on this phone call was aware of. And I am

Page 29

1 trying to remember when Mr. Silagy's letter was sent, I

2 don't remember, but it was a notification of intent to

3 file a rate case. I don't remember what the date was.

4 Q Okay. So if I wanted to know the date when

5 FPL filed its petition, I should look at the rate

6 petition, right, the letter that was sent to the Public

7 Service Commission?

8 A Yes, that would be it.

9 Q Okay, I am going to stop sharing this

10 document and open up another document here.

11 Sir, I have just put up another document

12 here, which is a letter from FPL to Adam Teitzman, the

13 commission clerk at the Public Service Commission,

14 dated March 12, and I am scrolling down.

15 Do you see where it says, "Enclosed for

16 filing on behalf of FPL in the above-referenced docket

17 is FPL's petition for base rate increase and rate

18 unification"?

19 A I see that.

20 Q Do you see if I go up to the top of the

21 document, this document was file stamped March 12,

22 2021?

23 A Yes.

24 Q Would you agree with me that the date that

25 the petition was filed by FPL was the date that the

Page 30

1 proceeding began?  
2 A Yes.  
3 MR. MCALILEY: Okay. Madam court reporter,  
4 for the record I would like to mark this as  
5 Exhibit 3. This is FPL's Petition to the POC  
6 dated March 12, 2021.  
7 (Thereupon, Deposition Exhibit No. 3  
8 is marked for identification.)  
9 BY MR. MCALILEY:  
10 Q I will take this document down, Mr. Herndon.  
11 We don't need to be continuing to look at it.  
12 Mr. Herndon, so you would agree with me that  
13 Floridians Against Increased Rates was incorporated  
14 after FPL filed its rate petition, right?  
15 A Yes, four days later.  
16 Q When did Floridians --  
17 A It's important to make a point here; that is,  
18 that the Articles of Incorporation were filed four days  
19 later, but that does not mean that they were created  
20 and drafted at the same day. They were created and  
21 drafted prior to the actual filing date of the FPL  
22 petition.  
23 Q Thank you. The corporation isn't recognized  
24 in the State of Florida until the Articles of  
25 Incorporation are filed with the Secretary of State,

Page 31

1 right?  
2 A I am sure that is true legally.  
3 Q Okay. So Mr. Herndon, when did FAIR first  
4 consult with potential witnesses for this proceeding?  
5 A I don't have any idea.  
6 Q Okay. Are you aware that FAIR responded to  
7 written interrogatories that were propounded by Florida  
8 Power & Light?  
9 A Yes.  
10 Q Have you looked at those interrogatory  
11 answers prior to today?  
12 A No.  
13 Q Have you ever seen those responses to  
14 interrogatories?  
15 A I am aware they exist, but I haven't read  
16 them.  
17 Q Do you have any reason to believe that those  
18 interrogatory answers are incorrect or inaccurate?  
19 A I have no reason to believe one way or the  
20 other.  
21 Q So Mr. Herndon, why was Floridians Against  
22 Increased Rates, Inc., created?  
23 A To try and advocate on behalf of the citizens  
24 of Florida against increased and unnecessary rates and  
25 to try and put forth as a means of advocacy by any

Page 32

1 lawful means, whether it's before the commission or the  
2 legislature or city or county government or other  
3 organization, you know, our view of what behaviors are  
4 appropriate by regulating utilities in the State of  
5 Florida.  
6 Q Was FAIR created for this specific purpose of  
7 intervening in this rate case?  
8 A No.  
9 Q Okay. By the way, who prepared FAIR's  
10 responses to FPL's written interrogatories?  
11 A I would assume that it was done by the  
12 attorneys of Gardner Bist.  
13 Q And the attorneys at Gardner Bist, that is  
14 your law firm, right?  
15 A Well, it's not my law firm, but it's the law  
16 firm that is working on FAIR's behalf.  
17 MR. MCALILEY: Okay, I would like to share  
18 another document here.  
19 I would like to mark this as Exhibit 4. This  
20 is FAIR's Responses to FPL's First Set of  
21 Interrogatories.  
22 And I will just represent to counsel, this is  
23 the copy that was provided by counsel for FAIR to  
24 FPL.  
25 MR. WRIGHT: Okay. This is just

Page 33

1 Interrogatory No. 18. I was just going to ask if  
2 you are submitting -- making an exhibit the whole  
3 thing, or just 18 for now?  
4 MR. MCALILEY: Counsel, I haven't broken  
5 these out into separate documents, so it's a  
6 single document. So when I send in an exhibit to  
7 the court reporter and copy you on it, it will  
8 have all the answers there. That way there is  
9 just the single exhibit here.  
10 MR. WRIGHT: That is fine. I just wanted to  
11 know what the exhibit was going to be. Thank you.  
12 MR. MCALILEY: You are welcome.  
13 (Thereupon, Deposition Exhibit No. 4  
14 is marked for identification.)  
15 BY MR. MCALILEY:  
16 Q So Mr. Herndon, can you see on the screen  
17 there Interrogatory No. 18? It says, "Question: Was  
18 FAIR created, in whole or in part, for the purpose of  
19 intervention in this proceeding?"  
20 A I see the question, yes.  
21 Q And then you see the response -- I will have  
22 to scroll down --  
23 A Please do.  
24 Q The first paragraph is objections, and the  
25 second paragraph is an indented quote from the

Page 34

1 commission's intervention order.  
2 Do you see the third paragraph where it says,  
3 "Yes, in part"? I will highlight that to make it  
4 easier to see. Can you see it, sir?  
5 A Yes, I can.  
6 Q Would you agree with me that part of the  
7 reason that FAIR was created was specifically to  
8 intervene in this proceeding?  
9 A Yes.  
10 Q Thank you.  
11 A I might add that is not the question you  
12 asked me a few minutes ago.  
13 Q Okay. I apologize if I asked a bad question.  
14 A I believe you asked me if it was created  
15 solely to intervene in this rate case, and I said no.  
16 Q But FAIR was created, in part, for the  
17 specific purpose of intervening in this FPL rate case;  
18 isn't that right?  
19 A Yes.  
20 Q And what are the other reasons that FAIR was  
21 created?  
22 A As I enumerated a minute ago, it would be to  
23 represent the interests of the citizens of Florida in  
24 various activities that are antithetical to the  
25 citizens' interests that would be before the

Page 35

1 legislature, before a city counsel, a county  
2 commission, a water management district.  
3 There are a variety of places where electric  
4 utilities -- regulated electric utilities -- could be  
5 misbehaving, and it's our intent to be involved in  
6 those if we see fit.  
7 Q Is FAIR involved in any other proceeding  
8 other than this one that involves FPL?  
9 A Not at this time. That does not preclude us  
10 from being so in the future.  
11 Q Okay. And FAIR, though, was created four  
12 days after FPL filed its rate petition, right?  
13 A The Articles of Incorporation were filed four  
14 days after FPL filed its paperwork.  
15 Q Thank you. And it was -- am I right, by the  
16 way, that it was FAIR's board of directors that made  
17 the decision to intervene in this case?  
18 A Yes.  
19 Q And none of those members of the board or  
20 directors of FAIR are FPL customers, are they, to your  
21 knowledge?  
22 A Not to my knowledge, but that has very little  
23 to do with the fact that FAIR is designed and created  
24 to represent the interests of the citizens of the State  
25 of Florida, whether they are FPL customers or Gulf

Page 36

1 Power customers or anybody else's customers. We are  
2 going to look to the interests of all of the citizens  
3 of the State of Florida.  
4 Q Now, Mr. Herndon, FAIR has members that are  
5 customers of Tampa Electric Company, doesn't it?  
6 A I believe so, yes.  
7 Q Are you aware that the Tampa Electric Company  
8 has submitted its own rate petition and currently it is  
9 an open docket in front of the commission?  
10 A No.  
11 Q Has FAIR intervened or sought to intervene in  
12 the Tampa Electric rate proceeding?  
13 A No.  
14 Q Why?  
15 A I am not aware of any rate proceeding, but  
16 it's certainly something we will look into.  
17 Q You are not even aware that there is another  
18 rate proceeding with an open docket?  
19 A No, I am not.  
20 Q Mr. Herndon, are the purposes of FAIR set  
21 forth in the Articles of Incorporation?  
22 A Yes, as a general comment they are.  
23 Q Are there any purposes of FAIR that are not  
24 set forth in the Articles of Incorporation?  
25 A I would have to take a look at the purposes

Page 37

1 that are set forth in the articles and then address  
2 your question. But, you know, my recollection and  
3 impression is that by and large the purposes set forth  
4 in the articles are the full gamut of purposes that  
5 FAIR pursues.  
6 Q Okay. Did you help write the Statement of  
7 Purposes for the corporation?  
8 A In a manner of speaking. They were drafted  
9 by counsel, and the board members looked at them. I  
10 don't recall whether I made any specific additions or  
11 deletions or modifications, but it's possible.  
12 MR. MCALILEY: Okay. So Mr. Herndon, I try  
13 to always take a break about every hour, for no  
14 other reason than to stretch my legs and also to  
15 give the court reporter a break, because she has  
16 the hardest job here of anybody, and I am at a  
17 natural breaking point.  
18 Would you be okay if we took, let's say, a  
19 five-minute break now just so people can stretch  
20 their legs.  
21 THE WITNESS: Sure.  
22 MR. MCALILEY: Madam court reporter, is that  
23 enough time for you?  
24 THE REPORTER: That is fine.  
25 (Thereupon, there is a short break.)

Page 38

1 BY MR. MCALILEY:  
2 Q I want to turn now to FAIR's membership, sir.  
3 Does FAIR have individuals that it considers  
4 to be members?  
5 A Yes.  
6 Q Is membership addressed in the Articles of  
7 Incorporation of FAIR?  
8 A I am not sure I understand what you mean.  
9 When you say addressed, what are you trying to say?  
10 Q Well, is the -- in the Articles of  
11 Incorporation of FAIR, does it contemplate there will  
12 be members of the corporation?  
13 A Yes.  
14 Q So what I would like to do here is go back to  
15 what I previously marked as Exhibit No. 2, which is the  
16 response of FAIR to the FPL's Request for Production,  
17 and this is No. 3, and this is where we looked at the  
18 Articles of Incorporation.  
19 Can you see that up on the screen there? Can  
20 you see that, Mr. Herndon?  
21 A Yes.  
22 Q Do you see the first page there the Articles  
23 of Incorporation -- and I am going to scroll down --  
24 Article IV, can you see that on the screen where it  
25 says Article IV - Members?

Page 39

1 A Yes.  
2 Q And I want to read this aloud. "Membership  
3 in the corporation shall be comprised of one or more  
4 classes of membership admitted in such manner as set  
5 forth in the bylaws and members shall have all the  
6 rights and privileges of members of the corporation as  
7 outlined in the bylaws."  
8 Did I read that right?  
9 A Yes.  
10 Q Do you see where it says there in the  
11 Articles of Incorporation that members have to be  
12 admitted?  
13 A Yes.  
14 Q So am I right that in order to become a  
15 member of FAIR, the organization has to admit a person  
16 to be a member?  
17 A Yes, that is what the word says.  
18 Q Okay. And so am I right that it's the board  
19 of directors that decides which persons will be  
20 admitted as members?  
21 A I would have to go back and look at the form  
22 that is submitted by individuals, but I think as a  
23 general comment that is still correct.  
24 Q Okay. Sir, in this document which is --  
25 which I have marked as Exhibit 2, this was responsive

Page 40

1 documents from FAIR to FPL in response to Request for  
2 Production. There is more documents in this Exhibit 2,  
3 and I am going to scroll down.  
4 Now I am on Page 10 of this document. Do you  
5 see on the screen there it says Bylaws of Floridians  
6 Against Increased Rates, Inc.?  
7 A Yes.  
8 Q So I want to -- what I would like to do is  
9 focus here on Article II - Members. Do you see that on  
10 the screen?  
11 A Yes.  
12 Q By the way, does this appear to be a true and  
13 correct copy of FAIR's bylaws?  
14 A Without having read every page of it, yes.  
15 Q Okay. So you see there Article II, Section 1  
16 says "Qualifications of Membership". Let me read that  
17 first paragraph aloud.  
18 It says, "Persons eligible for membership in  
19 the corporation shall consist of individuals 18 years  
20 of age or older or entities elected to membership by a  
21 majority vote of the board of directors or committee  
22 thereof as may be designated by the board of  
23 directors."  
24 Did I read that right?  
25 A Yes.

Page 41

1 Q And then you see that the next paragraph has  
2 three bullets in it. It says, "To be eligible for  
3 membership the individual or entity must:" and the  
4 first bullet says "Be a retail customer of an  
5 investor-owned utility in the State of Florida and  
6 provide the board of directors with the address in  
7 which the individual or entity receives such service."  
8 Second bullet, "Represent to the board of  
9 directors that they support the proposition that the  
10 electric customers of Florida should enjoy the lowest  
11 possible electric rates so long as such rates are  
12 sufficient to support safe and reliable electrical  
13 service."  
14 Then there is a third bullet, "Agree that the  
15 corporation can represent them through its board of  
16 directors in the quest for the lowest possible electric  
17 rates, provided that such rates will support safe and  
18 reliable electrical service."  
19 Did I read that right?  
20 A Yes.  
21 Q So am I right then in the bylaws Article II,  
22 Section 1, describes who is eligible to become a member  
23 of FAIR, and then the board of directors votes to  
24 decide who is admitted into membership?  
25 A Yes.

Page 42

1 Q So am I right in reading this that any adult  
2 or entity who is a customer of an investor-owned  
3 utility is potentially eligible to become a member of  
4 FAIR?  
5 A Assuming they are 18 years of age or older,  
6 yes.  
7 Q So somebody who is younger than 18, they are  
8 not even eligible to be a member of FAIR, right?  
9 A That is the way I read it.  
10 Q And you are on the board of directors of  
11 FAIR, right?  
12 A Yes.  
13 Q And the board of directors voted and approved  
14 these bylaws, right?  
15 A Yes.  
16 Q So do you believe that FAIR represents the  
17 interests of all FPL rate bearers?  
18 A I am not sure how to answer that question. I  
19 believe that FAIR intends to represent the interests of  
20 all citizens of the State of Florida 18 years or older  
21 who are members of or -- I shouldn't say members -- who  
22 are retail customers of investor-owned utilities.  
23 Q Okay, fair enough.  
24 So Mr. Herndon, what roles do members play in  
25 the operation of FAIR?

Page 43

1 A I am not sure how to answer your question. I  
2 don't know what you mean by what roles.  
3 Q Well, let me break it down. Are members of  
4 FAIR shareholders of the corporation?  
5 A No.  
6 Q Do members have the right to select their  
7 board of directors?  
8 A No.  
9 Q Do -- by the way, who chooses the board of  
10 directors?  
11 A Board of directors.  
12 Q So you choose yourself?  
13 A To a certain extent, yes, that is true. Yes.  
14 Q Do FAIR's members have a right to decide  
15 whether the organization will file a petition to  
16 intervene --  
17 A No.  
18 Q -- in this proceeding?  
19 So am I right that FAIR's members had no role  
20 in the decision to file the petition to intervene in  
21 this rate proceeding?  
22 A Only to the extent that FAIR's members are  
23 identified and are represented to the Public Service  
24 Commission as customers of in this case FPL and  
25 therefore are entitled to representation by whomever

Page 44

1 they choose. In this case they signed what amounts to  
2 a petition asking FAIR to represent them.  
3 Q Okay, but my question was a little different.  
4 Did the board of directors ask FAIR's members  
5 what they thought about whether there should be --  
6 whether the organization should file a petition to  
7 intervene?  
8 A I would have to go back and look at the form,  
9 but my recollection is that by agreeing to become a  
10 member they authorized the board to pursue intervention  
11 as it sees fit.  
12 Q But is there some kind of -- was there some  
13 kind of vote by the membership whether to intervene in  
14 this case?  
15 A By the membership, no, except to the extent  
16 that they signed the form authorizing the board to act  
17 on their behalf.  
18 Q Okay. Do the members of FAIR have any right  
19 to decide the corporation's litigation strategy in this  
20 proceeding?  
21 A You used the word to decide. The answer is  
22 no. If they wish to express an opinion, they are  
23 certainly entitled to do that and may very well at some  
24 point express an opinion and it may be adopted by  
25 FAIR's counsel or board of directors. But to decide,

Page 45

1 no.  
2 Q How would -- so how does FAIR communicate  
3 with its members?  
4 A E-mail.  
5 Q Okay. FAIR doesn't have an e-mail address  
6 though, right? Remember I asked you those questions  
7 before the break?  
8 A Sure.  
9 Q So if I am a member and I want to figure out  
10 how to contact FAIR, how do I contact FAIR?  
11 A Probably by going to the web address and to  
12 reach out to us through that means.  
13 Q How does one go on the web address and reach  
14 out to FAIR other than just to fill out that form that  
15 you have on the website?  
16 A Well, in the process of filling out the form  
17 I would say can somebody please give me a call, I would  
18 like to talk to somebody at FAIR's office. You can do  
19 that.  
20 Q Okay. I would like to go back to what I  
21 previously marked as Exhibit No. 1., which was a copy  
22 of the website.  
23 Do you see that up on the screen?  
24 A Yes.  
25 Q Can I ask where on the website somebody could

Page 46

1 put in a note or a message to say somebody please give  
2 me a call or here is what I think you should argue in  
3 the case or anything?

4 A Well, quite frankly since there are lots of  
5 places that are blank that you can put some sort of  
6 request for contact, you know. And if you need me to  
7 do it on an individual line-by-line basis -- I mean,  
8 there is a lot of blank spaces. You have to  
9 acknowledge that, that somebody could write in please  
10 give me a call.

11 Q No, I think -- I would like to ask questions  
12 to have a clear record.

13 So where are the blanks that you would be  
14 able to put up a question or statement give me a call?  
15 Where would you write it there?

16 A The first one where it says your name, Tom  
17 Herndon, by the way somebody give me a call. Select  
18 your electric utility, FPL, will somebody give me a  
19 call.

20 Same thing for the address, somebody give me  
21 a call. Same thing with the city line or e-mail that  
22 they are providing to us, can you give me a shout out.

23 I mean, you can put it in every single one of  
24 those spaces as near as I can sell.

25 Q Okay. So in other words, somebody would

Page 47

1 write in on the fields in the website different  
2 information than it asks for on the website, and that  
3 would be a way to communicate with FAIR?

4 A Well, it is one way. The other way I guess  
5 would be to, you know, address a letter or what have  
6 you to the address that is listed on the second page.

7 Q So somebody could send a letter to the  
8 organization at that street address, right?

9 A Yes.

10 Q And am I right that people can't call FAIR  
11 because FAIR doesn't have a phone number?

12 A FAIR does not have a phone number at the  
13 present time.

14 Q Would you agree with me, by the way, that the  
15 website is the primary way FAIR communicates with its  
16 members?

17 A I think the primary way FAIR communicates is  
18 via e-mail to the members whose names we have and  
19 e-mails that we have in terms of a two-way  
20 communication process.

21 Q There is no obvious way to do a two-way  
22 communication by e-mail based on the FAIR's website,  
23 right?

24 A You are correct in that sense, there is no  
25 obvious way, and that is something we need to address.

Page 48

1 Q So let's talk about e-mail correspondence  
2 here. Has FAIR e-mailed any of its members?

3 A Yes.

4 Q How many times has FAIR e-mailed its members?

5 A To the best of my recollection once. That  
6 was to all the members that were current at that  
7 time -- so weeks ago -- and we have another e-mail in  
8 the works.

9 Q Okay. So just to make sure I have got this  
10 straight, there has been -- to your knowledge there has  
11 been one e-mail sent to FAIR's members to date?

12 A Yes.

13 Q And am I right that -- and can you tell me  
14 about that e-mail? What was the occasion for that  
15 e-mail to the members?

16 A I am not aware of any particular occasion.  
17 It wasn't celebrating anybody's birthday or anything  
18 like that, it was just a notice to the members that we  
19 were acting as representatives in the petition and --

20 Q Okay. So -- and did you see that e-mail  
21 communication to the members before it went out?

22 A I did, but frankly I don't remember much of  
23 what was in it.

24 MR. MCALILEY: Okay. So what I would like to  
25 do is share my screen again for another exhibit.

Page 49

1 I will put up on the screen here what I will mark  
2 as Exhibit 5, which is FAIR's Response to FPL's  
3 Request for Production No. 4.  
4 (Thereupon, Deposition Exhibit No. d5  
5 is marked for identification.)  
6 BY MR. MCALILEY:  
7 Q So this was provided by your counsel, and I  
8 am going to scroll down here.  
9 There is a number of different documents --  
10 not a number -- there is several different documents  
11 attached in here. I am going to go down to a document  
12 I think may be that communication.  
13 Sir, I have up on the screen there -- this is  
14 Page 12 of the PDF I just marked as Exhibit 5. This is  
15 FAIR's Response to FPL's Request for Production No. 4.  
16 This is some kind of communication to members of FAIR.  
17 Do you see that on the screen?  
18 A Yes, I do.  
19 Q Does this appear to be the substance of that  
20 e-mail communication to FAIR's members that you just  
21 testified about?  
22 A Yes.  
23 Q So what caused FAIR to send this e-mail  
24 communication?  
25 A I think the most obvious fact was that we

Page 50

1 were notifying the membership that these public  
2 hearings were going to take place as hosted by the PSC  
3 and make them aware of it and encourage them to speak  
4 up if they were comfortable doing so.  
5 Q And to the best of your knowledge this  
6 communication was sent by e-mail as opposed to by  
7 regular U.S. mail, right?  
8 A That is my understanding.  
9 Q So this document doesn't look like a typical  
10 e-mail I see printed. There is no from, there is no  
11 to, no date stamp or anything. Do you know why that  
12 is?  
13 A No, I hadn't noticed it until you pointed it  
14 out.  
15 Q What e-mail account was this e-mail sent  
16 from?  
17 A I am not sure. It might have been from  
18 Mr. Sowinski's account, the media consultant, but I am  
19 not sure about that.  
20 Q What date was this sent?  
21 A Can you show up some more?  
22 Q I am at the top of the document.  
23 A And the e-mail -- it indicates that sign-up  
24 starts at 9:00 a.m. tomorrow, Thursday, June 10. So it  
25 was probably send on Wednesday, June 9.

Page 51

1 Q Okay. But you are reaching that conclusion  
2 just based on reading this document, right?  
3 A Well, yes. How else would I -- I mean, if it  
4 had a date stamp on it, that would tell me something;  
5 but yes, I am reading the document, and that seems to  
6 be what it says.  
7 Q But you have no independent recollection as  
8 you sit here today that that was the date it was sent,  
9 right?  
10 A No.  
11 Q Am I right that other than -- that this  
12 June 9, 2021, e-mail, FAIR has not sent any other  
13 e-mails to its members?  
14 A That is correct. Although as I indicated  
15 before, there is -- I know there is another one in  
16 progress.  
17 Q Okay. Has FAIR ever sent any communications  
18 to its members by U.S. mail, the old-fashioned kind of  
19 mail?  
20 A Not that I am aware of.  
21 Q Does FAIR communicate with its members by  
22 telephone?  
23 A No, that would be a little arduous since  
24 there is over 700 of them.  
25 Q So FAIR has never called its members, right,

Page 52

1 over the telephone?  
2 A Not that I am aware of. I know that we did  
3 corroborate the data submitted by the members via phone  
4 call, but I don't think that was all of them. I think  
5 it was a sample of them.  
6 Q Am I right that is the work that Ms. Watkins  
7 did?  
8 A That is my understanding, yes.  
9 Q Okay. So I know that she is also a witness,  
10 and I am going to take her deposition in a few weeks so  
11 I will save those questions for her.  
12 A Okay.  
13 Q Has FAIR had any in-person meetings with its  
14 members?  
15 A No.  
16 Q Do FAIR's members pay dues?  
17 A No.  
18 Q Are FAIR's members required to make any kind  
19 of financial contribution to the corporation?  
20 A No.  
21 Q Am I right in understanding FAIR is designed  
22 to operate without any kind of monetary contribution  
23 from its members?  
24 A I am not sure what you mean by that. I  
25 thought I just answered that question, but --

Page 53

1 Q Well, does FAIR need financial contribution  
2 from its members to operate?  
3 A We have no plans to ever ask for  
4 contributions from our members.  
5 Q And FAIR has sufficient funds to operate  
6 without asking its members for money, right?  
7 A I guess that remains to be seen, but we don't  
8 plan to do it.  
9 Q Well, am I right -- am I right that FAIR has  
10 never issued any written request to any person  
11 soliciting funds?  
12 A Yes, I am not aware of any solicitation  
13 effort on the part of FAIR to our members.  
14 Q Well, my question was more general. Am I  
15 right that FAIR has never made any request for  
16 contribution to any person?  
17 THE WITNESS: Can I ask you a question?  
18 MR. WRIGHT: Not really.  
19 THE WITNESS: Is a person a corporation?  
20 BY MR. MCALILEY:  
21 Q Sure. I mean, if you are saying the person  
22 asked. Yes, that would include in a person a  
23 corporation.  
24 A But are you speaking because that is in your  
25 best interests, or is that the best answer you can

Page 54

1 give?

2 Q No, I am just trying to get the answer. I am

3 trying to understand whether I am correct in my

4 understanding that FAIR has never made any kind of

5 written solicitation for funds to anybody. Not just

6 members, but anybody.

7 MR. WRIGHT: I object to the question on the

8 grounds of relevance. Not relevant to any

9 standing criteria and in Florida law.

10 You can answer the question as far as you

11 have asked it.

12 THE WITNESS: I am not aware of any request

13 for donation or contributions aimed at an

14 individual.

15 BY MR. MCALILEY:

16 Q Okay. Have there been any requests or

17 solicitations of funds to anybody in a group to support

18 FAIR?

19 MR. WRIGHT: Same objection. Object to

20 relevance.

21 You can answer the question as asked if you

22 are able.

23 THE WITNESS: I don't know of any such

24 request to individuals in a group, no.

25

Page 55

1 BY MR. MCALILEY:

2 Q And you are one of three members of the

3 board, right?

4 A Yes.

5 Q And you are the secretary of the corporation,

6 right?

7 A Yes.

8 Q So if Floridians Against Rate Increase, Inc.,

9 solicits money to support its involvement in this

10 docket, you are the kind of person that should know

11 about it, right?

12 A Yes.

13 Q Have any members of FAIR actually contributed

14 money to the corporation?

15 A Not that I know of, no. We make it very

16 clear in our application that we don't intend to ever

17 ask for it.

18 Q So FAIR's finances operate completely

19 independent of its membership, right?

20 A Yes.

21 Q So can I ask you who is funding FAIR if it's

22 not the members?

23 MR. WRIGHT: Objection, relevance. It's

24 irrelevant, and I instruct him not to answer.

25 MR. MCALILEY: Counsel, just so we make a

Page 56

1 record here, you have instructed the witness not

2 to answer. Is there any evidentiary privilege or

3 court order that is the basis of your instruction

4 to the witness not to answer?

5 MR. WRIGHT: I am not asserting it on the

6 grounds of privilege, I am asserting it on the

7 grounds it's completely irrelevant to any issue in

8 this case and there is no legal requirement that

9 we disclose it.

10 MR. MCALILEY: Counsel, I would just remind

11 you that I litigate all the time. Lawyers don't

12 instruct witnesses not to answer unless there is a

13 privilege or there is a court order that says they

14 don't have to answer.

15 Just to be clear, you are still instructing

16 your witness not to answer this question, right?

17 MR. WRIGHT: That is correct.

18 BY MR. MCALILEY:

19 Q Mr. Herndon, so it's fair to say based upon

20 this last question and answer here that FAIR is funded

21 by individuals or organizations that you are unwilling

22 to identify; is that right?

23 MR. WRIGHT: Object to relevance.

24 THE WITNESS: Can you repeat the question?

25

Page 57

1 BY MR. MCALILEY:

2 Q Yes. FAIR is funded by individuals or

3 corporations that you are unwilling to identify, right?

4 A I am not aware of any obligation that we have

5 to disclose our donors. If you can point it out to me,

6 Counselor, maybe I would be willing to answer your

7 question, but until then I am not aware of any

8 obligation that we have to disclose.

9 Q But my question is different. I asked you a

10 moment ago who is funding FAIR behind the scenes. Your

11 lawyer said don't answer the question. Now I am asking

12 a different question.

13 The different question is -- just to

14 confirm -- FAIR is funded by organizations that you are

15 refusing to disclose, right?

16 MR. WRIGHT: Objection, relevance. I have

17 instructed him not to answer.

18 If you want to -- you can go ahead and ask

19 your question and he can answer it.

20 MR. MCALILEY: I just did ask the question,

21 Counsel. Let me ask it again, and I ask you not

22 to coach the witness. You are telling him not to

23 answer in violation of rules. You can do that and

24 we can take whatever action we think appropriate

25 with the commission in the conduct of a

Page 58

1 deposition. So you have made your objection. I  
2 am just trying to get this clear.  
3 BY MR. MCALILEY:  
4 Q Sir, you are unwilling to identify in this  
5 deposition who is funding FAIR, right?  
6 A Well, can you tell me what rules might apply  
7 in a situation like this? You just mentioned that I  
8 was unwilling, and therefore I am not in compliance  
9 with the rules or words to that effect. I am not aware  
10 of any rules that require me to answer. If you can  
11 tell me, I might consider it.  
12 Q Sir, I mean -- by the way, my statements  
13 about the rules are directed to your counsel. As  
14 lawyers we have rules that guide us. You are the  
15 witness. So that was not directed to you.  
16 I am -- we are here in a deposition. We ask  
17 questions and we try to gather information in  
18 depositions. So -- and discovery is broad.  
19 So we are just -- I am just trying to  
20 understand who is funding FAIR if it's not the members.  
21 Your counsel told you don't answer that. Fine. I just  
22 want to confirm you are not saying today who is funding  
23 FAIR, right?  
24 A I am not saying today who is funding FAIR.  
25 Q And FAIR does not publically disclose who its

Page 59

1 donors are, correct?  
2 A That is correct.  
3 Q I can't go to the FAIR website and figure out  
4 who is giving you all the money for your organization,  
5 right?  
6 A Right.  
7 Q And there is no filing that FAIR does with  
8 the State of Florida that says here is who our donors  
9 are behind the scenes, right?  
10 A To the best of my knowledge, that is correct.  
11 Q By the way, FAIR is paying you for your  
12 expert testimony, right?  
13 A Yes.  
14 Q And FAIR is paying Ms. Watkins for her  
15 services?  
16 A Yes.  
17 Q And FAIR is paying its two other witnesses in  
18 this case?  
19 A Yes.  
20 Q FAIR has money, right?  
21 A Yes. Just like FPL, by the way.  
22 Q Okay. So I want to turn now to the  
23 recruiting of members, Mr. Herndon.  
24 How does FAIR recruit its members?  
25 A Through the website, word of mouth.

Page 60

1 Q Okay. And --  
2 A There was -- let me finish. I am sorry.  
3 There was discussion about running up some  
4 social media sites. I don't know off the top of my  
5 head whether that was accomplished or not. It may have  
6 been, in which case that would be additive to the  
7 website and word of mouth, but I just don't know the  
8 answer.  
9 Q Okay. So just to make sure I got it straight  
10 how FAIR recruits its members, it recruits it through  
11 the website and through word of mouth, and what other  
12 method? Maybe social media, maybe not? Do I have that  
13 right?  
14 A Yes, if there are websites and so forth  
15 through social media that have been turned on, then  
16 they are also recruitment tools.  
17 Q But you have never been to the Facebook page  
18 for FAIR, have you?  
19 A I have not. I don't do Facebook, period.  
20 Q And you never have been to the Twitter page  
21 for FAIR, have you?  
22 A I don't do Twitter either, ever.  
23 Q Good for you. I don't either.  
24 A It saves me a lot of angst.  
25 Q When you say people were recruited by the

Page 61

1 website, am I right that people just happen upon your  
2 website and just decide to fill out the form? Is that  
3 what you mean by recruiting through the website?  
4 A I am sure that probably happens from time to  
5 time, but I doubt that is the primary way people get to  
6 it. I suspect it's word of mouth from a member to a  
7 nonmember, and they go to the website and, you know --  
8 nobody likes utility rate increases, so it's not hard  
9 to figure it out.  
10 Q Okay. In FAIR's Response to FPL's  
11 Interrogatories, it indicated that the person  
12 responsible for recruitment of new members is John  
13 Sowinski, who was the person you mentioned a little  
14 while ago. Does that sound right to you?  
15 A Yes.  
16 Q Who is Mr. Sowinski?  
17 A It's Sowinski I think. He is the media  
18 adviser that we have contracted out of central Florida.  
19 Q Is he an employee of FAIR?  
20 A No.  
21 Q And why is he the person responsible for  
22 recruiting new members?  
23 A Because that is his forte.  
24 Q Am I right that FAIR has not made any  
25 publications, you know -- publications in a trade

Page 62

1 journal or news outlet or any other kind of publication  
2 about itself?

3 A That is correct. Again, my understanding is  
4 that that was to be done, but I am not aware that it  
5 has been accomplished at this point. But it was  
6 discussed.

7 Q Okay. So sir, in your direct testimony you  
8 testified that a copy of FAIR's basic membership  
9 applications included, and you attached a copy of a  
10 membership application in your direct testimony. Do  
11 you remember that?

12 A Yes.

13 Q Okay. I would like to do is -- let me see if  
14 I can find that.

15 I am going to share -- I don't know if you  
16 can see it on the screen here, but this is a copy of  
17 your direct testimony. Do you see that there?

18 A Yes.

19 MR. MCALILEY: All right. Madam court  
20 reporter, if we can mark it as Exhibit 6.  
21 (Thereupon, Deposition Exhibit No. 6  
22 is marked for identification.)  
23 BY MR. MCALILEY:  
24 Q I want to scroll down to the back of your  
25 direct testimony, and you have some attachments. Let

Page 63

1 me just scroll down to get to that application.

2 Okay. So I am now on Page 54 of 55 of the  
3 PDF which I just marked as Exhibit 6, which is your  
4 direct testimony in this proceeding.

5 Can you see that on the screen where it says  
6 FAIR, and in the upper right-hand corner it has the  
7 docket number and says FAIR Membership Application?

8 A Yes.

9 Q So am I right that this membership  
10 application is substantially the same as the form on  
11 the FAIR website?

12 A Yes.

13 Q So how is this membership application  
14 provided to potential members?

15 A Go on the website and print a copy.

16 Q Is that all this is, is a printed-out version  
17 of what is on the website?

18 A That is my understanding. I mean, it's  
19 certainly possible that somebody might have printed out  
20 some copies and handed them around to people, I don't  
21 know, but yes.

22 Q Has FAIR had any programs or efforts to hand  
23 out copies of membership applications to people, like  
24 hard copies of them like you just described?

25 A I am not aware of anything that is organized

Page 64

1 in a massive scale along the lines that you suggest.

2 Q Are you aware of any handing out of copies of  
3 membership applications on any scale?

4 A No, but it wouldn't surprise me if somebody  
5 out of 700-plus people didn't do that. It's certainly  
6 plausible.

7 Q When people sign up to become members of  
8 FAIR, are they given copies of a PDF of this  
9 application or hard copy they can give to their  
10 friends?

11 A I am not aware of any effort along those  
12 lines. I mean, they print them out themselves.

13 Q Okay. Just help me understand this document  
14 here, this application. How is this used?

15 A I don't understand your question.

16 Q Is this membership application that is  
17 attached to your direct testimony, is this just a  
18 printout of what is on the website?

19 A Essentially, yes.

20 Q Okay. So -- and there is no effort by FAIR  
21 to circulate this membership application any  
22 differently than what we just described, that people  
23 would go to the website and sign up there; am I  
24 understanding that right?

25 A Yes. Although, again -- let me go back for a

Page 65

1 second. As we discussed previously, there was  
2 discussion about bringing up this application on  
3 various social media platforms as well as in trade  
4 publications and so forth. That might have happened.  
5 If it did, then I am just not aware of it. With that  
6 caveat, the answer to your question is yes.

7 Q Okay. So you don't know that this has been  
8 circulated on social media, do you?

9 A No, I don't.

10 Q Okay. And you don't know whether this has  
11 been put in any kind of written publication or trade  
12 publication, do you?

13 A No, I just said that.

14 Q Okay. All right. So am I right that the  
15 primary way that FAIR gathers information about its  
16 members is based upon the fields of information that  
17 are requested on the website which are also shown here  
18 on this membership application?

19 A Yes.

20 Q So does FAIR get -- I am sorry. I didn't  
21 mean to interrupt you.

22 A That is all right. I didn't mean to  
23 interrupt you. I was going to say to a certain extent  
24 as corroborated by Ms. Watkins in her own sampling.

25 Q Okay. I will ask Ms. Watkins questions

Page 66

1 later. That is for another day.  
2 Am I right, though, that when FAIR asked  
3 people to become members, the information that they get  
4 about the person is the information that is requested  
5 on this application?  
6 A That is correct.  
7 Q And it's the same information that is on the  
8 website, right?  
9 A As far as I know.  
10 Q Okay. So am I right that FAIR asks potential  
11 members for their full name; is that right?  
12 A Yes.  
13 Q It asks for their business name if it's a  
14 business?  
15 A Yes.  
16 Q And it asks for their physical address?  
17 A Yes.  
18 Q It asks for the city that they live?  
19 A Yes.  
20 Q It asks for the zip code where they live?  
21 A Yes.  
22 Q It asks for the e-mail where they live? I am  
23 sorry, they don't live in their e-mails. It asks for  
24 their e-mail, right?  
25 A Yes.

Page 67

1 Q It asks for the name of their utility?  
2 A Yes.  
3 Q So am I right that FAIR asks for no other  
4 information from prospective members other than those  
5 categories of information?  
6 A That is my understanding.  
7 Q All right. And you are the secretary of the  
8 corporation, so you would know, right?  
9 A Well, you have Ms. Watkins and her folks have  
10 been sampling. They may very well have gotten  
11 additional information. I don't know that to be the  
12 case, but I am saying it's possible. At which case,  
13 you know, I will have to --  
14 Q So am I right that FAIR does not ask for  
15 potential members their age?  
16 A Correct.  
17 Q Am I right that FAIR doesn't ask its members  
18 what they think about the arguments that the  
19 corporation will be making in this proceeding?  
20 A By the corporation you mean FAIR?  
21 Q Yes.  
22 A That we don't ask them what they think  
23 about --  
24 Q Your arguments, legal arguments in this case?  
25 A Okay. Yes, we don't ask that.

Page 68

1 Q And FAIR doesn't ask its members what they  
2 think about any potential settlement of the  
3 proceedings, does it?  
4 A Not that I am aware of, no.  
5 Q Does FAIR ask its members whether they  
6 support paying more in electric rates in exchange for  
7 building more solar power plants?  
8 A Not that I am aware of, no.  
9 Q So FAIR doesn't know whether its membership  
10 would be willing to pay higher rates if they were to  
11 get more solar power plants as an example?  
12 A Nor do we know that they would be willing to  
13 get wind turbines. That is correct.  
14 Q Is it true FAIR does not collect information  
15 about the utility bills?  
16 A That is correct.  
17 Q Because FAIR has not surveyed its members or  
18 collected specific information regarding their specific  
19 rate schedules under which they take service from FPL,  
20 right?  
21 A That is correct. I am not sure why that  
22 would matter.  
23 Q Well, this case is about the rates, FPL's  
24 rates, isn't it?  
25 A It's about FPL's rate increase.

Page 69

1 Q Am I right that FAIR doesn't ask on its  
2 website or in this application for membership how much  
3 a respective member pays in its monthly bills for the  
4 utility?  
5 A That is my understanding.  
6 Q Am I right that FAIR doesn't know how much an  
7 individual member's electricity bills will increase as  
8 a result of FPL's proposals?  
9 A I am sorry. Are you saying FAIR doesn't know  
10 or --  
11 Q Yes.  
12 A We have not calculated what the increase will  
13 be for each and every one of our members, but as you  
14 know there is a standard in the industry of a thousand  
15 KW customer or thereabouts that is used as a proxy for  
16 that kind of calculation often, and so that is  
17 certainly possible that it's out there somewhere.  
18 Q But I am just trying to understand whether  
19 you know how much people's bills will go up as a result  
20 of FPL's proposed rate increase. That is what I am  
21 trying to ask. I understand the concept of rates.  
22 I also know in my house, for instance, how  
23 much I am going to pay is a function of my rate times  
24 my amount of electrical usage, right, then I get a  
25 bill.

Page 70

1 So FAIR doesn't know what -- how much its  
2 members' bills are going to go up as a result of this  
3 rate increase, right?  
4 A FAIR does not know how much an individual  
5 member's rates are going to go up. They do know they  
6 are going up substantially when you think about the  
7 \$6.2 billion over the next four years.  
8 And also I might add, as I indicated a moment  
9 ago, there has been an additional proxy within the  
10 industry -- and I am sure even the FPL people will  
11 agree to this -- of using an average customer who  
12 consumes a thousand KWH per month or thereabouts, and  
13 that has always been used as a calculation factor.  
14 So, I mean, I can see your point. We don't  
15 understand exactly how much each and every one of our  
16 customers rates will go up. I imagine FPL could  
17 calculate that. But we do know probably within the  
18 right ballpark how much the average customer's rates  
19 are going to go up. The point is we are against  
20 increased rates, and we do know they are going up.  
21 Q Okay. But I am now focused not so much on  
22 the rates, but the bills, how much is the check I am  
23 sending to my power utility.  
24 So the average residential customers in  
25 Miami-Dade County, how much are the bills going to go

Page 71

1 up under FPL's proposal?  
2 A Well, again, I can't tell you how much an  
3 individual Miami-Dade resident's customer rates will go  
4 up or bills would go up. I am using rates and bills  
5 synonymously.  
6 Q But I am --  
7 A You are not?  
8 Q Just to be clear, I am talking bills now.  
9 That is what matters to me, what is in my check that I  
10 am sending out for my service.  
11 Let me ask you this. If I am somebody and I  
12 live in the Gulf Power territory -- so I am up in the  
13 panhandle -- what are my bills going to look like if  
14 FPL's proposal is adopted? Are they going to go up or  
15 are they going to go down?  
16 A Well, I think the representation by your  
17 witnesses, including Mr. Silagy, is that they are going  
18 to go down, but I don't know the specifics of that  
19 argument.  
20 Q Okay. Well, does FAIR know what is going to  
21 happen to the rates of the people in the panhandle?  
22 A I don't think we know individually what is  
23 going to happen to the bills or the rates of the people  
24 in the panhandle. Again, you can extrapolate using  
25 that average 1,000 KWH customer and get a fair

Page 72

1 approximation of what the impact will be.  
2 Q Okay. So just to make sure -- to wrap up and  
3 make sure I understand, FAIR doesn't know what is going  
4 to happen to any person's bills. All you are able to  
5 do is extrapolate based on sort of average numbers; is  
6 that right?  
7 A That is correct.  
8 Q Because FAIR has not asked its members how  
9 much they pay to their power utility, right?  
10 A That is correct. That is correct.  
11 Q Does FAIR have members in the panhandle, by  
12 the way, in the Gulf Power territory?  
13 A I don't know off the top of my head. My  
14 guess is probably, but I don't know that for a fact.  
15 Q FAIR just has one website for everybody in  
16 Florida. There is not a separate website for people in  
17 the panhandle, right?  
18 A Not that I am aware of.  
19 Q Okay. So you know on the FAIR website it  
20 says FPL is proposing to increase your power rates,  
21 right?  
22 A I would have to look at the wording, but that  
23 is probably correct.  
24 Q But in fact if you live in the panhandle, FPL  
25 is proposing to reduce your rates, right?

Page 73

1 A I think that is the representation that  
2 Mr. Silagy put forward.  
3 Q Well, what is your understanding of the facts  
4 as a board member of Floridians Against Increased  
5 Rates?  
6 A My understanding is that extrapolating from  
7 the average customer, a \$6.2 billion increase on the  
8 part of FPL is inevitably going to spill over into Gulf  
9 Power, and those rates will go up at some point in the  
10 near future.  
11 But if you are asking me whether I can tell  
12 you whether Joe Smith's rates are going up or Mary  
13 Jones' rates are going up, I can't answer that  
14 question.  
15 Q So Mr. Herndon, how are the interests  
16 represented by FAIR different than the interests  
17 represented by other parties in this case? And I guess  
18 in particular I am focused on the Office of Public  
19 Counsel.  
20 A Well, I think in the broad sense our  
21 interests are aligned, and if you look at our positions  
22 as a matter of policy and conclusions based on FPL's  
23 submissions we are very much aligned. However, we each  
24 have different points of view that in some cases are  
25 not exactly the same. We have different witnesses with

Page 74

1 different levels of expertise. We have different  
2 production of documents and exhibits that are aligned  
3 in the broad sense but not necessarily identical  
4 interests. That is my answer.  
5 Q So I guess I want to distinguish here between  
6 what your positions may be in this rate proceeding,  
7 like positions of lawyers and witnesses, distinguishing  
8 that and the interests that you are seeking to  
9 represent. So let me ask some questions to try to  
10 piece out the difference here.  
11 Am I right that what the interests that FAIR  
12 purports to represent is the interest in its member  
13 rate payers in not having their rates go up? Am I  
14 saying that right?  
15 A I believe you are.  
16 Q Okay. So that interest is also represented  
17 by the Office of Public Counsel, isn't it?  
18 A Well, I think the Office of Public Counsel is  
19 interested in fair, just, reasonable rates, just like  
20 FAIR is. That doesn't necessarily mean that they would  
21 always oppose a rate increase. In the past there have  
22 been settlement agreements reached that Office of  
23 Public Counsel signed off on that increased rates. So  
24 our interests are similar, but not identical.  
25 Q Okay. But it sounds like your interest

Page 75

1 though -- it sounds like you are talking about your  
2 positions are different. I mean, the interest of the  
3 people that you claim to represent are just interests  
4 in lower rates. You may have a different legal  
5 argument or position to take in the proceeding, but you  
6 are still -- both you and the OPC are representing the  
7 interests of rate payers not paying more than they have  
8 to. Do I understand the distinction here right?  
9 A I would hope that that is the case.  
10 Q Okay. By the way, FAIR's members have no say  
11 in what witnesses will be called by FAIR in this  
12 proceeding, right?  
13 A Well, they are not decision makers, no.  
14 Q Right. So they have no say? They don't get  
15 to decide who the witnesses are at this point?  
16 A As we talked about earlier, I mean, I feel  
17 certain that if a member contacted the address in  
18 Orlando and said why don't you guys, you know, hire  
19 so-and-so as a witness, we would listen, and it might  
20 be that that is a reasonable suggestion, but they have  
21 no say in who is our witnesses.  
22 Q Okay. Has anybody ever contacted FAIR at the  
23 address in Orlando and made any suggestions?  
24 A I don't know.  
25 Q So you don't know whether somebody has made

Page 76

1 such a suggestion, right?  
2 A I do not.  
3 Q You can't say that FAIR would have paid  
4 attention to it if it didn't happen? It's a  
5 hypothetical, right?  
6 A Well, I think all the people that work with  
7 FAIR are reasonable people and we listen to suggestions  
8 and they can draw conclusions.  
9 Q So, sir, in your direct testimony you  
10 indicated that you -- even though you retired, you  
11 continue to serve as a director or board member for  
12 various organizations; is that right?  
13 A Yes.  
14 Q What organizations do you currently serve as  
15 director or board member on other than FAIR?  
16 A Claude Pepper Foundation, Lawton Chiles  
17 Foundation, Capital Health Plan, Helios Education  
18 Foundation.  
19 Q Anything else?  
20 A No.  
21 Q You are a member of the board of an  
22 organization called Citizens for Lower Electric Rate,  
23 Inc., aren't you?  
24 A Yes. Sorry, I forgot about that. Yes.  
25 Q Tell me what is Citizens for Lower Electric

Page 77

1 Rate, Inc.?  
2 A It's an organization that was created along  
3 with the membership of Mr. Hightower and myself to  
4 represent the interests of people who want lower  
5 electric rates.  
6 Q Am I right that Citizens for Lower Electric  
7 Rates has substantially the same purpose as FAIR?  
8 A Yes.  
9 Q Am I right that the board of directors for  
10 FAIR is identical to the board of directors of Citizens  
11 for Lower Electric Rates, Inc.?  
12 A Yes.  
13 Q And am I right that Citizens for Lower  
14 Electric Rates, Inc., was created in 2020 before FAIR  
15 was created?  
16 A I am not sure the exact date, but that sounds  
17 right.  
18 Q So FAIR and Citizens for Lower Electric  
19 Rates, Inc., basically represent the same interests,  
20 right?  
21 A I am not sure what you mean by represent the  
22 same interests.  
23 Q Well, they both represent people who don't  
24 want to have higher electric rates, right?  
25 A Yes.

Page 78

1 Q I mean, the name of Citizens for Lower  
2 Electric Rates indicates that it's made up of people  
3 who want lower electric rates, right?  
4 A Yes.  
5 Q So how did your -- the three members of the  
6 boards of both FAIR and CLER decide it would be FAIR  
7 intervening in this proceeding and not CLER?  
8 A The proposition that we discussed was to have  
9 FAIR represent the interests. It was never -- it was  
10 never represented or concluded that CLER would be a  
11 party to the suit. It was always something that FAIR  
12 should pursue.  
13 Q Why didn't Citizens for Lower Electric Rates  
14 move to intervene in this case other than FAIR or  
15 instead of FAIR?  
16 MR. WRIGHT: Object to this question and to  
17 all questions relating to Citizens on the grounds  
18 of relevance to the extent they are seeking  
19 discovery regarding a nonparty.  
20 You asked Mr. Herndon is he a board member,  
21 and that is okay, but asking about Citizens'  
22 activities is outside the scope of this case.  
23 You can answer the question, but I object to  
24 the relevance.  
25

Page 79

1 BY MR. MCALILEY:  
2 Q Do you remember the question, sir?  
3 A No, I don't.  
4 Q Why did you, Mr. Hightower, and Mr. Bryant  
5 decide to have FAIR intervene in this proceeding and  
6 not have Citizens for Lower Electric Rates intervene in  
7 this proceeding?  
8 A To be perfectly honest with you, I don't  
9 remember what the actual concluding decision was, but I  
10 mean obviously it was for FAIR do it. I don't remember  
11 what the factors were that we chose FAIR over CLER, but  
12 we did and moved on.  
13 Q Why did your small group that is in control  
14 of both of these corporations decide to create this new  
15 organization FAIR to intervene in this proceeding  
16 rather than just have Citizens for Lower Electric Rates  
17 intervene in this proceeding?  
18 A Seemed like the right thing to do at the  
19 time.  
20 Q When you all meet at the board meeting, how  
21 do you know it's the FAIR board that is meeting instead  
22 of Citizens for Lower Electric Rates board meeting?  
23 A We announce at the beginning this is a  
24 meeting of the FAIR board or CLER board.  
25 Q So you have to keep it straight, right?

Page 80

1 A Yes. Difficult, but we manage.  
2 MR. MCALILEY: So we are at the next hour  
3 mark, and if I could ask that we take a five or  
4 ten-minute break here again to stretch our legs.  
5 Does that work for you, Mr. Herndon?  
6 THE WITNESS: Sure.  
7 (Thereupon, there is a short break.)  
8 BY MR. MCALILEY:  
9 Q Mr. Herndon, has there ever been a specific  
10 meeting of the board of directors of FAIR in which the  
11 board has admitted people as members of the  
12 organization?  
13 A In the sense that we voted on a motion to  
14 admit the members who had submitted applications, no.  
15 MR. MCALILEY: Thank you. I have no further  
16 questions. Thank you very much for your time.  
17 Maybe other counsel have questions, but that is  
18 all I have.  
19 THE WITNESS: Thank you.  
20 MR. WRIGHT: This is Schef Wright. No one  
21 else cross-noticed as far as I am aware, but with  
22 the collegial nature of our practice if anyone  
23 wants to ask Mr. Herndon some questions, I won't  
24 object as long as you won't go too long.  
25 MS. BROWNLESS: Schef, this is Suzanne. We

Page 81

1 don't have any questions. Thank you so much,  
2 though, for giving us the opportunity.  
3 MS. CHRISTENSEN: OPC doesn't have any  
4 questions. Thank you.  
5 MR. WRIGHT: This is Schef. I just have just  
6 a couple of clean-up questions to get the record  
7 clear.  
8 CROSS-EXAMINATION  
9 BY MR. WRIGHT:  
10 Q Early in your deposition, Mr. Herndon,  
11 Mr. McAliley asked you what the address of FAIR is, and  
12 I think you responded that it was the address of a law  
13 firm known as Gardner Bist that happens to be where  
14 our -- where I work.  
15 Have you had a chance to reconsider that  
16 answer?  
17 A Yes, and the correct answer is the law firm  
18 Gray Robinson's address in Orlando.  
19 Q You were asked about an interrogatory  
20 response, FAIR'S response to No. 18. I want to just  
21 ask you to read the last paragraph of FAIR's answer,  
22 which is now going to be an exhibit to the deposition.  
23 If you can read it out loud so everyone on this  
24 deposition hears it please.  
25 A "Thus, FAIR was formed, in part, for the

Page 82

1 specific purpose of participating, by intervention, in  
2 proceedings like this rate case, in order to oppose  
3 rate increases like those opposed by FPL."  
4 Q Couple of questions relating to a few  
5 questions Mr. McAliley asked you just a little while  
6 ago about the similarity or difference in positions  
7 between taken by the Office of Public Counsel and  
8 FAIR's witnesses.  
9 Do FAIR's witness and the public counsel's  
10 witness on the issue of return on equity have the same  
11 position?  
12 A No.  
13 Q Do they have the same position on the equity  
14 ratio?  
15 A No.  
16 Q You were asked a question regarding the board  
17 membership of Citizens for Lower Electric Rates. Have  
18 you had a chance to check your knowledge on the  
19 membership of the board of Citizens?  
20 A Yes, and I believe Mr. McAliley indicated  
21 that Fred Bryant was a board member, but the correct  
22 answer is that Nancy Watkins is the third board member  
23 and not Mr. Bryant.  
24 MR. WRIGHT: That is all the redirect I  
25 have -- or cross-examination in this context.

Page 83

1 MR. MCALILEY: I have just a couple of  
2 follow-up questions just to clarify your answers,  
3 sir.  
4 REDIRECT EXAMINATION  
5 BY MR. MCALILEY:  
6 Q Am I right when I asked you earlier in the  
7 deposition where FAIR's offices were located, you  
8 weren't sure whether they are in Tallahassee or  
9 Orlando?  
10 A Right.  
11 Q And am I correct that even though you just  
12 read the answer from the interrogatory about FAIR was  
13 formed for the purpose of participating by intervention  
14 in proceedings like this rate case, this is the only  
15 rate case that FAIR has intervened in, right?  
16 A At this time and up to this point.  
17 Let me be clear in response to your first  
18 question. Yes, you asked me if -- where the offices of  
19 FAIR were, and I said right, meaning yes you did ask  
20 that question, not that my answer was an incorrect one.  
21 I think I enumerated both addresses; the Orlando  
22 office, which is where the Articles of Incorporation  
23 were filed by one of the attorneys of record there, but  
24 the Gardner Bist office is also where counsel works.  
25

Page 84

1 Q But my question is actually simple. At the  
2 start of the deposition when I asked you where were  
3 FAIR's offices located, you didn't know whether they  
4 were in Orlando or Tallahassee, right?  
5 A No, I don't have a -- I don't know how to  
6 answer that question I guess is the way to answer you.  
7 The address of record is the Orlando address.  
8 Q Okay. I guess the record will stand what it  
9 is in the transcript from the start of deposition.  
10 My last question is this. And I am sorry if  
11 I made a mistake about the Citizens for Lower Electric  
12 Rates, Inc. You pointed out that Ms. Watkins is a  
13 member of the board of that organization and not  
14 Mr. Bryant; is that right?  
15 A Yes.  
16 Q Ms. Watkins is an officer of FAIR though,  
17 right?  
18 A What do you mean an officer? How are you  
19 using that term?  
20 Q Ms. Watkins is the treasurer of FAIR, right?  
21 A Correct.  
22 Q So it's basically the same group of people  
23 who are running FAIR and Citizens for Lower Electric  
24 Rates, with the possible exception of Mr. Bryant; is  
25 that right?

Page 85

1 A Yes.  
2 MR. MCALILEY: Okay, I have no further  
3 questions. Thank you very much for spending a few  
4 hours with all of us on the -- over Webex this  
5 afternoon.  
6 MR. WRIGHT: Thank you. And thank you,  
7 Ms. Mazur, for stepping in here. Despite  
8 Professor Murphy's best efforts, we will read and  
9 sign. Thank you.  
10 MR. MCALILEY: We will order the transcript.  
11 Thank you.  
12 (Thereupon, at 4:20 p.m., the deposition  
13 concluded.)  
14 \* \* \*  
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Page 86

CERTIFICATE OF OATH

1 State of Florida )  
2 County of Dade )

3  
4  
5  
6

7 I the undersigned authority, certify that the  
8 witness, JOHN T. HERNDON, appeared remotely before me  
9 and was duly sworn.

10  
11 Witness my hand and official seal this  
12 22nd day of July, 2021.

13  
14 

15 Laurel A. Mazur  
16 Notary Public, State of Florida  
17 Commission No. GG 352516  
18 Expires: 7/28/23

19  
20  
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23  
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25

Page 88

CERTIFICATE AND JURAT

1  
2  
3  
4 State of Florida )  
5 County of Dade )

6  
7 I hereby certify that I have read the  
8 foregoing deposition given by me, and that the  
9 statements contained therein are true and correct  
10 to the best of my knowledge and belief, with the  
11 exception of attached corrections, if any.

12  
13 Dated this \_\_\_\_ day of \_\_\_\_\_, 2021.

14  
15 \_\_\_\_\_  
16 JOHN T. HERNDON

17  
18 The foregoing certificate was subscribed to  
19 before me this \_\_\_\_ day of \_\_\_\_\_, 2021, by  
20 JOHN T. HERNDON.

21  
22 \_\_\_\_\_  
23 Notary Public, State of Florida  
24 My Commission Expires:  
25

Page 87

REPORTER'S CERTIFICATE

1 State of Florida )  
2 County of Dade )

3  
4 I, Laurel A. Mazur, Court Reporter and Notary  
5 Public, State of Florida, do hereby certify that I was  
6 authorized to and did stenographically report the  
7 foregoing deposition in stenotype, that the foregoing  
8 pages, numbered from 1 to 85, inclusive, are a true and  
9 correct transcription of my shorthand notes of said  
10 deposition, and that the witness did request review of  
11 the transcript.

12  
13 I further certify that I am not a relative,  
14 employee, attorney, or counsel of any of the parties,  
15 nor am I a relative or employee of any of the parties'  
16 attorneys or counsels connected with the action, nor am  
17 I financially interested in the action.

18  
19 The foregoing certification of this transcript  
20 does not apply to any reproduction of the same by any  
21 means unless under the direct control and/or direction  
22 of the certifying reporter.

23 Dated this 22nd day of July, 2021.

24 

25 Laurel A. Mazur  
Notary Public, State of Florida  
Commission No. GG 352516  
Expires: 7/28/23

Page 89

ERRATA SHEET

1 DO NOT WRITE ON TRANSCRIPT  
2 ENTER CHANGES ON THIS PAGE

3  
4 RE: FPL PETITION FOR RATE INCREASE  
5 DEPOSITION OF JOHN T. HERNDON  
6 MONDAY, JULY 19, 2021  
7 U.S. LEGAL JOB NO. 2490571

8 -----  
9 PAGE: LINE: CHANGE: REASON:  
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22  
23 Under penalties of perjury, I declare that I have read  
24 the foregoing document and that the facts stated in it  
25 are true.

\_\_\_\_\_  
DATE JOHN T. HERNDON





**FPL wants to hike your electric rates – a lot.**

**You can help us stop them by filling out this form today. Sign Below.**

**I hereby request to become a member of Floridians Against Increased Rates, Inc. (FAIR).** I confirm that I am a customer of the Florida electric utility identified below. I support FAIR's purposes of (a) advocating by all lawful means for the lowest possible electric rates that are consistent with my utility providing safe and reliable electric service, and (b) opposing by all lawful means utility proposals for rates and rate increases that are greater than necessary for my utility to provide safe and reliable service. I request and authorize FAIR to represent my interests in having the lowest possible rates for my electric service that are consistent with my utility providing safe and reliable service. I understand that no payment of dues is required for my membership in FAIR. By typing my name below, I am signing this application electronically. I consent to FAIR's collection and use of my personal information provided below for the purposes associated with my membership as described in my application.



**I'm Joining As... \***

- A Residential Electric Customer
- A Business Electric Customer

Your Name

Select Your Electric Utility

Home Address Where You are an Electric Customer

Address Line 2

City

ZIP Code

Email

Phone (Optional)

### About Floridians Against Increased Rates

There is no charge to join FAIR. You'll never be asked for a donation. We are simply recruiting members so that we can be your voice opposing unfair electric rate increases that FPL and other utilities are asking the PSC to approve, and supporting the lowest possible rates consistent with safe and reliable service.

### The current situation...

FPL has asked the PSC to approve the largest rate hike in Florida history: FPL's filings with the PSC indicate that, if approved, its proposed increases would add over \$6.2 billion to customer bills over

the next 4 years. You can help us fight this increase by joining FAIR today.

Our state suffered massive unemployment and business closures last year. But FPL and its parent company, NextEra Energy, thrived. NextEra recently posted large adjusted profits for 2020 and announced increased stock dividends for its shareholders. They do not need to drain more

money from our struggling residents and

businesses.

*(\* Please note: We respect your privacy. We will not send you hard copy mail. We need your address in case FAIR is required to prove that its members are customers of one of the utilities listed above in proceedings before the Florida Public Service Commission (PSC), including cases before the PSC where your utility is seeking to increase your rates. As unlikely as this may sound, we have to recognize that when FAIR challenges a utility's proposed rate increases, the utility may try to keep FAIR from intervening to represent the customers' interests. We also represent that FAIR will not share your information with others unless FAIR is required by law, rule, or order to do so, and if we are required to provide such information in legal proceedings before the PSC, FAIR will seek to protect the confidentiality of your information.*

*Floridians Against Increased Rates, Inc.*

*301 East Pine Street, Suite 1400*

*Orlando, Florida 32801*

## Background

On March 12, 2021 FPL formally requested that the Florida Public Service Commission (PSC) approve a series of rate increases, every year for the next four years. These rate hikes – if granted – would result in \$6.2 billion in increased customer bills over the next four years, more than \$1 billion in 2022 alone, making it the largest electric rate hike in Florida history. FPL and its parent company, NextEra, are already highly profitable, and if this rate hike goes through, FPL's Return on Equity (ROE) would be 20% higher than the national average approved in 2020 by other public service commissions in the United States.

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**REQUEST:**

Please produce all materials and documents that reflect FAIR's mandate and/or authorization to participate in this docket.

**RESPONSE:**

Please see responsive document.

Mar. 16. 2021 2:08PM GRAY ROBINSON  
Division of Corporations

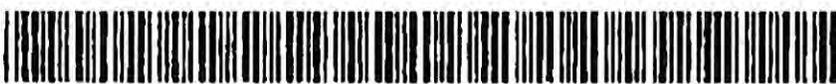
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Page 1 of 2

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**Floridians Against Increased Rates, Inc.**

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T. SCOTT

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No. 1613 P. 2

(((H21000106133 3)))

**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.

FILED  
2021 MAR 16 PM 12:23  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

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

Mar. 16. 2021 2:09PM GRAY ROBINSON

No. 1618 P. 3

**((H21000106133 3))**

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").

Mar. 16. 2021 2:09PM GRAY ROBINSON

No. 1518 P. 4

**((H21000106133 3))**

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.

Mar. 16. 2021 2:09PM GRAY ROBINSON

No. 1618 P. 5

(((H21000106133 3)))

### 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.

Mar. 16. 2021 2:10PM GRAY ROBINSON

No. 1618 F. 6

(((H21000106133 3)))

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.

Mar. 16. 2021 2:10PM GRAY ROBINSON

No. 1618 P. 7

(((H21000106133 3)))

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

Mar. 16. 2021 2:10PM GRAY ROBINSON

No. 1618 P. 8

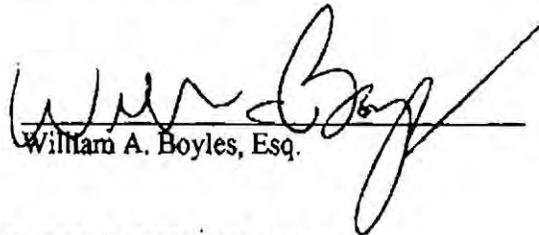
(((H21000106133 3)))

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

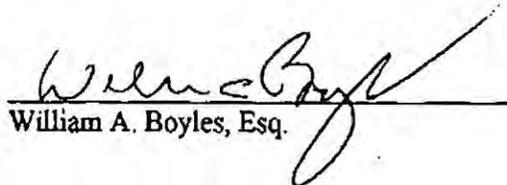
IN WITNESS WHEREOF, I submit these Articles of Incorporation and affirm that the facts stated herein are true. I am aware that any false information submitted in a document to the Florida Department of State constitutes a third degree felony as provided for in Section 817.155 of the Florida Statutes.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

**BYLAWS  
OF  
FLORIDIANS AGAINST INCREASED RATES, INC.**

**ARTICLE I  
NAME**

The corporation shall be known as FLORIDIANS AGAINST INCREASED RATES, INC. (the "Corporation"), a Florida not for profit corporation. The Corporation may also be referred to from time to time by its acronym, "FAIR."

**ARTICLE II  
MEMBERS**

Section 1. Qualifications for Membership. Persons eligible for membership in the Corporation shall consist of individuals 18 years of age or older or entities elected to membership by a majority vote of the Board of Directors, or a Committee thereof as may be designated by the Board of Directors.

To be eligible for membership, the individual or entity must:

- be a retail customer of an investor-owned utility in the State of Florida and provide the Board of Directors with the address at which the individual or entity receives such service;
- represent to the Board of Directors that they support the proposition that the electric customers of Florida should enjoy the lowest possible electric rates so long as such rates are sufficient to support safe and reliable electrical service; and
- agree that the Corporation can represent them through its Board of Directors in the quest for the lowest possible electrical rates, provided that such rates will support safe and reliable electrical service.

Section 2. Membership Privileges and Dues. Members will have the right to access the information contained in the Corporation's website, and to receive notice of the Corporation's activities. A Member will have no right to receive communications from the Corporation other than electronically. All of the rights and privileges of a member cease on termination of membership. The Corporation will not require the payment of membership dues.

Section 3. Voting Rights and Class. All Members shall be non-voting and will have no right to elect or remove members of the Board of Directors or to admit or remove the Corporation's Members. There shall be one (1) class of Members.

Section 4. Meetings. A Meeting of the Members shall be held at a set time at least once a year as determined annually by the Board of Directors for the purpose of being updated on the Corporation's progress and activity. Notice of each meeting shall be given electronically by the

Secretary to each Member at least two (2) days before the meeting, unless each Member shall waive notice thereof before, at, or after the meeting. All Member meetings will be held by telephone conference or by video conference only. Notice must specify date, time, place and manner in which the telephone conference or video conference will be held, and the notice shall specify the manner in which the Members may participate in such meeting by telephone or video. Members participating in meetings by telephone conference or video conference shall, for all purposes, be deemed to be present at such meetings.

Section 5. Right to Withdraw. Any Member may withdraw from the Corporation by giving to the Secretary of the Corporation written notice via electronic mail of such intention to withdraw prior to the effective date of such withdrawal. The notice of withdrawal shall be presented to the Board of Directors by the Secretary at the first meeting after its receipt.

Section 6. Termination, Expulsion and Suspension. A Member may be expelled or suspended, and membership in the Corporation may be terminated or suspended for any reason in the discretion of the Board of Directors by a majority vote, such as, for example, violation of any of the Bylaws or rules of the Corporation or for conduct prejudicial to the best interest of the Corporation.

### ARTICLE III 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 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, business, institutional, and governmental electric customers served by investor-owned electric utilities in

Florida, and of all Florida citizens, businesses, institutional, and governmental entities 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 of such customers. 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").

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.

#### ARTICLE IV BOARD OF DIRECTORS

Section 1. Qualifications. The members of the Board of Directors must be natural persons who are 18 years of age or older, who are residents of the State of Florida.

Section 2. Duties of the Board. The Board of Directors shall transact all business of the Corporation, determine the policies of the Corporation and in general assume responsibility for the guidance and the affairs of the Corporation.

Section 3. Quorum. The presence of a majority of all the Directors shall be necessary at any meeting to constitute a quorum to transact business. The act of a majority of Directors present at a meeting when a quorum is present shall be the act of the Board of Directors. If at any meeting there shall be less than a quorum, a majority of those present may adjourn the meeting to a place and time indicated and a copy of such adjournment action shall be delivered electronically to all members of the Board of Directors.

Section 4. Director Conflicts of Interest. No contract or other transaction between the Corporation and one or more of its Directors or any other corporation, firm, association or entity in which one or more of its Directors are directors or officers or are financially interested, shall be either void or voidable because of such relationship or interest or because such Director or Directors are present at the meeting of the Board of Directors or a committee thereof which authorizes, approves or ratifies such contract or transaction or because his or their votes are counted for such purpose, if:

(a) The fact of such relationship or interest is disclosed or known to the Board of Directors or committee which authorizes, approves or ratifies the contract or transaction by a vote or consent sufficient for the purpose without counting the votes or consents of such interested Directors; or

(b) The fact of such relationship or interest is disclosed or known to the members of the Board of Directors entitled to vote on such contract or transaction, if any, and they authorize, approve or ratify it by vote or written consent; or

(c) The contract or transaction is fair and reasonable as to the Corporation at the time it is authorized by the Board or a committee.

Common or interested Directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or a committee thereof which authorizes, approves or ratifies such contract or transaction.

Section 5. Executive and Other Committees. The Board of Directors, by resolution adopted by a majority of the full Board of Directors, may designate from among its members an executive committee and one or more other committees each of which, to the extent provided in such resolution, shall have and may exercise all the authority of the Board of Directors, except that no committee shall have the authority to:

(a) approve any action required by law to be approved by the Board of Directors,

(b) fill vacancies on the Board of Directors or any committee thereof, or

(c) adopt, amend or repeal the Bylaws.

Each committee must have two or more members who serve at the pleasure of the Board of Directors. The Board of Directors, by resolution adopted in accordance with this section, may designate one or more Directors as alternate members of any such committee, who may act in the place and stead of any absent member or members at any meeting of such committee.

Section 6. Time of Meeting. All meetings of the Board of Directors will be held by telephone conference or by video conference only. Regular meetings of the Board of Directors shall be held at a set time at least once a year as determined annually by the Board of Directors, and at other times upon the call of the President or by a majority of the Directors. Notice of each regular meeting and special meeting shall be given by the Secretary to each Director at least two (2) days before the meeting, unless each Director shall waive notice thereof before, at, or after the meeting.

Section 7. Vacancies. Any vacancy occurring on the Board of Directors may be filled by the affirmative vote of the majority of the remaining Directors, even though the remaining Directors constitute less than a quorum, or by the sole remaining Director, as the case may be. Each person so elected to fill a vacancy shall remain a Director until his successor has been elected.

Section 8. Power to Elect Officers. The Board of Directors, at its annual meeting, shall elect a President, Vice President (if so desired), Secretary and Treasurer. The Board of Directors shall have the power to appoint such other officers and employees as the Board may deem necessary for the transaction of the business of the Corporation. The Board shall have the power to fill any vacancy in any office occurring for any reason whatsoever.

Section 9. Removal of Directors, Officers and/or Employees. Any Director, officer and/or employee may be removed by a majority vote of the Board of Directors whenever, in the judgment of the Board of Directors, the best interests of the Corporation will be served thereby.

Section 10. Delegation of Powers. For any reason deemed sufficient by the Board of Directors, the Board of Directors may delegate any power or duty of any officer or Director to any other officer or Director.

Section 11. Annual Reports. The President and Treasurer shall present their respective reports of the operation of the Corporation for the preceding year, at the first meeting of the year of the Board of Directors.

Section 12. Compensation. Members of the Board of Directors, as such, shall not receive any compensation for their services as members of the Board of Directors. The Corporation may, consistent with the Director Conflicts of Interest provisions set forth in Section 4 of Article IV of these Bylaws hereinabove, pay fair and reasonable compensation to any director for services actually rendered to or for the Corporation, beyond those services that are expected and associated with such person's service as a director, and any director may be reimbursed for actual travel costs and other actual out-of-pocket costs incurred by such person in furtherance of the ongoing business of the Corporation.

Section 13. Meetings of Directors via Telephone or Video Conference. All meetings of the Board of Directors shall be held by telephone conference or by video conference. Notice of all meetings shall specify the date, time, place and manner in which the telephone conference or video conference will be held, and the notice shall specify the manner in which the Directors may participate in such meeting by telephone or video. Directors participating in meetings by telephone conference or video conference shall, for all purposes, be deemed to be present at such

meetings and shall be entitled to vote by voice vote at such meetings on all matters to come before the meetings.

Section 14. Number and Term. The initial Board of Directors shall consist of three (3) members. The number of members of the Board of Directors may be increased or decreased from time to time by the majority vote of the Board of Directors, but shall never be less than three (3) nor more than twenty (20). The term of office of all Directors other than the initial members of the Board of Directors shall be one (1) year. The term of office of the initial members of the Board of Directors shall be five (5) years.

Section 15. Resignation. The resignation of a Director shall be effective as of the date of delivery of a written notice to the Board of Directors or at a later date, if specified in the written notice.

#### ARTICLE V MANAGEMENT OF CORPORATION'S ASSETS

The assets of the Corporation shall be held, managed and invested by the Board of Directors, however, at no time may said assets be used or administered other than in furtherance of the Corporation's charitable purposes, within the meaning of Section 501(c)(4) of the Code. All investments of funds of the Corporation shall be first approved by the Board of Directors.

#### ARTICLE VI OFFICERS

Section 1. Officers. The officers of the Corporation shall consist of a President, Vice President (if so desired), Secretary and Treasurer, each of whom shall be elected by the Board of Directors and shall serve until their successors are chosen and qualify. Such other officers and assistant officers and agents as may be deemed necessary may be elected or appointed by the Board of Directors from time to time.

Any two (2) or more offices may be held by the same person. The failure to elect a President, Vice President, Secretary or Treasurer shall not affect the existence of the Corporation. The Board of Directors may elect a Chairman of the Board to preside at its meetings if it sees fit to do so.

Section 2. President. The President of the Corporation shall:

- (1) preside at all meetings of the Corporation in the absence of the Chairman of the Board, if any;
- (2) make all committee appointments;
- (3) be a member ex-officio of all committees; and
- (4) perform all other duties usually pertaining to the office of President.

Section 3. Vice President. If elected, the Vice President of the Corporation shall:

- (1) preside at all meetings of the Corporation in the absence of the Chairman of the Board, if any, and in the absence of the President;
- (2) make all committee appointments in the absence of the President;
- (3) perform any other presidential functions in the absence of the President; and
- (4) perform all other duties usually pertaining to the office of the Vice President.

Section 4. Secretary. The Secretary of the Corporation shall:

- (1) record the minutes of all meetings;
- (2) write up the minutes following the meeting;
- (3) confer with the President for possible omissions;
- (4) send a duplicate copy of the minutes of the Board of Directors to all members of the Board of Directors;
- (5) send a duplicate copy of the minutes of the Members to all Members;
- (6) have custody of the seal of the Corporation;
- (7) give notices of all meetings required by statutes, Bylaws or resolutions;
- (8) take the attendance record at meetings;
- (9) maintain committee reports;
- (10) carry on all necessary correspondence of the Corporation;
- (11) keep an electronic membership book containing, in alphabetical order, the name and address of each Member;
- (12) keep records in accordance with Section 617.1601 of the Florida Statutes; and
- (13) keep a record in the electronic membership book of all resignations, expulsions, suspensions or terminations of membership pursuant to Sections 617.0606 or 617.0607 of the Florida Statutes.

Section 5. Treasurer. The Treasurer of the Corporation shall:

- (1) be custodian of all funds and securities of the Corporation and collect interest thereon;
- (2) keep a record of the accounts of the Corporation and report thereon at each regular meeting of the Board of Directors;
- (3) make a report at the annual meeting and special reports when requested;
- (4) deposit all moneys of the Corporation in the name of FLORIDIANS AGAINST INCREASED RATES, INC. in a financial institution selected and designated by the Board of Directors, subject to withdrawal for authorized purposes upon the joint signatures of the President and either the Vice President or the Treasurer, or joint authorization in writing of the President and either the Vice President or the Treasurer. The Treasurer shall maintain records of such withdrawals and authorizations, including the amount and purpose of each withdrawal, and any such authorization shall be effective for a period of no more than three (3) months without renewal;
- (5) give bond in such amount as the Board of Directors may require, the Corporation to pay the premium for such bond;
- (6) see that all government agency reports and returns are prepared and filed; and

- (7) perform such other duties as may be delegated to the Treasurer by the Board of Directors.

All securities and other valuable papers shall be placed in a safety deposit box or vault, designated by the Board of Directors, which may be opened only upon the joint signatures of the President and either the Vice President or the Treasurer.

The accounts and records shall be audited from time to time by a firm of certified public accountants at the expense of the Corporation.

Section 6. Resignation. The resignation of an officer shall be effective as of the date of delivery of a written notice to the Board of Directors or at a later date, if specified in the written notice.

#### ARTICLE VII FISCAL YEAR

The fiscal year of the Corporation shall be determined by the Board of Directors.

#### ARTICLE VIII DISSOLUTION

Upon the liquidation or dissolution of the Corporation, its assets, if any remain 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 Section 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 IX CONTRACTS, LOANS, CHECKS AND DEPOSITS

Section 1. Contracts. The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

Section 2. Loans. No loans shall be contracted on behalf of the Corporation and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors.

Section 3. Checks, Drafts, etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation shall be signed or approved in writing by the President and either the Vice President, Secretary or Treasurer. The Treasurer shall maintain records of such checks, drafts, or other orders for payment by the Corporation, including the amount and purpose of each payment or signing on behalf of the Corporation, and any such approval shall be effective for a period of no more than three (3) months without renewal. Provided further, in the interest of clarity, all notes or other evidences of indebtedness issued in the name of the Corporation must be approved and signed by the President and either the Vice President, Secretary, or Treasurer.

Section 4. Deposits. All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Board of Directors may select.

ARTICLE X  
LOANS TO DIRECTORS AND OFFICERS

Loans, other than through the purchase of bonds, debentures, or similar obligations of the type customarily sold in public offerings, or through ordinary deposit of funds in a bank, may not be made by the Corporation to its Directors, officers or employees, or to any other corporation, firm, association or other entity in which one or more of its directors, officers, or employees is a Director, officer or employee or holds a substantial financial interest, except a loan by one corporation which is exempt from federal income taxation under Section 501(c)(4) of the Code to another corporation which is exempt from income taxation under Section 501(c)(4) of the Code. A loan made in violation of this Article is a violation of the duty to the Corporation of the Directors or officers authorizing it or participating in it, but the obligation of the borrower with respect to the loan will not be affected thereby.

ARTICLE XI  
PAYMENT OF DIVIDENDS AND  
DISTRIBUTION OF INCOME TO  
DIRECTORS AND OFFICERS PROHIBITED

A dividend may not be paid, and no part of the income or profit of the Corporation may be distributed, to its Directors or officers.

ARTICLE XII  
AMENDMENTS TO THE BYLAWS

The Bylaws of the Corporation shall be initially approved by a majority vote of the Board of Directors, and thereafter may be altered, amended or repealed by a majority vote of the Board of Directors.

ARTICLE XIII  
INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS

Section 1. Action Against Party Because of Corporate Position. The Corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed claim, action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Corporation) by reason of the fact that he is or was a Director, officer, employee, or agent of the Corporation, or is or was serving at the request of the Corporation as a Director, partner, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses (including attorneys' fees inclusive of any appeal), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such claim, action, suit, or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation, and with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct unlawful. The termination of any

claim, action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

Section 2. Action by or in the Right of Corporation. The Corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed claim, action, or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he is or was a Director, officer, employee, or agent of the Corporation, or is or was serving at the request of the Corporation as a Director, partner, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against expenses (including attorneys' fees inclusive of any appeal) actually and reasonably incurred by him in connection with the defense or settlement of such claim, action, or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation and except that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Corporation unless and only to the extent that a court of competent jurisdiction (the "Court") in which such claim, action, or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court shall deem proper.

Section 3. Reimbursement if Successful. To the extent that a Director, officer, employee, or agent of the Corporation has been successful on the merits or otherwise in defense of any claim, action, suit, or proceeding referred to in Sections 1 or 2 of this Article XIII, or in defense of any claims, issue, or matter therein, he shall be indemnified against expenses (including attorneys' fees inclusive of any appeal) actually and reasonably incurred by him in connection therewith, notwithstanding that he has not been successful (on the merits or otherwise) on any other claim, issue, or matter in any such claim, action, suit, or proceeding.

Section 4. Authorization. Any indemnification under Sections 1 and 2 of this Article XIII (unless ordered by the Court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the Director, officer, employee, or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in Sections 1 and 2. Such determination shall be made (a) by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to such action, suit, or proceeding, or (b) if such a quorum is not obtainable, or, even if obtainable, a quorum of disinterested Directors so directs, by independent legal counsel in a written opinion.

Section 5. Advanced Reimbursement. Expenses incurred in defending a civil or criminal action, suit, or proceeding may be paid by the Corporation in advance of the final disposition of such action, suit, or proceeding as authorized by the Board of Directors in the specific case upon receipt of an undertaking by or on behalf of the Director, officer, employee, or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Corporation as authorized in this Article.

Section 6. Indemnification Not Exclusive. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any statute, rule of law, provision of Articles of Incorporation, Bylaws, agreement, vote of disinterested Directors, or otherwise, both as to action in his official capacity and as to action in another capacity, while holding such office, and shall continue as to a person who has ceased to be a Director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of such a person. Where such other provision provides broader rights of indemnification than these Bylaws, said other provision shall control.

Section 7. Insurance. The Corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a Director, officer, employee, or agent of the Corporation, or is or was serving at the request of the Corporation as a director, partner, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Corporation would have the power to indemnify him against such liability under the provisions of this Article.

The foregoing Bylaws were adopted and approved by the Board of Directors of  
FLORIDIANS AGAINST INCREASED RATES, INC.

Dated: \_\_\_\_\_, 2021.

FLORIDIANS AGAINST INCREASED RATES,  
INC.

(CORPORATE SEAL)

\_\_\_\_\_  
Michael R. Hightower, President

Attest:

\_\_\_\_\_  
John Thomas Herndon, Secretary

**BYLAWS  
OF  
FLORIDIANS AGAINST INCREASED RATES, INC.**

**ARTICLE I  
NAME**

The corporation shall be known as FLORIDIANS AGAINST INCREASED RATES, INC. (the "Corporation"), a Florida not for profit corporation. The Corporation may also be referred to from time to time by its acronym, "FAIR."

**ARTICLE II  
MEMBERS**

Section 1. Qualifications for Membership. Persons eligible for membership in the Corporation shall consist of individuals 18 years of age or older or entities elected to membership by a majority vote of the Board of Directors, or a Committee thereof as may be designated by the Board of Directors.

To be eligible for membership, the individual or entity must:

- be a retail customer of an investor-owned utility in the State of Florida and provide the Board of Directors with the address at which the individual or entity receives such service;
- represent to the Board of Directors that they support the proposition that the electric customers of Florida should enjoy the lowest possible electric rates so long as such rates are sufficient to support safe and reliable electrical service; and
- agree that the Corporation can represent them through its Board of Directors in the quest for the lowest possible electrical rates, provided that such rates will support safe and reliable electrical service.

Section 2. Membership Privileges and Dues. Members will have the right to access the information contained in the Corporation's website, and to receive notice of the Corporation's activities. A Member will have no right to receive communications from the Corporation other than electronically. All of the rights and privileges of a member cease on termination of membership. The Corporation will not require the payment of membership dues.

Section 3. Voting Rights and Class. All Members shall be non-voting and will have no right to elect or remove members of the Board of Directors or to admit or remove the Corporation's Members. There shall be one (1) class of Members.

Section 4. Meetings. A Meeting of the Members shall be held at a set time at least once a year as determined annually by the Board of Directors for the purpose of being updated on the Corporation's progress and activity. Notice of each meeting shall be given electronically by the

Secretary to each Member at least two (2) days before the meeting, unless each Member shall waive notice thereof before, at, or after the meeting. All Member meetings will be held by telephone conference or by video conference only. Notice must specify date, time, place and manner in which the telephone conference or video conference will be held, and the notice shall specify the manner in which the Members may participate in such meeting by telephone or video. Members participating in meetings by telephone conference or video conference shall, for all purposes, be deemed to be present at such meetings.

Section 5. Right to Withdraw. Any Member may withdraw from the Corporation by giving to the Secretary of the Corporation written notice via electronic mail of such intention to withdraw prior to the effective date of such withdrawal. The notice of withdrawal shall be presented to the Board of Directors by the Secretary at the first meeting after its receipt.

Section 6. Termination, Expulsion and Suspension. A Member may be expelled or suspended, and membership in the Corporation may be terminated or suspended for any reason in the discretion of the Board of Directors by a majority vote, such as, for example, violation of any of the Bylaws or rules of the Corporation or for conduct prejudicial to the best interest of the Corporation.

### ARTICLE III 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 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, business, institutional, and governmental electric customers served by investor-owned electric utilities in

Florida, and of all Florida citizens, businesses, institutional, and governmental entities 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 of such customers. 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").

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.

#### ARTICLE IV BOARD OF DIRECTORS

Section 1. Qualifications. The members of the Board of Directors must be natural persons who are 18 years of age or older, who are residents of the State of Florida.

Section 2. Duties of the Board. The Board of Directors shall transact all business of the Corporation, determine the policies of the Corporation and in general assume responsibility for the guidance and the affairs of the Corporation.

Section 3. Quorum. The presence of a majority of all the Directors shall be necessary at any meeting to constitute a quorum to transact business. The act of a majority of Directors present at a meeting when a quorum is present shall be the act of the Board of Directors. If at any meeting there shall be less than a quorum, a majority of those present may adjourn the meeting to a place and time indicated and a copy of such adjournment action shall be delivered electronically to all members of the Board of Directors.

Section 4. Director Conflicts of Interest. No contract or other transaction between the Corporation and one or more of its Directors or any other corporation, firm, association or entity in which one or more of its Directors are directors or officers or are financially interested, shall be either void or voidable because of such relationship or interest or because such Director or Directors are present at the meeting of the Board of Directors or a committee thereof which authorizes, approves or ratifies such contract or transaction or because his or their votes are counted for such purpose, if:

(a) The fact of such relationship or interest is disclosed or known to the Board of Directors or committee which authorizes, approves or ratifies the contract or transaction by a vote or consent sufficient for the purpose without counting the votes or consents of such interested Directors; or

(b) The fact of such relationship or interest is disclosed or known to the members of the Board of Directors entitled to vote on such contract or transaction, if any, and they authorize, approve or ratify it by vote or written consent; or

(c) The contract or transaction is fair and reasonable as to the Corporation at the time it is authorized by the Board or a committee.

Common or interested Directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or a committee thereof which authorizes, approves or ratifies such contract or transaction.

Section 5. Executive and Other Committees. The Board of Directors, by resolution adopted by a majority of the full Board of Directors, may designate from among its members an executive committee and one or more other committees each of which, to the extent provided in such resolution, shall have and may exercise all the authority of the Board of Directors, except that no committee shall have the authority to:

- (a) approve any action required by law to be approved by the Board of Directors,
- (b) fill vacancies on the Board of Directors or any committee thereof, or
- (c) adopt, amend or repeal the Bylaws.

Each committee must have two or more members who serve at the pleasure of the Board of Directors. The Board of Directors, by resolution adopted in accordance with this section, may designate one or more Directors as alternate members of any such committee, who may act in the place and stead of any absent member or members at any meeting of such committee.

Section 6. Time of Meeting. All meetings of the Board of Directors will be held by telephone conference or by video conference only. Regular meetings of the Board of Directors shall be held at a set time at least once a year as determined annually by the Board of Directors, and at other times upon the call of the President or by a majority of the Directors. Notice of each regular meeting and special meeting shall be given by the Secretary to each Director at least two (2) days before the meeting, unless each Director shall waive notice thereof before, at, or after the meeting.

Section 7. Vacancies. Any vacancy occurring on the Board of Directors may be filled by the affirmative vote of the majority of the remaining Directors, even though the remaining Directors constitute less than a quorum, or by the sole remaining Director, as the case may be. Each person so elected to fill a vacancy shall remain a Director until his successor has been elected.

Section 8. Power to Elect Officers. The Board of Directors, at its annual meeting, shall elect a President, Vice President (if so desired), Secretary and Treasurer. The Board of Directors shall have the power to appoint such other officers and employees as the Board may deem necessary for the transaction of the business of the Corporation. The Board shall have the power to fill any vacancy in any office occurring for any reason whatsoever.

Section 9. Removal of Directors, Officers and/or Employees. Any Director, officer and/or employee may be removed by a majority vote of the Board of Directors whenever, in the judgment of the Board of Directors, the best interests of the Corporation will be served thereby.

Section 10. Delegation of Powers. For any reason deemed sufficient by the Board of Directors, the Board of Directors may delegate any power or duty of any officer or Director to any other officer or Director.

Section 11. Annual Reports. The President and Treasurer shall present their respective reports of the operation of the Corporation for the preceding year, at the first meeting of the year of the Board of Directors.

Section 12. Compensation. Members of the Board of Directors, as such, shall not receive any compensation for their services as members of the Board of Directors. The Corporation may, consistent with the Director Conflicts of Interest provisions set forth in Section 4 of Article IV of these Bylaws hereinabove, pay fair and reasonable compensation to any director for services actually rendered to or for the Corporation, beyond those services that are expected and associated with such person's service as a director, and any director may be reimbursed for actual travel costs and other actual out-of-pocket costs incurred by such person in furtherance of the ongoing business of the Corporation.

Section 13. Meetings of Directors via Telephone or Video Conference. All meetings of the Board of Directors shall be held by telephone conference or by video conference. Notice of all meetings shall specify the date, time, place and manner in which the telephone conference or video conference will be held, and the notice shall specify the manner in which the Directors may participate in such meeting by telephone or video. Directors participating in meetings by telephone conference or video conference shall, for all purposes, be deemed to be present at such

meetings and shall be entitled to vote by voice vote at such meetings on all matters to come before the meetings.

Section 14. Number and Term. The initial Board of Directors shall consist of three (3) members. The number of members of the Board of Directors may be increased or decreased from time to time by the majority vote of the Board of Directors, but shall never be less than three (3) nor more than twenty (20). The term of office of all Directors other than the initial members of the Board of Directors shall be one (1) year. The term of office of the initial members of the Board of Directors shall be five (5) years.

Section 15. Resignation. The resignation of a Director shall be effective as of the date of delivery of a written notice to the Board of Directors or at a later date, if specified in the written notice.

#### ARTICLE V MANAGEMENT OF CORPORATION'S ASSETS

The assets of the Corporation shall be held, managed and invested by the Board of Directors, however, at no time may said assets be used or administered other than in furtherance of the Corporation's charitable purposes, within the meaning of Section 501(c)(4) of the Code. All investments of funds of the Corporation shall be first approved by the Board of Directors.

#### ARTICLE VI OFFICERS

Section 1. Officers. The officers of the Corporation shall consist of a President, Vice President (if so desired), Secretary and Treasurer, each of whom shall be elected by the Board of Directors and shall serve until their successors are chosen and qualify. Such other officers and assistant officers and agents as may be deemed necessary may be elected or appointed by the Board of Directors from time to time.

Any two (2) or more offices may be held by the same person. The failure to elect a President, Vice President, Secretary or Treasurer shall not affect the existence of the Corporation. The Board of Directors may elect a Chairman of the Board to preside at its meetings if it sees fit to do so.

Section 2. President. The President of the Corporation shall:

- (1) preside at all meetings of the Corporation in the absence of the Chairman of the Board, if any;
- (2) make all committee appointments;
- (3) be a member ex-officio of all committees; and
- (4) perform all other duties usually pertaining to the office of President.

Section 3. Vice President. If elected, the Vice President of the Corporation shall:

- (1) preside at all meetings of the Corporation in the absence of the Chairman of the Board, if any, and in the absence of the President;
- (2) make all committee appointments in the absence of the President;
- (3) perform any other presidential functions in the absence of the President; and
- (4) perform all other duties usually pertaining to the office of the Vice President.

Section 4. Secretary. The Secretary of the Corporation shall:

- (1) record the minutes of all meetings;
- (2) write up the minutes following the meeting;
- (3) confer with the President for possible omissions;
- (4) send a duplicate copy of the minutes of the Board of Directors to all members of the Board of Directors;
- (5) send a duplicate copy of the minutes of the Members to all Members;
- (6) have custody of the seal of the Corporation;
- (7) give notices of all meetings required by statutes, Bylaws or resolutions;
- (8) take the attendance record at meetings;
- (9) maintain committee reports;
- (10) carry on all necessary correspondence of the Corporation;
- (11) keep an electronic membership book containing, in alphabetical order, the name and address of each Member;
- (12) keep records in accordance with Section 617.1601 of the Florida Statutes; and
- (13) keep a record in the electronic membership book of all resignations, expulsions, suspensions or terminations of membership pursuant to Sections 617.0606 or 617.0607 of the Florida Statutes.

Section 5. Treasurer. The Treasurer of the Corporation shall:

- (1) be custodian of all funds and securities of the Corporation and collect interest thereon;
- (2) keep a record of the accounts of the Corporation and report thereon at each regular meeting of the Board of Directors;
- (3) make a report at the annual meeting and special reports when requested;
- (4) deposit all moneys of the Corporation in the name of FLORIDIANS AGAINST INCREASED RATES, INC. in a financial institution selected and designated by the Board of Directors, subject to withdrawal for authorized purposes upon the joint signatures of the President and either the Vice President or the Treasurer, or joint authorization in writing of the President and either the Vice President or the Treasurer. The Treasurer shall maintain records of such withdrawals and authorizations, including the amount and purpose of each withdrawal, and any such authorization shall be effective for a period of no more than three (3) months without renewal;
- (5) give bond in such amount as the Board of Directors may require, the Corporation to pay the premium for such bond;
- (6) see that all government agency reports and returns are prepared and filed; and

- (7) perform such other duties as may be delegated to the Treasurer by the Board of Directors.

All securities and other valuable papers shall be placed in a safety deposit box or vault, designated by the Board of Directors, which may be opened only upon the joint signatures of the President and either the Vice President or the Treasurer.

The accounts and records shall be audited from time to time by a firm of certified public accountants at the expense of the Corporation.

Section 6. Resignation. The resignation of an officer shall be effective as of the date of delivery of a written notice to the Board of Directors or at a later date, if specified in the written notice.

#### ARTICLE VII FISCAL YEAR

The fiscal year of the Corporation shall be determined by the Board of Directors.

#### ARTICLE VIII DISSOLUTION

Upon the liquidation or dissolution of the Corporation, its assets, if any remain 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 Section 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 IX CONTRACTS, LOANS, CHECKS AND DEPOSITS

Section 1. Contracts. The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

Section 2. Loans. No loans shall be contracted on behalf of the Corporation and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors.

Section 3. Checks, Drafts, etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation shall be signed or approved in writing by the President and either the Vice President, Secretary or Treasurer. The Treasurer shall maintain records of such checks, drafts, or other orders for payment by the Corporation, including the amount and purpose of each payment or signing on behalf of the Corporation, and any such approval shall be effective for a period of no more than three (3) months without renewal. Provided further, in the interest of clarity, all notes or other evidences of indebtedness issued in the name of the Corporation must be approved and signed by the President and either the Vice President, Secretary, or Treasurer.

Section 4. Deposits. All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Board of Directors may select.

ARTICLE X  
LOANS TO DIRECTORS AND OFFICERS

Loans, other than through the purchase of bonds, debentures, or similar obligations of the type customarily sold in public offerings, or through ordinary deposit of funds in a bank, may not be made by the Corporation to its Directors, officers or employees, or to any other corporation, firm, association or other entity in which one or more of its directors, officers, or employees is a Director, officer or employee or holds a substantial financial interest, except a loan by one corporation which is exempt from federal income taxation under Section 501(c)(4) of the Code to another corporation which is exempt from income taxation under Section 501(c)(4) of the Code. A loan made in violation of this Article is a violation of the duty to the Corporation of the Directors or officers authorizing it or participating in it, but the obligation of the borrower with respect to the loan will not be affected thereby.

ARTICLE XI  
PAYMENT OF DIVIDENDS AND  
DISTRIBUTION OF INCOME TO  
DIRECTORS AND OFFICERS PROHIBITED

A dividend may not be paid, and no part of the income or profit of the Corporation may be distributed, to its Directors or officers.

ARTICLE XII  
AMENDMENTS TO THE BYLAWS

The Bylaws of the Corporation shall be initially approved by a majority vote of the Board of Directors, and thereafter may be altered, amended or repealed by a majority vote of the Board of Directors.

ARTICLE XIII  
INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS

Section 1. Action Against Party Because of Corporate Position. The Corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed claim, action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Corporation) by reason of the fact that he is or was a Director, officer, employee, or agent of the Corporation, or is or was serving at the request of the Corporation as a Director, partner, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses (including attorneys' fees inclusive of any appeal), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such claim, action, suit, or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation, and with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct unlawful. The termination of any

claim, action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

Section 2. Action by or in the Right of Corporation. The Corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed claim, action, or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he is or was a Director, officer, employee, or agent of the Corporation, or is or was serving at the request of the Corporation as a Director, partner, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against expenses (including attorneys' fees inclusive of any appeal) actually and reasonably incurred by him in connection with the defense or settlement of such claim, action, or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation and except that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Corporation unless and only to the extent that a court of competent jurisdiction (the "Court") in which such claim, action, or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court shall deem proper.

Section 3. Reimbursement if Successful. To the extent that a Director, officer, employee, or agent of the Corporation has been successful on the merits or otherwise in defense of any claim, action, suit, or proceeding referred to in Sections 1 or 2 of this Article XIII, or in defense of any claims, issue, or matter therein, he shall be indemnified against expenses (including attorneys' fees inclusive of any appeal) actually and reasonably incurred by him in connection therewith, notwithstanding that he has not been successful (on the merits or otherwise) on any other claim, issue, or matter in any such claim, action, suit, or proceeding.

Section 4. Authorization. Any indemnification under Sections 1 and 2 of this Article XIII (unless ordered by the Court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the Director, officer, employee, or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in Sections 1 and 2. Such determination shall be made (a) by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to such action, suit, or proceeding, or (b) if such a quorum is not obtainable, or, even if obtainable, a quorum of disinterested Directors so directs, by independent legal counsel in a written opinion.

Section 5. Advanced Reimbursement. Expenses incurred in defending a civil or criminal action, suit, or proceeding may be paid by the Corporation in advance of the final disposition of such action, suit, or proceeding as authorized by the Board of Directors in the specific case upon receipt of an undertaking by or on behalf of the Director, officer, employee, or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Corporation as authorized in this Article.

Section 6. Indemnification Not Exclusive. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any statute, rule of law, provision of Articles of Incorporation, Bylaws, agreement, vote of disinterested Directors, or otherwise, both as to action in his official capacity and as to action in another capacity, while holding such office, and shall continue as to a person who has ceased to be a Director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of such a person. Where such other provision provides broader rights of indemnification than these Bylaws, said other provision shall control.

Section 7. Insurance. The Corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a Director, officer, employee, or agent of the Corporation, or is or was serving at the request of the Corporation as a director, partner, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Corporation would have the power to indemnify him against such liability under the provisions of this Article.

The foregoing Bylaws were adopted and approved by the Board of Directors of  
FLORIDIANS AGAINST INCREASED RATES, INC.

Dated: \_\_\_\_\_, 2021.

FLORIDIANS AGAINST INCREASED RATES,  
INC.

(CORPORATE SEAL)

\_\_\_\_\_  
Michael R. Hightower, President

Attest:

\_\_\_\_\_  
John Thomas Herndon, Secretary



**R. Wade Litchfield**  
**Vice President & General Counsel**  
**Florida Power & Light Company**  
**700 Universe Boulevard**  
**Juno Beach, FL 33408-0420**  
**(561) 691-7101**

March 12, 2021

**VIA ELECTRONIC FILING**

Adam Teitzman, Commission Clerk  
Division of the Commission Clerk and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Re: Docket No 20210015-EI  
Petition by FPL for Base Rate Increase and Rate Unification

Dear Mr. Teitzman:

Enclosed for filing on behalf of Florida Power & Light Company ("FPL") in the above-referenced docket is FPL's Petition for Base Rate Increase and Rate Unification. This letter includes an index of the documents that we are e-filing today in support of FPL's requested relief.

The testimony and exhibits of FPL's supporting witnesses, which include FPL's 2021 Depreciation Study and 2021 Dismantlement Study, together with the Minimum Filing Requirements and Supplemental Information in MFR Format, and a Request for Confidential Classification, are being filed under separate cover.

Please contact me if you have any questions regarding this submission.

(Document 1 of 69)

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Wade Litchfield', written in a cursive style.

R. Wade Litchfield  
Vice President & General Counsel  
Florida Power & Light Company

RWL:ec

Docket No 20210015-EI  
Petition by FPL for Base Rate Increase and Rate Unification  
Index of Documents  
Page 1 of 4

**PETITION, DIRECT TESTIMONY AND EXHIBITS**

<b><u>Document Number</u></b>	<b><u>Title/Description</u></b>
1	Petition by Florida Power & Light Company for Base Rate Increase and Rate Unification
2	Direct Testimony of Eric Silagy and Exhibits ES-1 through ES-5
3	Direct Testimony of Robert E. Barrett and Exhibits REB-1 through REB-12
4	Direct Testimony of Scott R. Bores and Exhibits SRB-1 through SRB-11
5	Direct Testimony of Liz Fuentes and Exhibits LF-1 through LF-9
6	Direct Testimony of James M. Coyne and Exhibits JMC-1 through JMC-11
7	Direct Testimony of Michael Spoor and Exhibits MS-1 through MS-6
8	Direct Testimony of Thomas Broad and Exhibits TB-1 through TB-9
9	Direct Testimony of Christopher Chapel and Exhibits CC-1 through CC-6
10	Direct Testimony of Robert Coffey and Exhibits RC-1 through RC-6
11	Direct Testimony of Sam Forrest and Exhibits SAF-1 and SAF-2
12	Direct Testimony of Matthew Valle and Exhibits MV-1 through MV-8
13	Direct Testimony of Steven R. Sim and Exhibits SRS-1 through SRS-13
14	Direct Testimony of John J. Reed and Exhibits JJR-1 through JJR-15
15	Direct Testimony of Jun K. Park and Exhibits JKP-1 through JKP-5
16	Direct Testimony of Kathleen Slattery and Exhibits KS-1 through KS-9
17	Direct Testimony of Tiffany C. Cohen and Exhibits TCC-1 through TCC-9
18	Direct Testimony of Tara B. DuBose and Exhibits TBD-1 through TBD-8
19	Direct Testimony of Keith Ferguson and Exhibits KF-1 through KF-8
20	Direct Testimony of Ned W. Allis and Exhibits NWA-1 (Depreciation Study) through NWA-9
21	Direct Testimony of Jeffrey T. Kopp and Exhibits JTK-1 (Dismantlement Study) and JTK-2

Docket No 20210015-EI  
Petition by FPL for Base Rate Increase and Rate Unification  
Index of Documents  
Page 2 of 4

**MINIMUM FILING REQUIREMENTS**

<b><u>Document Number</u></b>	<b><u>Title/Description</u></b>
22	MFRs, 2022 Test Year, Vol. 1 of 8, Section A, Executive Summary
23	MFRs, 2022 Test Year, Vol. 2 of 8, Section B, Rate Base
24	MFRs, 2022 Test Year, Vol. 3 of 8, Section C, Net Operating Income
25	MFRs, 2022 Test Year, Vol. 4 of 8, Section D, Cost of Capital
26	MFRs, 2022 Test Year, Vol. 5 of 8, Section E, Part 1 of 2, Cost of Service and Rate Design
27	MFRs, 2022 Test Year, Vol. 6 of 8, Section E, Part 2 of 2, Cost of Service and Rate Design
28	MFRs, 2022 Test Year, Vol. 7 of 8, Section F, Part 1 of 2, Miscellaneous
29	MFRs, 2022 Test Year, Vol. 8 of 8, Section F, Part 2 of 2, Miscellaneous
30	MFRs, 2023 Subsequent Year Adjustment, Vol. 1 of 8, Section A, Executive Summary
31	MFRs, 2023 Subsequent Year Adjustment, Vol. 2 of 8, Section B, Rate Base
32	MFRs, 2023 Subsequent Year Adjustment, Vol. 3 of 8, Section C, Net Operating Income
33	MFRs, 2023 Subsequent Year Adjustment, Vol. 4 of 8, Section D, Cost of Capital
34	MFRs, 2023 Subsequent Year Adjustment, Vol. 5 of 8, Section E, Part 1 of 2, Cost of Service and Rate Design
35	MFRs, 2023 Subsequent Year Adjustment, Vol. 6 of 8, Section E, Part 2 of 2, Cost of Service and Rate Design
36	MFRs, 2023 Subsequent Year Adjustment, Vol. 7 of 8, Section F, Part 1 of 2, Miscellaneous
37	MFRs, 2023 Subsequent Year Adjustment, Vol. 8 of 8, Section F, Part 2 of 2, Miscellaneous

Docket No 20210015-EI  
Petition by FPL for Base Rate Increase and Rate Unification  
Index of Documents  
Page 3 of 4

**SUPPLEMENT 1 - FPL STANDALONE INFORMATION IN MFR FORMAT**

<b><u>Document Number</u></b>	<b><u>Title/Description</u></b>
38	Supplemental Standalone FPL Information in MFR Format, 2022 Test Year, Vol. 1 of 8, Section A, Executive Summary
39	Supplemental Standalone FPL Information in MFR Format, 2022 Test Year, Vol. 2 of 8, Section B, Rate Base
40	Supplemental Standalone FPL Information in MFR Format, 2022 Test Year, Vol. 3 of 8, Section C, Net Operating Income
41	Supplemental Standalone FPL Information in MFR Format, 2022 Test Year, Vol. 4 of 8, Section D, Cost of Capital
42	Supplemental Standalone FPL Information in MFR Format, 2022 Test Year, Vol. 5 of 8, Section E, Part 1 of 2, Cost of Service and Rate Design
43	Supplemental Standalone FPL Information in MFR Format, 2022 Test Year, Vol. 6 of 8, Section E, Part 2 of 2, Cost of Service and Rate Design
44	Supplemental Standalone FPL Information in MFR Format, 2022 Test Year, Vol. 7 of 8, Section F, Part 1 of 2, Miscellaneous
45	Supplemental Standalone FPL Information in MFR Format, 2022 Test Year, Vol. 8 of 8, Section F, Part 2 of 2, Miscellaneous
46	Supplemental Standalone FPL Information in MFR Format, 2023 Subsequent Year Adjustment, Vol. 1 of 8, Section A, Executive Summary
47	Supplemental Standalone FPL Information in MFR Format, 2023 Subsequent Year Adjustment, Vol. 2 of 8, Section B, Rate Base
48	Supplemental Standalone FPL Information in MFR Format, 2023 Subsequent Year Adjustment, Vol. 3 of 8, Section C, Net Operating Income
49	Supplemental Standalone FPL Information in MFR Format, 2023 Subsequent Year Adjustment, Vol. 4 of 8, Section D, Cost of Capital
50	Supplemental Standalone FPL Information in MFR Format, 2023 Subsequent Year Adjustment, Vol. 5 of 8, Section E, Part 1 of 2, Cost of Service and Rate Design
51	Supplemental Standalone FPL Information in MFR Format, 2023 Subsequent Year Adjustment, Vol. 6 of 8, Section E, Part 2 of 2, Cost of Service and Rate Design
52	Supplemental Standalone FPL Information in MFR Format, 2023 Subsequent Year Adjustment, Vol. 7 of 8, Section F, Part 1 of 2, Miscellaneous
53	Supplemental Standalone FPL Information in MFR Format, 2023 Subsequent Year Adjustment, Vol. 8 of 8, Section F, Part 2 of 2, Miscellaneous

Docket No 20210015-EI  
Petition by FPL for Base Rate Increase and Rate Unification  
Index of Documents  
Page 4 of 4

**SUPPLEMENT 2 - GULF STANDALONE INFORMATION IN MFR FORMAT**

<b><u>Document Number</u></b>	<b><u>Title/Description</u></b>
54	Supplemental Standalone Gulf Information in MFR Format, 2022 Test Year, Vol. 1 of 8, Section A, Executive Summary
55	Supplemental Standalone Gulf Information in MFR Format, 2022 Test Year, Vol. 2 of 8, Section B, Rate Base
56	Supplemental Standalone Gulf Information in MFR Format, 2022 Test Year, Vol. 3 of 8, Section C, Net Operating Income
57	Supplemental Standalone Gulf Information in MFR Format, 2022 Test Year, Vol. 4 of 8, Section D, Cost of Capital
58	Supplemental Standalone Gulf Information in MFR Format, 2022 Test Year, Vol. 5 of 8, Section E, Part 1 of 2, Cost of Service and Rate Design
59	Supplemental Standalone Gulf Information in MFR Format, 2022 Test Year, Vol. 6 of 8, Section E, Part 2 of 2, Cost of Service and Rate Design
60	Supplemental Standalone Gulf Information in MFR Format, 2022 Test Year, Vol. 7 of 8, Section F, Part 1 of 2, Miscellaneous
61	Supplemental Standalone Gulf Information in MFR Format, 2022 Test Year, Vol. 8 of 8, Section F, Part 2 of 2, Miscellaneous
62	Supplemental Standalone Gulf Information in MFR Format, 2023 Subsequent Year Adjustment, Vol. 1 of 8, Section A, Executive Summary
63	Supplemental Standalone Gulf Information in MFR Format, 2023 Subsequent Year Adjustment, Vol. 2 of 8, Section B, Rate Base
64	Supplemental Standalone Gulf Information in MFR Format, 2023 Subsequent Year Adjustment, Vol. 3 of 8, Section C, Net Operating Income
65	Supplemental Standalone Gulf Information in MFR Format, 2023 Subsequent Year Adjustment, Vol. 4 of 8, Section D, Cost of Capital
66	Supplemental Standalone Gulf Information in MFR Format, 2023 Subsequent Year Adjustment, Vol. 5 of 8, Section E, Part 1 of 2, Cost of Service and Rate Design
67	Supplemental Standalone Gulf Information in MFR Format, 2023 Subsequent Year Adjustment, Vol. 6 of 8, Section E, Part 2 of 2, Cost of Service and Rate Design
68	Supplemental Standalone Gulf Information in MFR Format, 2023 Subsequent Year Adjustment, Vol. 7 of 8, Section F, Part 1 of 2, Miscellaneous
69	Supplemental Standalone Gulf Information in MFR Format, 2023 Subsequent Year Adjustment, Vol. 8 of 8, Section F, Part 2 of 2, Miscellaneous

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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

Docket No. 20210015-EI  
Filed: March 12, 2021

**PETITION BY FLORIDA POWER & LIGHT COMPANY  
FOR BASE RATE INCREASE AND RATE UNIFICATION**

Florida Power & Light Company (“FPL or the “Company”), pursuant to the provisions of Chapter 366, Florida Statutes (2020), and Rules 25-6.0425 and 25-6.043, Florida Administrative Code (2021) (“F.A.C.”), representing the merged and consolidated operations of FPL and the former Gulf Power Company (“Gulf”),<sup>1</sup> respectfully petitions the Florida Public Service Commission (“FPSC” or “Commission”) for approval of: (a) base rate increases pursuant to a four-year rate plan modeled after the series of multi-year plans that have served customers exceptionally well over the last 22 years and (b) FPL unified rates for all customers, including those currently served pursuant to the rates and tariffs on file for Gulf, subject to a transition rider and credit intended to reflect initial but diminishing cost of service differences as the two utility systems are combined and operated as one.

FPL has achieved industry-leading performance under a series of six Commission-approved multi-year rate settlements spanning the last 22 years. Each multi-year plan has allowed the Company to focus on providing and improving upon FPL’s outstanding customer value, while also maintaining the strong credit rating and balance sheet that are essential to ensuring customer needs can be met even during periods of capital market volatility. FPL’s proposal in this case is designed to meet the same objectives and to enable the Company to continue to improve operations

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<sup>1</sup> On January 11, 2021, pursuant to Rule 25-9.044, F.A.C., FPL submitted a notice of the change in ownership of Gulf effective January 1, 2021 and FPL’s adoption and ratification of Gulf’s existing rates and tariff on file with the Commission. The former Gulf service area is referred to herein as “Northwest Florida.”

and service.

Specifically, FPL proposes a four-year rate plan to run from 2022 through 2025, consisting of: (i) an increase in rates and charges sufficient to generate additional total annual revenues of \$1,108 million to be effective January 1, 2022; (ii) a subsequent year adjustment of \$607 million to be effective January 1, 2023 (“2023 SYA”); (iii) a Solar Base Rate Adjustment (“SoBRA”) mechanism that authorizes FPL to recover costs associated with the installation and operation of up to an aggregate of 1,788 megawatts<sup>2</sup> (“MW”) of cost-effective solar generation in 2024 and 2025; (iv) a mechanism to address the possibility that changes to corporate tax laws might be enacted under the new presidential administration; (v) the continuation of the reserve surplus amortization mechanism (“RSAM”) that has been an integral part of FPL’s last three multi-year rate plans; (vi) the continuation of the storm cost recovery mechanism approved as part of FPL’s 2016 rate settlement; and (vii) the authority to accelerate amortization of unprotected excess accumulated deferred income taxes resulting from the 2017 Tax Cuts and Jobs Act (“TCJA”). The elements of this multi-year plan are described below in more detail and in the direct testimony of FPL witnesses.

FPL also proposes to maintain its long-standing equity ratio and requests approval of a return on common equity (“ROE”) range of 200 basis points based on an 11.50% midpoint to set rates and for all other purposes. The 11.50% midpoint consists of a base cost of equity of 11.0% and a one-half percent performance incentive that recognizes FPL’s history of delivering superior customer value and encourages continued improvements in the delivery of safe, clean, reliable and affordable electric service.

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<sup>2</sup> All references to solar capacity in this Petition are measured in alternating current.

Customers have benefitted from a sustained period of low bills during the period in which FPL has operated under multi-year settlements. FPL's four-year plan will allow the Company to continue focusing on ways to deliver low-cost electricity. FPL estimates that, through 2025, typical residential customer bills would remain approximately 20% below the projected national average. And, indicative of the value that FPL provides to customers, the typical residential bill in Northwest Florida is projected to decrease by the end of the four-year term.

The testimony and exhibits of FPL's witnesses and the minimum filing requirements ("MFR") and schedules accompanying this Petition, which are incorporated herein by reference, describe the need for rate relief and detail how the consolidation of FPL and Gulf has benefitted and will continue to benefit all customers. In further support of this Petition, FPL states as follows:

**Introduction of Petitioners**

1. Any pleading, motion, notice, order or other document required to be served upon FPL or filed by any party to this proceeding should be served upon the following individuals:

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Vice President and General Counsel, FPL  
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Russell Badders  
Vice President and Associate General Counsel, Gulf  
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(850) 521-3939 (fax)

2. This Petition seeks to initiate proceedings that may involve disputed issues of material fact. This case does not involve reversal or modification of an agency decision or an agency's proposed action. Therefore, paragraph (c) and portions of paragraphs (e), (f) and (g) of Rule 28-106.201(2), F.A.C., are not applicable to this Petition. It is not known which, if any, of the material facts set forth in the body of this Petition, or in the testimony, exhibits, MFRs or schedules filed herewith, may be disputed by others planning to participate in the proceeding initiated by this Petition. All other requirements for petitions filed under Rule 25-106.201, F.A.C., have been met in the body of this Petition.

3. FPL is a corporation with its headquarters located at 700 Universe Boulevard, Juno Beach, Florida, 33408-0420. A wholly owned subsidiary of NextEra Energy, Inc. ("NextEra"), FPL is an investor-owned utility operating under the jurisdiction of this Commission pursuant to the provisions of Chapter 366, Florida Statutes (2020). FPL serves customers throughout much of peninsular Florida and now also serves a significant portion of Northwest Florida. As the provider of electric service in much of the state, FPL represents a major component of Florida's economy. FPL provides electric service to more than 5.6 million customer accounts, or more than half of Florida's homes and businesses.

4. Gulf was acquired by NextEra on January 1, 2019. Gulf was subsequently merged into FPL on January 1, 2021. Following the acquisition, and prior to the legal combination of FPL and Gulf, the two companies began to consolidate their operations. In the 2022 Test Year, FPL and Gulf will be operationally and legally combined and will function as one company in all respects. They will have a common set of generation resources, common operational support for customer service and power delivery, common back office support for accounting, finance,

regulatory, legal and other functions and a common management structure. The cost of service and rates proposed in this filing reflect this consolidation.

5. The terms “FPL” and “Gulf” will be used throughout this Petition and in the accompanying testimony of FPL witnesses. Unless otherwise specifically stated or dictated by context, those references will mean the following:

- In discussing operations or time periods prior to NextEra Energy’s January 1, 2019 acquisition of Gulf, “FPL” and “Gulf” will refer to their pre-acquisition status, when they were legally and operationally separate companies.
- In discussing operations or time periods between the January 1, 2019 acquisition and January 1, 2022 (when consolidation will be essentially complete), “FPL” and “Gulf” will refer to their status as separate ratemaking entities, recognizing that they were merged legally on January 1, 2021 and that consolidation proceeded throughout this period.
- In discussing operations and time periods after January 1, 2022, most references will be only to “FPL” because Gulf will be consolidated into FPL, and FPL is proposing unified rates for the consolidated company. References to “Gulf” thereafter will primarily be to address any rate differentiation between customers in the former FPL and Gulf service areas (also referred to as peninsular and Northwest Florida throughout this Petition).

**FPL Consistently Delivers Superior Value to Customers**

6. FPL has a long history and strong record of making strategic, forward-looking investments that provide its customers long-term savings and superior reliability. Creating this exceptional value is a function of innovative and responsible decision-making. The core strategy

that FPL has executed consistently is comprised of four key elements: (i) a relentless focus on efficiency and productivity; (ii) smart investments that contribute to lower operations and maintenance (“O&M”) expenses, lower fuel costs, lower emissions, better reliability, or otherwise improve customer value; (iii) sound financial policies including a strong balance sheet; and (iv) a willingness to innovate and embrace new ideas, technologies and programs. Today, as a result of executing its core strategy effectively over many years, facilitated by the series of multi-year rate agreements approved by this Commission, FPL provides the best energy value in the nation. FPL continuously performs at an overall level far exceeding that of its peers, ranking as best-in-class or top decile nationally across numerous categories, despite facing a demonstrably greater than average set of challenges.

7. *Transmission and distribution.* FPL consistently has been the top performer among Florida investor-owned utilities in terms of reliability, with the best Transmission and Distribution System Average Interruption Duration Index (“SAIDI”) for the last 15 years. If FPL had been simply an average performer rather than an exceptional one, over the last five years FPL’s customers would have experienced an average interruption duration of 107 minutes – *double* FPL’s actual average service interruption duration of 54 minutes. Notably, in the two years following the acquisition of Gulf by NextEra, Gulf’s SAIDI improved by 50% compared to its pre-acquisition level.

8. *Fossil/Solar fleet.* FPL’s strong fossil/solar fleet performance continues to produce significant customer savings. The average heat rate of FPL’s non-nuclear generation fleet in 2019 was 7,070 Btu/kWh compared to an industry average of 9,476 Btu/kWh. This means that the industry’s generation on average is 34% less efficient than FPL’s fleet, a fact that has translated into substantial savings for FPL customers. Indeed, FPL’s heat rate improvements since 2001

have saved customers approximately \$11 billion cumulatively in fuel costs. Additionally, FPL's generation fleet performance has been best-in-class in terms of forced outages in nine of the last 10 years and has ranked in the top decile in availability in six of those years. This means that FPL customers receive power more often from highly efficient generation, thereby compounding the fuel savings while also reducing emissions. Already, with improvements to the generation resources in Northwest Florida, Gulf customers are benefitting from an improved heat rate that is 10% lower than when Gulf was acquired in 2019.

9. *Nuclear performance.* FPL's nuclear generation has produced over \$20 billion in fuel savings over the past 20 years when compared to the natural gas/fuel oil cost equivalent. These cost savings are passed directly to FPL customers through lower Fuel and Purchased Power Cost Recovery Clause charges. FPL's nuclear fleet also has shown steady improvements in capacity factor and availability measures since 2013 and remains a key element in FPL achieving a favorable air emissions profile. Also, in late 2019, FPL became the first utility ever to receive a subsequent nuclear license renewal from the Nuclear Regulatory Commission.

10. *Clean energy.* With a generating fleet that produces over 95% of its electric power from natural gas combined-cycle, solar, and nuclear resources, FPL is a clean-energy company. In fact, FPL has one of the lowest emission profiles among major U.S. utilities, having reduced its air emission rates since 1990 by 45% for carbon dioxide, 98% for nitrogen oxides, and nearly 100% for sulfur dioxides. With the Commission's support of FPL's SoBRA mechanism and the recently approved SolarTogether Program, FPL now leads the industry as the utility owner and operator having the most large-scale solar in the United States. Gulf likewise has been improving its emissions profile since being acquired by NextEra. The coal-to-gas fuel conversion at the Gulf Clean Energy Center (formerly Plant Crist) reduces the plant's carbon dioxide emission rates by

over 40%. And, Gulf's first owned and operated large-scale solar energy center went into service April 1, 2020, with two additional sites in development for commercial operation in 2021.

11. *Customer Service.* FPL has been recognized for outstanding customer satisfaction in several independent national surveys. In 2020, FPL was ranked first in residential and second in business electric utility customer satisfaction among peer utilities in the U.S. south region by J.D. Power,<sup>3</sup> and it was ranked No. 1 in customer experience compared to the top 25 U.S. electric providers based on customer service, reliability and price. In 2019, FPL was designated a "Customer Champion" for the sixth consecutive year, a recognition of service satisfaction based on a survey of utility customers by Escalent, a leading nationwide research firm. In 2018, FPL was recognized as delivering the best customer experience in the utility industry, according to a cross-industry customer experience benchmark study. Gulf's customer service since acquisition has improved markedly, with a 70% improvement in the average time it takes for a customer to speak to a representative.

12. *Low, stable rates.* FPL's residential, commercial and industrial bills have been among the lowest bills in the state and the nation for over a decade. Compared to the 20 largest investor-owned utilities in the country, by number of customers, FPL's typical 1,000 kWh residential bill is the lowest and is more than 40% below the group's average. Even with the rate increases requested in this proceeding, FPL's typical residential bill will remain significantly below the projected national average. In fact, the typical residential bill in Northwest Florida will be lower by the end of the four-year rate plan.

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<sup>3</sup> <https://www.jdpower.com/business/press-releases/2020-electric-utility-residential-customer-satisfaction-study>; <https://www.jdpower.com/business/press-releases/2020-electric-utility-business-customer-satisfaction-study>

13. The value and importance of FPL's core strategy and long-term planning has become especially apparent in recent months, when other areas of the country are facing daunting infrastructure problems and a shortage of reliable generation capacity. Even during market disruptions and economic downturns, FPL has maintained its long-term perspective, continuing to make smart investments in our infrastructure and building a system that will provide long-term benefits to customers in terms of both reliability and low bills. A couple of key examples include (i) FPL's investments in grid modernization that have resulted in a highly resilient grid that significantly enhanced storm restoration during a record-breaking 2020 storm season, and (ii) FPL's ongoing investment in solar energy, which improves fuel diversity and mitigates the impact of supply shortages and disruptions.

#### **Gulf's Integration into the FPL Family**

14. From the day it joined the FPL family, Gulf began integrating into its operations the management philosophies and investment practices that have resulted in FPL's industry-leading value. Execution of this business plan at Gulf in the two years since acquisition already has resulted in improved reliability and customer service, reduced emission rates and significant cost savings for customers in Northwest Florida.

15. Gulf also has achieved substantial reliability improvements in the two years following its acquisition by NextEra Energy. In 2020, Gulf achieved its best-ever FPSC Transmission and Distribution SAIDI and FPSC Distribution Momentary Average Interruption Frequency Event Index, with scores that are 50% and 30%, respectively, better than in 2018.

16. Also, since the acquisition, Gulf has realized a 90% improvement in its generation Equivalent Forced Outage Rate and an 18% reduction in carbon emissions.

17. The North Florida Resiliency Connection (“NFRC”), a 176-mile transmission line that will connect peninsular and Northwest Florida electrically, will strengthen Florida’s transmission system and will allow FPL to optimize for all its customers the dispatch of a broader array of resources available throughout the state. This optimization will allow for increased siting flexibility with an opportunity to improve firm capacity values of solar, increase fuel diversity, reduce emissions, and reduce the resources necessary to maintain a combined 20% reserve margin requirement. FPL projects system benefits of approximately \$1.53 billion as a result of generation upgrades already underway, the NFRC, and the ability to plan for and dispatch from a common fleet of generation resources.

18. Prior to 2019, Gulf had performed at average or below-average cost efficiency levels compared to its peers. In the two years since being acquired by NextEra, Gulf already has made significant strides forward in its cost efficiency metrics for customer expense, distribution O&M expense, non-fuel production O&M expense and total non-fuel O&M expense. Continuation of this improved level of performance is expected to reduce Gulf’s annual O&M expense in 2022 by \$86 million, a 33% reduction compared to Gulf’s pre-acquisition costs and savings that are reflected in the revenue requirement calculations submitted in this case.

19. The merger and consolidation of FPL and Gulf operations are producing substantial benefits. Altogether, the merger and consolidation are projected to produce more than \$2.8 billion in savings (cumulative present value revenue requirements, “CPVRR”) that will benefit all customers, in addition to the improvements in reliability, customer service and lower emissions that directly benefit customers in Northwest Florida.

### **Rate Unification**

20. To reflect the common set of operations from a single utility system, FPL requests authority to cancel the existing Gulf tariffs that FPL has adopted and to unify the rates and tariffs applicable to all customers in peninsular and Northwest Florida. Through a combined financial forecast and a common cost of service, FPL's proposal will appropriately allocate costs and benefits for all customers of the combined system. Unified rates will reflect the reality that customers are receiving service from one functionally integrated company and from a common set of assets and employees, without geographical distinction between former FPL and Gulf service areas.<sup>4</sup>

21. Customers also will benefit from the efficiency and simplified rate administration that can be achieved only through a unified rate structure. Where FPL and Gulf otherwise would require separate regulatory proceedings, a single company with unified rates will require only one. For example, rate unification will eliminate the need for each company to have separate base rate and cost recovery clause proceedings, demand side management goals and plans, earnings surveillance reports, securities applications, annual reports, and other requirements. Rate unification also will eliminate the need to record intercompany charges, affiliate transactions, and the associated intercompany agreements and audits.

22. In connection with rate unification, FPL proposes a transition rider that will be charged to Northwest Florida customers and credited to peninsular Florida customers under a

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<sup>4</sup> Combined clause structures also follow logically from consolidation and a common cost of service. In the 2021 clause proceedings, FPL will request approval of new unified clauses and factors so that, subject to the Commission's decision on unified rates, peninsular and Northwest Florida customers will have the same base rates and the same clause rates effective January 1, 2022.

consolidated rate structure. Calculated based on the system average rate differential in 2021, the temporary transition rider/credit is designed to avoid undue or unreasonable preference of one locality over another while also considering initial historical differences in the cost to serve peninsular and Northwest Florida.<sup>5</sup> The transition rider/credit would decline to zero ratably over a five-year period, reflecting the diminishing ability to reach objectively defined allocations of costs among customers located in one part of the state versus another, who are served by one functionally integrated company and from a common set of assets and employees, without geographical distinction.

**FPL's Cost Control Activities Have Mitigated the Requested Base Rate Increase**

23. FPL's productive efficiency is second to none, consistently ranking best-in-class for at least the past 10 years compared to all Florida utilities, large utilities nationally, and the Straight Electric Group.<sup>6</sup> FPL has been particularly strong in controlling its total non-fuel O&M expenses, a category that covers all four primary operating functions (generation, transmission, distribution, and customer service) and includes all administrative and general functions. In 2019, FPL's annual non-fuel O&M expense was *\$2.6 billion less* than an "average" utility, which means an average FPL residential customer saved nearly \$300 per year compared to customers of an average performing utility.

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<sup>5</sup> The storm restoration costs associated with Hurricanes Michael and Sally will be excluded from the 5-year transition rider and retained by the customers in Northwest Florida until the costs are fully recovered. Additionally, any potential hurricane expenses incurred in 2021 during which time FPL and Gulf remain separate ratemaking entities will be retained by customers in the original service territory.

<sup>6</sup> As employed in the analysis performed by FPL witness Reed, "large utilities" consist of 10 large electric utility holding companies with at least two million electric customers and net generation comprising 45% or more of total energy sales. The "Straight Electric Group" is a peer group of companies with electric-only utility operations that have at least 450,000 customers and which own generating resources.

24. Based on FPL’s long-standing superior O&M performance, FPL projects a *further reduction* in O&M-related revenue requirements in 2022 of \$224 million compared to its 2018 actual base O&M benchmark, adjusted for inflation and customer growth. Project Accelerate – FPL’s efficiency identification program – has been an important catalyst in driving lower operating costs.

#### **FPL’s Four-Year Plan**

25. FPL proposes a four-year plan that will serve as a platform for continued superior performance that meets the increasing expectations of its customers for high reliability, low bills, clean energy leadership, and overall outstanding service. The plan is modeled after several Commission-approved multi-year rate settlements that have provided FPL customers with a long-standing framework for rate stability and certainty, while at the same time enabling FPL to maintain a strong credit rating and balance sheet necessary for the Company to consistently raise capital on attractive terms. This financial stability has allowed FPL to focus on executing its strategy of making smart, long-term investments and identifying cost control measures, all while successfully weathering multiple major storms, global financial crises and the COVID-19 pandemic.

26. By Order No. PSC-16-0560-AS-EI, the Commission approved FPL’s most recent multi-year rate plan (“FPL’s 2016 Rate Settlement”), acknowledging that FPL was providing excellent service and concluding that the settlement “will allow FPL to maintain the financial integrity necessary to make the capital investments over the next four years required to sustain this level of service while providing rate stability and predictability for FPL’s customers.” Order No.

PSC-16-0560-AS-EI, at 4. Following the Commission's approval of the 2016 Rate Settlement,<sup>7</sup> FPL continued its philosophy of continuous improvement and has been able to surpass its prior performance by, among other things: (i) further lowering O&M costs; (ii) making important infrastructure investments to support growth; (iii) reducing future costs by retiring interests in uneconomic contracts; (iv) lowering emissions below 2016 levels; (v) improving system fuel efficiency; and (vi) continuing to strengthen the system to improve reliability and to better withstand and restore service due to bad weather. Financial strength, stability, flexibility and the ability to focus on identifying customer-benefitting investments over the settlement period made these achievements possible.

27. FPL's four-year rate plan is largely a continuation of key elements featured in its last three multi-year settlements, with additional components that support long-term rate stability. The proposal consists of unified rates that provide an increase in total annual revenues of \$1,108 million beginning January 1, 2022 and \$607 million beginning January 1, 2023. FPL's four-year rate plan includes a SoBRA mechanism that would allow FPL to adjust rates in 2024 and 2025 for the limited purpose of recovering the reasonable costs associated with 894 MW of cost-effective solar in each of those years, and it includes a mechanism to address a potential change in tax law. To defer additional general base rate increases until 2026, FPL requests continuation of its RSAM and approval of the associated RSAM-adjusted depreciation rates and approval of accelerated amortization of unprotected excess accumulated deferred income taxes. The four-year plan also

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<sup>7</sup> The minimum term of the 2016 Rate Settlement was four years. However, by aggressively controlling expenses and by utilizing the current agreement's Reserve Surplus Amortization Mechanism, FPL was able to continue operating under that multi-year Settlement for a fifth year (*i.e.*, through the end of December 2021).

requests continuation of the storm cost recovery mechanism adjusted to reflect the consolidation of FPL and Gulf.

28. Foundationally, FPL also requests the continuation of the well-established financial policies that have served as the foundation for FPL's successful strategy that delivers exceptional customer value. Specifically, FPL requests continued use of its historical capital structure and an ROE of 11.5% which is comprised of an 11.0% midpoint to reflect market conditions and a one-half percent performance incentive to recognize FPL's superior management performance and encourage FPL to maintain excellent customer value for years to come.

**FPL Consistently Has Delivered Low Customer Bills**

29. FPL's residential, commercial and industrial bills have been among the lowest in the state and the nation for over a decade. FPL's typical residential bill is 10% lower today than it was fifteen years ago and is currently approximately 10% below the state average and approximately 30% below the national average. Additionally, based on the 20 largest investor-owned utilities in the country, ranked by number of customers, FPL has the lowest residential bill and is more than 40% below the average.

30. FPL's commercial and industrial ("CI") customers and small business customers also have benefitted from low bills. Over the past 15 years, typical CI bills have *decreased* by a range of 14% to 19%, currently ranking 7% to 24% below the state average and 18% to 45% below the national average.

31. FPL will be positioned to remain a superior value provider under the proposed four-year plan. The five-year compound annual growth rate of the typical residential bill from January 1, 2021, through the end of the four-year rate proposal on December 31, 2025, is projected to be approximately 3.4% for peninsular Florida customers. For customers in Northwest Florida, the

current typical residential bill will decrease by an annual average of about 0.9% over that same time frame, even with the transition rider. Assuming other utilities experience bill increases at only their historical rates of increase, typical residential bills for customers in peninsular and Northwest Florida would remain below the projected national average by 20% and 15%, respectively.

### **Test Years and Supporting MFRs**

32. *Test years.* FPL has provided its forecasts of 2022 and 2023 for use in this proceeding. The Company proposes that new unified rates be effective January 1, 2022, at a level sufficient to cover the Company's projected revenue requirements in 2022. Accordingly, 2022 should be the test year for FPL's 2022 Base Rate Increase in order to best reflect the revenues, costs and investment during the year in which those new rates are proposed to go into effect.

33. Pursuant to Section 366.076(2), Florida Statutes and Rule 25-6.0425, F.A.C., the Commission "may in a full revenue requirements proceeding approve incremental adjustments in rates for periods subsequent to the initial period in which the new rates will be in effect." FPL proposes that the rates resulting from the 2023 SYA be effective January 1, 2023. Accordingly, 2023 should be the test year for the 2023 SYA.

34. Use of the 2022 and 2023 Test Years is fully consistent with Commission rule, Commission precedent, and Florida law. Rule 25-6.140(1)(a), F.A.C., requires that a company notify the Commission of its selected test year and expressly contemplates that a utility may use a projected test year. Moreover, the Commission has long held that the use of projected test years is appropriate, and the Supreme Court of Florida has recognized that the Commission has the authority to do so. *See, e.g., Southern Bell Tel & Tel. Co. v. Public Serv. Comm'n*, 443 So. 2d 92, 97 (Fla. 1983). The Court "long ago recognized that rates are fixed for the future and that it is

appropriate for [the Commission] to recognize factors which affect future rates and to grant prospective rate increases based on these factors.” *Citizens v. Fla. Pub. Serv. Comm’n*, 146 So. 3d 1143, 1157 n.7 (Fla. 2014) (quoting *Floridians United for Safe Energy, Inc. v. Pub. Serv. Comm’n*, 475 So. 2d 241, 242 (Fla. 1985)).

35. *Minimum filing requirements.* The MFRs that FPL submits herewith for both the 2022 and 2023 test years reflect full consolidation of operations of the two formerly separate utilities. In addition to the 2022 and 2023 Test Years, this filing includes the MFRs that provide forecasted information for 2021 as the Prior Year and 2020 as the Historical Year consistent with the Commission’s filing requirements and as approved by Order No. 2020-0312-PAA-EI in Docket No. 20200182 (consuming Order No. PSC-2020-0351-CO-EI).

36. Preparation of the MFRs and the budgets that underlie them involved a forecasting and planning process that was subject to a level of scrutiny necessary to ensure reliability for use in setting rates. Internal and external subject matter experts provided inputs and processed data through financial models widely used in the industry.

### **2022 Base Rate Increase**

37. FPL’s proposed 2022 base rate increase is needed to address increased revenue requirements since 2018, the test year last used for establishing base rates, due to the factors detailed below.

#### **A. Major Factors Necessitating a Rate Increase and Estimate of Revenue Requirements**

38. The primary drivers of the change in revenue requirements are: (i) capital investment initiatives that support system growth, increased reliability, storm hardening not included as part of the Storm Protection Plan Cost Recovery Clause and generation investments

which provide long-term economic benefits to customers; (ii) the change in the weighted average cost of capital (“WACC”); (iii) the impact of inflation and customer growth; (iv) the impact of the amortization of the Reserve Amount authorized by the 2016 Rate Settlement that partially offsets the growth in base revenue requirements; (v) productivity gains that also partially offset the growth in base revenue requirements; (vi) adoption of RSAM-adjusted depreciation rates that also partially offset the growth in base revenue requirements; and (vii) revenue growth that also partially offsets the growth in base revenue requirements. Each of these drivers will be discussed individually, and they are summarized as follows:

39. *Capital initiatives.* The projected increase in FPL’s 2022 retail rate base compared to FPL’s and Gulf’s 2018 rate base is primarily a result of capital investments that support reliability improvements, generation upgrades, system growth and regulatory compliance. The importance of these investments to the state of Florida has been underscored by the challenges from COVID-19, another historic hurricane season and the near catastrophic failures that occurred recently in Texas.

a. *Power Delivery reliability.* FPL plans to deploy innovative smart grid technology to prevent outages and reduce restoration time. Additionally, to ensure the continued reliable performance of the electric system in Florida, FPL is rebuilding its 500kV transmission structures, the majority of which were originally built in the 1970s and 1980s, with stronger, more durable galvanized steel poles.

b. *Generation upgrades.* FPL is undertaking several generation projects, each one providing long-term benefits in the form of lower costs and improved reliability for customers, including but not limited to:

i. *Solar*. Building upon the successes facilitated by this Commission’s constructive approach to solar, FPL continues its industry leading solar development in both peninsular and Northwest Florida. In addition to the solar constructed through the SoBRA Mechanism approved as part of FPL’s 2016 Rate Settlement and the Commission-approved SolarTogether program, FPL will have invested in the construction of three cost-effective 74.5 MW solar facilities in Northwest Florida, one that entered service in December 2020 and two that are estimated to enter service at the end of 2021. Six additional cost-effective 74.5 MW solar facilities located in peninsular Florida are projected to enter service by January 2022, all advancing FPL’s clean energy initiatives and providing significant long-term system savings for customers including immediate fuel savings when the units enter service;

ii. *Dania Beach*. In mid-2022, FPL will place in service its Dania Beach Clean Energy Center, a 1,160 MW combined cycle unit that will provide necessary and efficient baseload generation in the critical South Florida load pocket, as recognized by the Commission in its order<sup>8</sup> approving the need for construction of the unit.

iii. *Manatee (solar+battery)*. FPL is retiring its two steam-based generating units at the Manatee facility and constructing the world’s largest integrated solar-powered battery storage system, continuing its successful strategy

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<sup>8</sup> Order No. PSC-2018-0150-FOF-EI, issued March 19, 2018.

of replacing older plants that are expensive to maintain with clean and efficient new generation that produces significant customer savings.

iv. *Northwest combustion turbines.* FPL also is installing four combustion turbine (“CT”) units in Northwest Florida to meet reliability needs. The CTs will allow for unanticipated system peaks and for quick start generation in the Northwest load pocket.

c. *Capital requirements for growth.* From 2018 through 2022, FPL estimates that it will have added nearly 292,000 new customers and consequently will invest in distribution and transmission infrastructure to support system growth, changing load patterns and the addition of new service accounts.

d. *Storm hardening.* FPL has made significant base rate investments in storm hardening since its last test year. Capital expenditures for storm protection assets incurred after January 1, 2021 will be recovered through the Storm Protection Plan Cost Recovery Clause, but the storm hardening investments made in 2019 and 2020 will continue to be recovered through base rates.

e. *Regulatory compliance.* FPL will incur regulatory compliance costs associated with increased North American Electric Reliability Corporation (“NERC”) and Federal Energy Regulatory Commission (“FERC”) reliability requirements, NERC cybersecurity requirements, Nuclear Regulatory Commission requirements, and facility relocations required by state agencies and local municipalities.

40. *Change in weighted average cost of capital.* The 2022 requested rate of return is slightly higher than the rate of return earned in 2018, largely due to a reduction in the proportion of deferred income tax balances as a result of the 2017 TCJA.

41. *Inflation and customer growth (O&M).* Based on changes to the Consumer Price Index (“CPI”), inflation will have added 6.3% to the cost of goods and services in 2022 relative to 2018. Additionally, FPL’s customer base is projected to grow 5.4% cumulatively during that period, calling for additional O&M expenditures to support this growth.

42. The following factors reduce FPL’s costs, thereby reducing the 2022 Test Year revenue requirements:

a. *Reserve Amortization.* The 2016 Rate Settlement allowed FPL to amortize up to \$1.25 billion of the Reserve Amount, allowing the Company to offset variability in operating costs and revenues while continuing to invest in capital projects that provide long-term customer benefits and maintaining an appropriate earned ROE. Flexible amortization of the Reserve Amount in 2018 resulted in higher depreciation expense compared to the 2022 Test Year, thereby reducing the 2022 Test Year revenue requirements in comparison.

b. *O&M Productivity.* FPL is projecting a reduction in base O&M in 2022 compared to its 2018 benchmark level. As described above, FPL’s non-fuel O&M per kWh cost position already was best-in-class at the time of FPL’s last rate case in 2016. The improvements made through FPL’s Project Accelerate program resulted in further improvements, and, through its four-year rate plan, FPL expects to retain its best-in-class standing. Ongoing productivity improvements enable FPL to mitigate inflation-related increases and help keep FPL’s costs among the lowest in the industry, a benefit that flows to customers.

c. *RSAM depreciation parameters.* FPL’s four-year rate plan includes the adoption of the RSAM, which is facilitated by changes to depreciation parameters.

Application of the RSAM-adjusted depreciation rates reduce the 2022 revenue requirements compared to the revenue requirements derived from the application of depreciation rates that are not adjusted for RSAM.

d. *Revenue growth.* FPL is projected to have higher retail sales in 2022 than in 2018, resulting in an increase in retail base revenues. Other base revenues also are projected to increase. This revenue growth results in a corresponding decrease to revenue requirements.

**B. Resulting Revenue Deficiency**

43. FPL's requested 2022 Base Rate Increase is \$1,108 million. Absent a rate increase in 2022, FPL's projected earned ROE falls to 8.4%, which is well below the bottom end of the existing authorized range for ROE and the ROE proposed by FPL.

**2023 Subsequent Year Adjustment**

44. A 2023 base rate adjustment is needed to address increased revenue requirements primarily due to additional investments in projects that will not have been completed by the end of 2022 and thus not fully reflected in the 2022 test year.

**A. Major Factors Necessitating a Rate Increase and Estimate of Revenue Requirements**

45. FPL's proposed 2023 SYA reflects the increase in revenue requirements from 2022 to 2023. The primary drivers of the increase in revenue requirements in 2023 are: (i) capital investment initiatives for solar generating facilities, system growth, increased reliability and enhancements to our combined cycle fleet; (ii) the impact of inflation and customer growth; (iii) an increase in the weighted average cost of capital; and (iv) revenue growth that partially offsets the increase in revenue requirements.

46. *Capital initiatives.* FPL continues to invest in projects that support system growth and provide long-term customer benefits such as O&M cost savings, increased system efficiency, fuel and emissions savings, and improved system reliability. Included within these initiatives are:

a. *Solar.* In 2023, FPL will install 10 cost-effective 74.5 MW solar facilities.

b. *Capital power delivery infrastructure for growth.* FPL will invest in transmission and distribution infrastructure needed to support the addition of 68,000 new customers during 2023.

c. *Reliability improvements.* FPL will continue to make capital investments necessary to provide superior reliable service to customers through the continued rebuild of the 500kV transmission system, further deployment of smart grid technology and system reliability initiatives that reduce outages and restoration time.

d. *Combined cycle fleet enhancements.* The 2023 SYA revenue requirements include the remaining five months of the first-year revenue requirement for the Dania Beach Clean Energy Center, as well as the costs for upgrades to the combined cycle fleet designed to further improve the system heat rate, which provides long-term economic benefits to customers.

47. *Inflation and customer growth.* The CPI projection indicates that goods and services will cost 0.8% more in 2023 compared to 2022. In addition, as noted above, the Company projects to add an additional 68,000 customers in 2023, again requiring additional O&M expenditures to support the 2023 growth.

48. *Change in weighted average cost of capital.* The 2023 WACC is slightly higher than the 2022 weighted average cost of capital. The difference is attributable primarily to the

continued amortization of excess deferred income taxes and an increase in the long-term cost of debt.

49. *Revenue growth.* FPL projects a modest growth in sales in 2023, which will partially offset the increase in revenue requirements.

#### **B. Resulting Revenue Deficiency**

50. FPL's requested base revenue increase for 2023 is \$607 million after fully accounting for the requested \$1,108 million in 2022. This amount reflects RSAM-adjusted depreciation rates, consistent with FPL's four-year rate plan. Absent both the 2022 Test Year and 2023 Subsequent Year requested base rate relief, the 2023 jurisdictional adjusted ROE is projected to be 7.03%. With FPL's requested base relief for 2022 but absent rate relief for 2023, the 2023 ROE is projected to be 157 basis points below the requested ROE.

#### **Transition Rider and Credit**

51. As explained above, consolidating FPL and Gulf produces approximately \$2.8 billion (CPVRR) in incremental savings that will be reflected in the combined cost of service beginning in 2022. However, to address initial cost of service differences between FPL and Gulf, FPL proposes a five-year declining transition rider that would be applied to customers in Northwest Florida with an offsetting declining transition credit that would be applied to peninsular Florida customers.

52. The transition rider, which would decline to zero ratably over a five-year period, represents the difference in the overall system average costs between FPL and Gulf for base rates and all clauses including fuel, capacity, environmental, conservation, and storm protection in 2021, the year before proposed rate unification. For 2021, the retail system average rate ("Average Rate"), defined as total operating revenue per MWh, is projected to be \$91.36 for FPL, \$111.32

for Gulf, and \$93.12 for the consolidated system. All else equal, this means FPL's Average Rate would increase \$1.76 per MWh, which when multiplied by the forecasted 2021 sales yields a transition rider of \$197.3 million that will be charged to Northwest Florida customers and credited to peninsular FPL customers under unified rates. Both the transition rider and credit will step down ratably as set forth in MFR E-14 Attachment 1. The relative bill impacts of the transition rider and credit are referenced in Exhibits TCC-3 and TCC-4 filed with the testimony of FPL witness Tiffany C. Cohen, which include projected bill impacts for the typical residential 1000 kWh bill in peninsular and Northwest Florida over the term of the multi-year rate plan.

53. The proposed five-year step-down period for the transition rider and credit is reasonable taking into consideration the overall system benefits of consolidation that will bring value to all customers as well as the increasing difficulty in identifying cost of service differences and objectively allocating costs among customers served by the same combined utility system. Accordingly, any rationale or methodology for allocating "historic" costs would be inherently subjective, particularly as time passes, and thus tenuous at best. The diminishing transition rider and credit will reflect the reality that customers are receiving service from one functionally integrated company and from a common set of assets and employees, without geographical distinction (in the same way FPL customers in communities with varying degrees of cost to serve across disparate parts of the state are treated today) through payment of consolidated, equally applicable rates.

#### **Solar Base Rate Adjustments**

54. The SoBRA mechanism proposed as an essential part of FPL's four-year plan is largely an extension of the provision approved in its 2016 Rate Settlement, which allowed the installation of approximately 1,200 MW of cost-effective solar in Florida that generate \$172

million in projected customer savings and will avoid millions of tons of emissions for years to come. Recovery of the incremental base revenue requirements for new cost-effective solar generation in 2024 and 2025 is essential to defer the need for a general base rate increase in those years. The application of the SoBRA mechanism is set forth in detail in FPL witness Barrett's Exhibit REB-12.

55. FPL requests authority to seek cost recovery for up to 894 MW of solar placed in service in 2024 and an additional 894 MW placed in service in 2025.<sup>9</sup> The cost of the components, engineering and construction to be recovered for any solar project constructed pursuant to the SoBRA mechanism during these years must be reasonable, and the total cost eligible for SoBRA recovery will be capped at \$1,250 per kW. This cost cap is 30% lower than the maximum cost allowed under FPL's 2016 Rate Settlement.

56. Implementation of SoBRAs requested under FPL's current proposal would be the same as the process approved as part of its 2016 Rate Settlement. FPL will file its request in the Fuel and Purchased Power Costs Recovery Clause Docket, where it must demonstrate cost-effectiveness, that the project is below the cost cap, and appropriately calculate the revenue requirement and associated increase in base rates. FPL might also have the ability to deploy some of the 2024 and 2025 SoBRA projects with battery storage, subject to demonstrating that the total project cost cap was not exceeded and that solar plus storage was cost effective compared to solar without storage. Like the SoBRA mechanism and generation base rate mechanisms of the past, FPL will provide customers a true-up refund and prospective base rate reduction if the actual

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<sup>9</sup> To the extent that FPL receives approval for SoBRA recovery of less than 894 MW in 2024, the surplus capacity can be carried over to the following year. For example, if FPL seeks approval for 850 MW in 2024, then it may seek approval for up to 938 MW (894 + 44) in 2025.

capital expenditures are less than the projected costs used to develop the initial SoBRA factor. The SoBRA mechanism is described in greater detail in the accompanying testimony and in Exhibit REB-12 filed with the testimony of FPL witness Robert E. Barrett.

### **Tax Reform**

57. The Biden administration has proposed tax reform. If new tax laws are passed, FPL requests that the impact of tax reform be handled through subsequent base rate adjustments. Specifically, within 90 days of the enactment of the new tax law, FPL would submit the calculation of the required change in base rates to the Commission for review.<sup>10</sup> In no instance will FPL defer incremental income tax expense for 2021 or request the tax-related base rate adjustment be implemented before January 1, 2022.

58. For both 2022 and 2023, the impact of the tax law change would be measured as the difference in revenue requirements calculated using current tax laws and revenue requirements calculated under the new tax law. If the new tax law were not enacted until after 2023, FPL would use the 2023 calculation to determine the amount of the one-time base rate adjustment.

59. For the time period between the effective date of the new tax law (but no earlier than January 1, 2022) and the implementation of new base rates, FPL would defer the impact of new tax law to the balance sheet for collection through the Capacity Cost Recovery Clause in the subsequent year. Any difference between actual income tax expense and the amount on which the tax-related base rate adjustment was based would be recorded in net operating income and reflected in FPL's earnings surveillance reports for all periods.

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<sup>10</sup> If timing permits, FPL will submit a revised revenue requirement calculation for Commission consideration as part of FPL's base rate request.

60. FPL also proposes to address deficient or excess deferred income taxes that may arise from a change in tax law by deferring them to a regulatory asset or liability on the balance sheet and included within FPL's capital structure. If the new tax law continued to prescribe the use of the Average Rate Assumption Method, FPL would flow back or collect the protected deferred income taxes over the underlying assets' remaining life to ensure compliance with Internal Revenue Service normalization rules. If the tax law did not specify any required treatment, however, FPL proposes to flow back or collect the unprotected deferred income taxes over a 10-year period, consistent with the Commission's Order No. PSC-2019-0225-FOF-EI.

#### **Capital Structure and ROE**

61. For more than 15 years, FPL has employed a set of core financial policies that have emphasized financial strength and discipline for the benefit of customers. FPL's financial strength, made possible by support from this Commission, has enabled its ability to make strategic investments to improve customer value, while delivering competitive returns that encourage investors to continue to provide the capital needed to further improve the customer value proposition.

62. Maintaining a strong financial position under all market conditions, good and bad, is especially important for an essential service provider with an obligation to serve. The pandemic-driven recession following the outbreak of COVID-19 as well as recent events in Texas have underscored the critical role that utilities play in all aspects of daily life, commerce and government. FPL's liquidity and appropriate capital structure supported FPL's ability not only to keep the lights on, but also to offer assistance to customers when they needed it the most, to access capital under terms that benefit customers and to continue making investments that modernize its fleet and provide customers with sufficient, highly reliable, clean, low-cost power. FPL seeks to

continue those financial policies, updated to reflect today's market conditions, so that FPL's ability to continue delivering exceptional value remains in place over the next four years.

63. The Supreme Court of the United States has determined that a reasonable and adequate ROE is one that is commensurate with returns that would be earned on investments with corresponding risks and "should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain and attract capital." *Federal Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944). Absent rate relief, the Company projects that it would earn a substandard ROE that falls well below the level needed to "assure confidence in [FPL's] financial integrity . . . so as to maintain and attract capital" and thus fail the test prescribed in *Hope*.

64. *Capital structure.* FPL requests the continuation of FPL's regulatory capital structure that includes a 59.6% equity ratio based on investor sources (48.03% based on all sources). FPL has maintained its equity ratio generally around the 59-60% level for more than two decades, and this has been vital to sustaining the overall financial strength that has served customers well.

65. FPL's proposed capital structure also is consistent with Commission precedent, which provides that the capital structure used for ratemaking purposes should bear an appropriate relationship to the utility's actual sources of capital. *See e.g.*, Order No. PSC-10-0153-FOF-EI, *Petition for Increase in Rates by Florida Power & Light Company* (Mar. 17, 2010) (approving FPL's requested equity ratio, noting that it was "consistent with the relative level of equity FPL has maintained, on an adjusted basis, over the past decade"); Order No. 850246-EI, *Petition of Tampa Electric Company for Authority to Increase its Rates and Charges*.

66. *Return on equity.* FPL proposes to set the Company's approved return on equity midpoint at 11.5%, which reflects an estimated cost of equity of 11.0% and an ROE performance

incentive of one-half percent. The authorized range would include the typical 100 basis points on either side of the 11.5% midpoint. The 11.0% estimated cost of equity reflects capital market expectations looking forward during the term of the proposed four-year rate plan and will enable FPL to continue to access capital on competitive terms through 2025, ensuring the Company can continue to meet customer needs and expectations essentially at all times in all financial climates and is able to bring additional value to customers through smart, innovative investments.

67. *ROE incentive.* FPL's request for a one-half percent incentive reflects FPL's achievements as a top overall performer in the industry, which has produced and continues to produce exceptional savings and value for customers and is designed to incentivize further efforts to improve service efficiency, reliability and overall value. FPL's proposal for an ROE incentive is within the Commission's authority and consistent with past policy and practice. In setting rates, the Commission may "give consideration, among other things, to the efficiency, sufficiency, and adequacy of the facilities provided and the services rendered; the cost of providing such service *and the value of such service to the public.*" Section 366.041(1), Florida Statutes (emphasis added). In Docket No. 010949-EI, for example, the Commission rewarded Gulf with a 25 basis point adder to the midpoint ROE in recognition of Gulf's past performance and as an incentive for Gulf's future performance. Similarly, consideration of the statutory factors and FPL's performance supports adding one-half percent to FPL's ROE midpoint and range.

68. FPL customers enjoy superior value as a result of our strong overall performance: FPL's generating fossil/solar fleet performance has exhibited best-in-class performance across key metrics such as heat rate, availability and avoided non-fuel O&M, which has resulted in approximately \$11 billion in customer fuel savings since 2001. In terms of reliable electric service, FPL's SAIDI for more than a decade has been, and remains, best among the Florida investor-

owned utilities. And, FPL has achieved further improvements on top of its already exceptional non-fuel O&M performance. Consistently the best performer in this category, FPL's annual non-fuel O&M expense is \$2.6 billion less than an "average" utility, which means an average FPL residential customer saves nearly \$300 per year compared to customers of an average performing utility. In consideration of this extraordinary value being created for customers, to incentivize top-tier performance and to encourage continuation of, and even improvement on, this performance, the Commission should authorize a performance incentive of one-half percent, added to the authorized ROE midpoint and range.

69. *Weighted average cost of capital.* For the 2022 test year, FPL projects a long-term debt cost of 3.61% and a short-term debt cost of 0.94%. When combined with the requested 11.5% ROE and other, smaller components of the capital structure (customer deposits, etc.), FPL's total WACC would be 6.84%. This overall WACC represents the actual cost of financing FPL's rate base and is the cost of capital reflected in the calculation of revenue requirements. It is reasonable and slightly lower than the average WACC of 6.90% for U.S. electric utilities for ratemaking purposes over the last three years, reflecting a benefit to FPL's customers.

#### **Reserve Surplus Amortization Mechanism**

70. FPL proposes an RSAM that follows the same framework as the mechanism approved in its 2016 Rate Settlement, updated for the assumptions and projections reflected in the current filing. As with the three prior multi-year settlements, FPL will use the RSAM to respond to changes in its underlying revenues and expenses in order to maintain an FPSC Adjusted ROE within the authorized range. The application of the RSAM is set forth in detail in FPL witness Barrett's Exhibit REB-11.

71. *Amortization of the reserve.* In each earnings surveillance reporting period, consistent with how the RSAM has been structured and used over the last 10 years, FPL would be allowed to record increases to expense (debits) to its depreciation reserve or decreases to expense (credits) to its depreciation reserve such that the overall resulting ROE stays within the authorized range. In connection with its four-year rate plan, FPL proposes a depreciation reserve amount of \$1.48 billion be available for use in the RSAM until base rates are reset following FPL's next general base rate proceeding which, under the four-year rate plan, would be expected to occur in 2025 with new base rates in January 2026. Like the existing RSAM, decisions regarding whether to amortize and in what amounts would fall within FPL's discretion, provided that FPL would be required to amortize at least the amount necessary to keep it from falling below the bottom of the authorized ROE range and to use amortization in a way that avoids exceeding the top of authorized ROE range.

72. *Amortization of capital recovery schedules.* In addition, under its proposal, FPL would be required to debit depreciation expense and credit the cost of removal component of depreciation reserve in an amount to cause FPL not to exceed the top of the authorized ROE range unless such credit to the cost of removal component of depreciation reserve would result in FPL exceeding the Reserve Amount of \$1.48 billion. If, however, a debit to depreciation expense is required to keep FPL from exceeding the top of the authorized ROE range, and such debit would result in the Reserve Amount exceeding \$1.48 billion, FPL would (i) first record a debit to depreciation expense and a credit to the cost of removal component of depreciation reserve such that the Reserve Amount is \$1.48 billion; and (ii) the remaining debit amount would be recorded to amortize the regulatory assets that are the subject of FPL's request for capital recovery schedules described in this Petition and in the accompanying testimony and exhibits. In subsequent annual

periods, FPL would adjust the prospective amortization of the capital recovery schedules noted above, such that the total amortization over the four-year period ended December 31, 2025 would equal the sum of the amortization expense requested for those years (reflected in FPL witness Ferguson's Exhibit KF-4).

73. *RSAM-adjusted depreciation.* Pursuant to Rule 25-6.0436, F.A.C., FPL prepared and is filing contemporaneous with this Petition a 2021 Depreciation Study and calculated accruals resulting from the parameters identified in that Study. FPL also calculated alternative depreciation parameters that, while different from those presented in the Company's 2021 Depreciation Study, are reasonable to support continued use of the RSAM and therefore support the Company's four-year rate plan. The RSAM-adjusted depreciation rates developed from these alternative parameters result in the \$1.48 billion Reserve Amount and reduce the annual revenue requirements by approximately \$200 million, amounting to nearly \$800 million in customer savings over the four-year term of FPL's proposed plan. FPL requests approval of the RSAM-adjusted depreciation rates as part of its four-year rate plan.

74. Company adjustments have been made reflecting these effects. Exhibit KF-3(B) sets forth the depreciation adjustments that result from RSAM-adjusted rates. FPL requests that the RSAM-adjusted rates be approved.

#### **Dismantlement**

75. FPL's current dismantlement accrual reflects what was approved by the Commission in Order No. PSC-16-0560-AS-EI for FPL assets and Order No. PSC-17-0178-S-EI for Gulf assets. FPL has filed an updated dismantlement study contemporaneous with this filing, and it has made a company adjustment reflecting the updated results. If the Commission makes

any adjustments to FPL's updated dismantlement study, it should recognize the effects of any adjustments on the rate relief granted.

### **Capital Recovery Schedules**

76. FPL has retired certain assets that are not yet fully depreciated. Pursuant to Rule 25-6.0436, F.A.C. and consistent with Commission practice, FPL requests approval of capital recovery schedules that would recover the remaining investment for those specific assets over a 10-year period.<sup>11</sup>

77. Exhibit KF-4 to the testimony of FPL witness Ferguson provides a detailed list of the assets for which FPL seeks capital recovery, along with the associated amortization. A few examples include Lauderdale Units 4 & 5, which were retired in 2018 as part of the construction associated with Dania Beach, and the coal-related components of former Plant Crist Units 4-7, which were retired in 2020 as a result of its conversion to natural gas.

### **Storm Cost Recovery Mechanism**

78. FPL requests approval to continue to recover prudently incurred storm costs under the framework prescribed by the 2010 Rate Settlement and continued in both the 2012 and 2016 Rate Settlement, adjusted to reflect the consolidation of Gulf and FPL into one company and one utility system. The application of the proposed Storm Cost Recovery Mechanism is set forth in detail in FPL witness Barrett's Exhibit REB-10.

79. Under the proposed storm cost recovery mechanism, if FPL incurs storm costs related to a named storm, it may begin collecting a charge based on an amount up to \$4 per 1,000

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<sup>11</sup> The Commission in Order No. PSC-2019-0045-PAA-EI and at the March 2, 2021 agenda vote in Docket Nos. 20200242-EI and 20200007-EI approved the deferral and establishment of regulatory assets for recovery to be addressed in this base rate case.

kWh on monthly residential bills (roughly \$430 million annually) beginning 60 days after filing a petition for recovery with the FPSC. This interim recovery period will last up to 12 months. If costs related to named storms exceed \$800 million in any one year, the Company also may request that the Commission increase the \$4 per 1,000 kWh accordingly.

80. Like its predecessors, the storm cost recovery mechanism proposed here also would be used to replenish the Company's storm reserve in the event it was fully depleted by storm costs. The Company's storm reserve replenishment amount under this proposal is \$150 million, representing approximately the amount of reserves reflected in the existing FPL settlement agreement (\$112.3 million) and the Gulf settlement agreement (\$40.8 million). Any cost not recovered under this mechanism would be deferred on the balance sheet and recovered beyond the initial 12 months in a manner determined by the Commission. If the Commission approves the Company's petition to combine rates, the current Gulf surcharge for Hurricane Sally, applicable to customers in Northwest Florida, will cease when all approved deferred storm costs have been recovered exclusive of any replenishment of Gulf's storm reserve.

**Amortization of Excess Accumulated Deferred Income Taxes**

81. FPL also requests authority to accelerate the amortization of excess unprotected accumulated deferred income taxes. FPL is currently amortizing unprotected excess accumulated deferred income taxes generated by the 2017 TCJA over a 10-year period pursuant to the settlement approved in Order No. PSC-2019-0225-FOF-EI. FPL began amortizing unprotected excess accumulated deferred income taxes in 2018, meaning there will be two years of amortization remaining at the end of the 2022-2025 period contained in FPL's four-year rate plan.

82. Under the four-year rate plan, FPL requests authority to accelerate the amortization of the remaining amount of unprotected excess deferred income taxes that would be amortized in

2026 and 2027 such that those amounts would instead be amortized in 2024 and 2025. This would result in the acceleration of up to \$163 million of unprotected excess accumulated deferred income tax amortization, or approximately \$81 million both in 2024 and 2025. The authority for this acceleration is necessary under the four-year plan to support FPL's ability to manage the uncertainty over that length of time given the deferral of a cash rate increase in 2024 and 2025.

### **Asset Optimization Program**

83. The Asset Optimization Program that was originally approved by Order No. PSC-13-0023-S-EI and approved for continuation in Order No. PSC-16-0560-AS-EI has provided significant benefits to FPL's customers. FPL requests authority to implement the Asset Optimization Program as ongoing and, following the four-year term of FPL's base rate request, to move review of certain parameters of the Program to the annual Fuel and Purchased Power Cost Recovery Clause docket.

84. The testimony of FPL witness Forrest describes in detail proposed updates to simplify the structure of the Asset Optimization Program and to reflect the modernization and transformation of FPL's fleet. FPL also proposes to change the per-MWh rate for variable power plant O&M based from \$0.65/MWh to \$0.48/MWh. FPL's proposal will help ensure that the Program remains successful as FPL continues identifying and acting upon opportunities for gains that create substantial value for customers.

### **Customer Bills Under FPL's Four-Year Plan Will Remain Low**

85. As explained above, the RSAM-adjusted depreciation rates under FPL's four-year proposal reduce the annual revenue requirements by approximately \$200 million, amounting to nearly \$800 million in customer savings over the four-year term of FPL's proposed plan and result

in typical bills for residential, small business, commercial and industrial customers in peninsular and Northwest Florida that fall below the projected national average.

86. Under FPL's proposed four-year rate plan, the projected 2025 typical residential bill – which includes the 2022 base rate increase, 2023 SYA, SoBRA approval for 894 MW in 2024 and 894 MW in 2025 and the declining transition rider/credit – is projected to remain approximately 20% and 15% below the projected national average for peninsular and Northwest Florida customers, respectively, assuming other utilities experience bill increases at only their historical rates of increase. The typical residential bill for customers in peninsular Florida will increase from January 1, 2021 through the end of the four-year rate proposal on December 31, 2025 at an average of about 3.4%, while the 2025 typical residential bill in Northwest Florida is projected to decrease compared to 2021 bills.

87. The CI rate classes in peninsular Florida will experience varying increases in January 2022 depending on the current rate of return for each class as compared to the system average rate of return for each respective class. Under the four-year plan, CI typical bills are projected to increase about 4% to 5%. CI customers in Northwest Florida will see bills ranging from a slight decrease to a 2.5% increase over the same four-year rate proposal, providing excellent value for these customers as well.

#### **Two-Year Unified Rate Relief**

88. If the Commission declines to approve the RSAM or any other element of FPL's four-year plan, FPL requests that the Commission nevertheless unify the FPL and Gulf rates and grant the now combined company rate relief for the 2022 Test Year and 2023 Subsequent Year. FPL's alternative rate request consists of unified rates that provide an increase in total annual revenues of \$1,311 million beginning January 1, 2022 and \$601 million beginning January 1, 2023.

The total revenue requirements over the two-year period of alternative relief are \$197 million higher compared to the 2022 Test Year and 2023 SYA revenue requirements under FPL's four-year rate plan.

89. FPL's alternative revenue requirements are premised on the same forecast data used to calculate the revenue increase for the 2022 Test Year and 2023 Subsequent Year under FPL's four-year rate plan, except that the RSAM-adjusted depreciation rates, and related investment tax credit and excess accumulated deferred income taxes amortization adjustments, were replaced with the depreciation rates resulting from the 2021 Depreciation Study. These modifications led to the higher revenue requirements compared to the four-year plan.

90. Under this alternative unified rate relief, FPL requests continued use of its historical capital structure and an authorized ROE range based on a midpoint of 11.5% comprised of 11.0% to reflect market conditions and a one-half percent performance incentive, along with the authority to continue its storm cost recovery mechanism adjusted to reflect the consolidation of FPL and Gulf, and approval of the above-described mechanism to recover the impacts of a potential change in tax law.

91. Because no RSAM would be authorized under this alternative rate relief, in connection therewith FPL requests approval of its 2021 Depreciation Study filed contemporaneous with this Petition, and the resulting depreciation rates. Company adjustments have been calculated reflecting the effects of this updated depreciation study. If the Commission grants only two years of relief, FPL requests approval of the rates without RSAM adjustment.

92. FPL would not need authority to accelerate amortization of unprotected excess accumulated deferred income taxes because this alternative rate relief request does not include the years 2024 and 2025.

93. If the Commission approves unified rates but does not approve the proposed four-year rate plan, FPL would expect to need to seek additional changes in rates effective January 2024, rather than January 2026 under the four-year rate plan.

#### **Separate Ratemaking Entities (Two Years)**

94. In 2022, all customers in Northwest and peninsular Florida will be receiving their electric service from the same utility system with a common set of assets that will be jointly dispatched, and with the same management team and back office support. FPL is requesting approval of unified rates that would reflect this reality. If, however, the Commission declines to unify rates and instead requires FPL and Gulf to remain separate ratemaking entities, each ratemaking entity still requires rate relief. Support for the separate entities' revenue requirements is found in supplemental schedules attached to the MFRs filed with this Petition. If the Commission does not approve unified rates, but instead approves rates for FPL and Gulf as separate ratemaking entities for 2022 and 2023, FPL and Gulf each would expect to need to seek additional changes in rates effective January 2024 rather than January 2026 under the four-year rate plan.<sup>12</sup>

95. In the absence of unified rates, FPL as a separate ratemaking entity requests an increase in total annual revenues of \$1,115 million beginning January 1, 2022 and \$529 million beginning January 1, 2023. Absent rate relief in the 2022 Test Year and 2023 Subsequent Year,

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<sup>12</sup> In addition, FPL may again seek rate unification at the time new rates are requested.

the jurisdictional adjusted ROE for FPL as a separate ratemaking entity is projected to be 7.98% and 6.67%, respectively. With the requested rate relief in 2022, but with no rate relief in 2023, the adjusted ROE for FPL as a separate ratemaking entity in 2023 is projected to decline by more than 150 basis points.

96. In the absence of unified rates, Gulf as a separate ratemaking entity requests an increase in total annual revenues of \$177 million beginning January 1, 2022 and \$78 million beginning January 1, 2023. Absent rate relief, the 2022 Test Year and 2023 Subsequent Year jurisdictional adjusted ROE for Gulf as a separate ratemaking entity is projected to be 5.33% and 3.79%, respectively. With the requested rate relief in 2022, but with no rate relief in 2023, the adjusted ROE for Gulf as a separate ratemaking entity is projected to decline by more than 230 basis points.

97. For the same reasons described above in the context of unified rates, and because they are financed and viewed by investors as a single financial entity, FPL and Gulf as separate ratemaking entities each require a 59.6% equity ratio and an ROE range based on a midpoint of 11.5% which is comprised of 11.0% to reflect market conditions and a one-half percent performance incentive to reflect FPL's superior performance and Gulf's marked improvement since joining the FPL family.

98. A full description of the rate relief required by FPL and Gulf as separate entities is detailed in Exhibit TCC-9 to the testimony of FPL witness Tiffany Cohen, filed with this Petition and incorporated herein.

**Supporting Documents**

99. Simultaneous with the filing of this Petition, FPL files and hereby incorporates by reference: (i) the supporting direct testimony and exhibits of FPL's witnesses; and (ii) MFRs for the 2022 Test Year and the 2023 Subsequent Year containing the information required by Rule 25-6.043(1)(b), F.A.C. (with and without the effect of the RSAM) and in the format approved by Order No. PSC-2020-0312-PAA-EI. FPL compiled the MFRs by following the policies, procedures and guidelines prescribed by the Commission in relevant rules or in the Company's last rate case.

100. Attached to MFR E-14 are appropriate tariff sheets, including new rate schedules designed to produce the additional revenue sought by this Petition and needed to give the Company a fair opportunity to earn a reasonable rate of return beginning January 2022 and January 2023. FPL respectfully requests that the Commission consent to these rate schedules going into operation beginning on the first billing cycle of January 2022 and January 2023.

101. This filing also includes 2022 and 2023 standalone MFRs for FPL and Gulf as separate ratemaking entities, which are relevant only for purposes of demonstrating the financial position of those companies in the event the Commission declines or postpones rate unification. These standalone schedules for separate FPL and Gulf are attached to the unified MFRs (described in the preceding two paragraphs) as Supplement 1 and Supplement 2, respectively. Appropriate tariff sheets for separate FPL and Gulf are attached to standalone MFR E-14 for each entity.

WHEREFORE, for the above and foregoing reasons, FPL respectfully petitions the Florida Public Service Commission to:

- (1) Accept this filing for final agency action;
- (2) Set a hearing, in-person to the extent possible, as early as possible in order to reduce the risk of possible delays that may be occasioned by hurricane season;
- (3) Enter a final decision approving rates on or before November 12, 2021, *i.e.*, within eight months of the filing of this Petition, so as to render the final decision in time to make rates effective by January 1, 2022 following 30 days' notice to customers;
- (4) Determine that effective, January 1, 2022, Gulf's existing tariffs shall be canceled, and the customers located in peninsular and Northwest Florida shall have unified rates under the FPL tariffs as described herein and filed together with this Petition;
- (5) Authorize FPL to apply a transition rider to the bills of customers located in Northwest Florida and a corresponding transition credit to the bills of customers located in peninsular Florida, which rider and credit will step down ratably and reach zero over five years as set forth in MFR E-14 Attachment 1;
- (6) Approve an authorized ROE range based on a rate of return of 11.5% on common equity which includes a one-half percent ROE performance incentive to reflect FPL's current superior performance and to serve as an incentive for continued superior performance;
- (7) Approve an equity ratio of 59.6% based on investor sources;
- (8) Approve the continued use of FPL's storm cost recovery mechanism as set forth in Exhibit REB-10 and described herein, with a \$150 million reserve replenishment amount, representing approximately the sum of the reserves reflected in FPL's

existing settlement agreement (\$112.3 million) and Gulf's existing settlement agreement (\$40.8 million);

- (9) Approve FPL's 2021 dismantlement study and associated adjustments;
- (10) Approve the capital recovery schedules identified on Exhibit KF-4, and commencement of the associated amortization;
- (11) Approve FPL's mechanism to address potential tax reform such that FPL will change base rates based upon the impact of a change in tax law that occurs from 2022-2025;
- (12) Approve FPL's proposed Asset Optimization Program as ongoing with the updates described herein and in the testimony of FPL witness Forrest;
- (13) Approve FPL's four-year rate plan, encompassing 2022 through 2025, including FPL's commitment not to request any permanent general base rate increases for 2024 and 2025, such that in addition to Paragraphs (1) through (11) above the Commission:
  - (a) Finds and determines that the rates under the current tariffs are insufficient to yield a fair rate of return for FPL beginning January 1, 2022;
  - (b) Authorizes FPL to revise and increase its unified base rates and charges to generate additional revenues of \$1,108 million on an annual basis beginning January 1, 2022;
  - (c) Determines that FPL's 2022 rates, as proposed, are insufficient to yield a fair rate of return beginning January 1, 2023;
  - (d) Authorizes FPL to revise and increase its base rates and charges to generate additional revenues of \$607 million on an annual basis beginning January

- 1, 2023 incremental to the base rates and charges approved beginning January 1, 2022;
- (e) Approves the SoBRA mechanism as set forth in Exhibit REB-12 and described herein such that FPL will be permitted to adjust base rates to recover the cost of 1,788 MW of new solar facilities that enter commercial operation in 2024 and 2025;
  - (f) Approves FPL's proposed RSAM as described herein and detailed in Exhibit REB-11 filed with this Petition;
  - (g) Approves FPL's 2021 depreciation study, with the associated RSAM adjustments;
  - (h) Authorizes FPL to accelerate unprotected excess accumulated deferred income tax amortization in the incremental amounts of \$81 million in 2024 and \$81 million in 2025;
  - (i) Approves the adjustments set forth in the FPL's MFRs B-02 (with RSAM) and C-03 (with RSAM) submitted with this Petition; and
  - (j) Approves the FPL tariff sheets and rate schedules submitted with this Petition, which are based on FPL's consolidated cost of service study and are applicable to the four-year rate plan (*i.e.*, "with RSAM") to apply throughout peninsular and Northwest Florida;
- (14) Alternatively, if the Commission does not accept FPL's four-year rate plan described in this Petition, FPL respectfully requests that in addition to Paragraphs (1) through (11) the Commission:

- (a) Find and determine that the rates under the current tariffs are insufficient to yield a fair rate of return for FPL beginning January 1, 2022;
- (b) Authorize FPL to revise and increase its unified base rates and charges to generate additional revenues of \$1,311 million on an annual basis beginning January 1, 2022;
- (c) Determine that FPL's 2022 rates, as proposed, are insufficient to yield a fair rate of return beginning January 1, 2023;
- (d) Authorize FPL to revise and increase its base rates and charges to generate additional revenues of \$601 million on an annual basis beginning January 1, 2023 incremental to the base rates and charges approved beginning January 1, 2022;
- (e) Approve FPL's 2021 depreciation study, the adjustments set forth in the FPL's MFRs B-02 (without RSAM) and C-03 (without RSAM) submitted with this Petition;
- (f) Approve the FPL tariff sheets and rate schedules submitted with this Petition, which are based on FPL's consolidated cost of service study and reflect rate relief in 2022 and 2023 (*i.e.*, "without RSAM") to apply throughout peninsular and Northwest Florida; and
- (g) Grant to FPL such other and further relief as the Commission may find to be reasonable and proper pursuant to the authority granted to the Commission under Chapter 366 of the Florida Statutes;

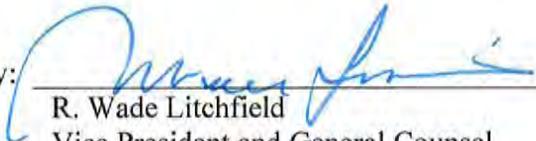
- (15) If the Commission requires that FPL maintain separate ratemaking entities for purposes of service provided in peninsular and Northwest Florida, respectively, then FPL requests that the Commission approve the rate increase and resulting rate schedules to take effect beginning January 1, 2022 and subsequent year adjustment and resulting rate schedules to take effect beginning January 1, 2023, as well as the adjustments, accounting treatments and other components of rates relief, for those separate entities that are summarized and supported in Exhibit TCC-9 to the testimony of FPL witness Cohen; and grant such other and further relief as the Commission may find to be reasonable and proper for FPL and Gulf as separate ratemaking entities pursuant to the authority granted to the Commission under Chapter 366 of the Florida Statutes.

Docket No. 20210015-EI  
Florida Power & Light Company  
Petition

Respectfully submitted,

FLORIDA POWER & LIGHT COMPANY

By:   
Eric Silagy  
President and Chief Executive Officer  
700 Universe Boulevard  
Juno Beach, Florida 33408-0420

By:   
R. Wade Litchfield  
Vice President and General Counsel  
700 Universe Boulevard  
Juno Beach, Florida 33408-0420

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by electronic service and hand delivery this 12th day of March 2021 to the following:

Suzanne Brownless  
Bianca Lherisson  
Shaw Stiller  
Florida Public Service Commission  
Office of the General Counsel  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850  
sbrownle@psc.state.fl.us  
blheriss@psc.state.fl.us  
sstiller@psc.state.fl.us

Office of Public Counsel  
Richard Gentry  
Patricia A. Christensen  
Charles Rehwinkel  
c/o The Florida Legislature  
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**Attorneys for the Citizens  
of the State of Florida**

By:   
\_\_\_\_\_  
R. Wade Litchfield  
Authorized House Counsel No. 0062190

**QUESTION:**

Please identify each consultant, expert, witness, or other person, who has provided testimony, documents, exhibits, or other materials and/or support on behalf of FAIR in any Public Utility Commission or Public Service Commission, the Federal Energy Regulatory Commission, or any other state or federal regulatory body with jurisdiction over the provision of electric power in the last seven (7) years.

- a. For each person identified in response to Interrogatory 1 above, please identify:
  - i. The witness's business address;
  - ii. Which regulatory or administrative body or court; and
  - iii. The caption or style of each proceeding or case, and the date of each appearance, where for purposes of this interrogatory the term "appearance" shall include the submittal of pre-filed testimony, oral testimony, documents, exhibits, or other materials and/or support on behalf of FAIR.

**RESPONSE:**

None.

**QUESTION:**

State in detail the subject matter, positions, and opinions on which each person named in answer to Interrogatory No. 1 above has provided pre-filed testimony, oral testimony, documents, exhibits, or other materials and/or support on behalf of FAIR.

**RESPONSE:**

None.

**QUESTION:**

Please identify each consultant, expert, witness, or other person who has been retained or engaged to provide testimony, documents, exhibits, or other materials and/or support on behalf of FAIR in this docket.

- a. For each such person or entity, identify the date initially consulted, the date of formal retention or engagement (if any), and describe the terms of the financial arrangements or agreement pursuant to which that person or entity will be compensated for work and/or services provided in this case.
- b. For each witness testifying on behalf of FAIR, please state the amount paid to date and the total amount contracted for services performed in connection with this docket.

**RESPONSE:**

FAIR's Response to FPL's Interrogatory No. 3

WITNESS/ENTITY	DATE INITIALLY CONSULTED	DATE OF FORMAL RETENTION	SUMMARY OF TERMS OF ENGAGEMENT	AMOUNT PAID TO DATE	TOTAL AMOUNT CONTRACTED
GDS Associates	2/22/2021	3/25/2021	Hourly rates plus out-of-pocket costs	\$20,608.13	Open, no cap or minimum
J.T. Herndon	March 2021	5/17/2021	Hourly rates plus out-of-pocket costs	0	Open, no cap or minimum
T.J. Devlin	2/10/2021	5/10/2021	Hourly rates plus out-of-pocket costs	\$4,200.00	Open, no cap or minimum
N.H. Watkins	March 2021	3/25/2021	Hourly rates plus out-of-pocket costs	0	Open, no cap or minimum

**QUESTION:**

With respect to each witness FAIR intends to have testify or provide pre-filed testimony in this docket of behalf of FAIR, including witnesses who will make public statements at the hearings, and otherwise, please state the following:

- a. The witness's business address;
- b. The witness's qualifications;
- c. The scope of the witness's employment or retention in the pending matter;
- d. The witness's general litigation experience, including the percentage of work performed for regulatory bodies or intervening participants.

**RESPONSE:**

a & b. Please refer to the résumés of the witnesses, included in response to FPL's Request to Produce No. 4.

c. The scope of each witness's engagement in this matter is set forth in each respective witness's testimony, which will be filed with the Commission and served to FPL on Monday, June 21.

d. Each witness's testimony and resume' includes information regarding the witness's litigation experience, including specifically any testimony given before a regulatory body.

This subpart is otherwise vague, in that it is not clear whether FPL wants to know percentages of work done for regulatory bodies or intervenors within the general category of litigation experience, or whether FPL wants to know about the witness's total work experience.

**QUESTION:**

Regarding the answer to Interrogatory No. 4, please identify with specificity the witness's appearances before regulatory or administrative bodies or courts of law, specifying which regulatory or administrative body or court, the caption or style of each proceeding or case, and the date of each appearance, where for purposes of this interrogatory the term "appearance" shall include the submittal of pre-filed testimony.

**RESPONSE:**

This information is provided in each witness's resume' and testimony, which will be filed with the Commission and served to FPL on Monday, June 21, 2021.

**QUESTION:**

Please describe any efforts or activities undertaken by FAIR or their agents and representatives from 2016 to the present to disseminate fliers, handouts, documents, materials, letters, presentation materials, videos, and other written or computer generated documents to members, prospective members, and others that discuss, address, refer to or otherwise mention FPL.

**RESPONSE:**

The only document responsive to this interrogatory is a letter that was emailed to FAIR's members informing them of the customer service hearings planned by the PSC, informing them of how to sign up, and encouraging them to do so. This letter was emailed to FAIR's members on June 9, 2021. A copy is provided in response to FPL's Request to Produce No. 4.

**QUESTION:**

Please describe the electric bill impact calculations FAIR has performed to assess the impact of FPL's proposed base rate increase on its members.

**RESPONSE:**

FAIR has performed no separate bill impact calculations regarding FPL's proposed multi-billion dollar rate increase. For such information, FAIR has referred to FPL's MFR Schedules A-2, which present FPL's estimates of customer bills under present and proposed rates. FPL's MFR Schedules A-2 clearly demonstrate that the rates of all of FAIR's members who are FPL customers (not necessarily all customers who are currently Gulf Power customers) will experience rate increases in 2022.

**QUESTION:**

Please identify all documents provided to FAIR's members, and the date(s) such documents were provided, that discuss or refer to the electric bill impact estimated to result from FPL's proposed base rate increase which is the subject of this docket.

**RESPONSE:**

The only document responsive to this interrogatory is a letter that was emailed to FAIR's members informing them of the customer service hearings planned by the PSC, informing them of how to sign up, and encouraging them to do so. This letter was emailed to FAIR's members on June 9, 2021. A copy was provided in response to FPL's Request to Produce No. 4.

**QUESTION:**

Please identify any materials and documents provided to, or communications with, FAIR members, and the date(s) such documents were provided, or communications occurred, soliciting funds in connection with FAIR's participation in this docket.

**RESPONSE:**

There are no documents that are responsive to this interrogatory.

**QUESTION:**

Please describe the circumstances that led to your decision to file a petition to intervene in this proceeding and identify all individuals who were consulted or who provided input or recommendations in connection with the decision.

**RESPONSE:**

Consistent with FAIR's purposes as set forth in its articles of incorporation, FAIR's board members and its counsel monitor developments that might lead to higher electric rates for the customers of Florida's public utilities. FAIR's organizers became aware of FPL's plans to implement the largest rate increase in Florida history in January and continued to monitor FPL's proposals thereafter. The decision to intervene was made based on FPL's proposing the largest electric rate increase in Florida history. The individuals who were consulted and provided input in connection with the decision to intervene were FAIR's board of directors, Michael Hightower, John Thomas Herndon, and Fred Bryant, and FAIR's counsel, Robert Scheffel Wright.

**QUESTION:**

Please describe the circumstances that led to your decision to file a petition to intervene in this proceeding.

**RESPONSE:**

Please see FAIR's response to FPL's Interrogatory No. 10 above.

**QUESTION:**

Please provide the following information related to FAIR:

- a. The current number of active members
- b. The names of active members
- c. The dates that each person became a member
- d. The current number of active members that are residents of the state of Florida
- e. For the members identified in your response to subpart d, the counties and cities within the state of Florida where those members reside
- f. The current number of active members that are residents of states outside of Florida
- g. For the members identified in your response to subpart f, the states where those members reside
- h. The number of members that are customers of FPL
- i. The names of members that are customers of FPL

**RESPONSE:**

- a. The current number of active members – 536 as of June 17, 2021
- b. The names of active members – CONFIDENTIAL, provided on roster in response to FPL's Request to Produce No. 4.
- c. The dates that each person became a member – see roster
- d. The current number of active members that are residents of the state of Florida - 536
- e. For the members identified in your response to subpart d, the counties and cities within the state of Florida where those members reside – see roster
- f. The current number of active members that are residents of states outside of Florida - 0
- g. For the members identified in your response to subpart f, the states where those members reside – Not applicable
- h. The number of members that are customers of FPL – 436
- i. The names of members that are customers of FPL – CONFIDENTIAL, provided on roster

**QUESTION:**

Please describe the method by which FAIR solicits new members (e.g. via email, internet, phone solicitation, etc.) and please identify the individuals that are responsible for soliciting new members.

**RESPONSE:**

FAIR attempts to recruit new members primarily through advertising on Facebook and through its website. FAIR's Board authorized FAIR's recruitment activities. The person responsible for this recruitment activity is John Sowinski.

**QUESTION:**

If FAIR operates or maintains a website, please provide the address.

**RESPONSE:**

The address of FAIR's website is [www.fairfl.org](http://www.fairfl.org).

**QUESTION:**

Please identify any publications, trade journals, news outlets, or other publications, whether in written or electronic form, where FAIR has advertised its organization.

**RESPONSE:**

There are no publications, trade journals, news outlets, or other publications in which FAIR has advertised its organization.

**QUESTION:**

What person or persons are the founders of FAIR?

**RESPONSE:**

The incorporator of FAIR is William A. Boyles. The initial directors were Michael Hightower, John Thomas Herndon, and Frederick M. Bryant.

**QUESTION:**

Why did the persons or persons identified in Interrogatory No. 14 above create FAIR?

**RESPONSE:**

Interrogatory No. 14 above requested FAIR's website address, which was provided.

The persons identified in response to Interrogatory No. 16 above formed FAIR for the purposes set forth in FAIR's articles of incorporation.

**QUESTION:**

Was FAIR created, in whole or in part, for the purpose of intervention in this proceeding?

**RESPONSE:**

FAIR reasserts and reiterates its specific objection to this interrogatory as set forth in FAIR's Specific Objections served on June 1, 2021. This interrogatory seeks irrelevant information not reasonably calculated to lead to discovery of relevant admissible information. As set forth in the Order Provisionally Granting Floridians Against Increased Rates, Inc.'s Motion to Intervene (Order No. PSC-2021-0180-PCO-EI) (the "Intervention Order"), "FAIR's associational standing shall be issues in this proceeding and FAIR shall have the burden of proof with regard to this issue."

Intervention Order at 3. The Intervention Order further provides

The test for associational standing was established in Florida Home Builders and Farmworker Rights Organization, Inc. v. Dept. of Health and Rehabilitative Services, 417 So. 2d 753 (Fla. 1<sup>st</sup> DCA 1982), which is also based on the basic standing principles established in Agrico Chemical Company v. Department of Environmental Regulation (Agrico), 406 So. 2d 478, 482 (Fla. 2d DCA 1981). Associational standing may be found where: (1) the association demonstrates that a substantial number of an association's members may be substantially affected by the Commission's decision in a docket; (2) the subject matter of the proceeding is within the association's general scope of interest and activity; and (3) the relief requested is of a type appropriate for the association to receive on behalf of its members.

Intervention Order at 2. The information requested in this interrogatory is not reasonably calculated to lead to the discovery of relevant admissible information concerning any of the specific standing requirements under Agrico or Florida Home Builders. Subject to and without waiving this specific objection, and without waiving any other objections to any effort by FPL to use this response in any way, FAIR responds as follows:

Yes, in part. FAIR was formed for the specific purposes set forth in its articles of incorporation, a copy of which are provided herewith. FAIR's purposes specifically include, among other things, engaging in all lawful actions opposing and advocating against State of

Florida governmental policies and regulatory or administrative actions that have the potential to increase the electric rates charged to the residential, business, institutional, and governmental customers served by Florida investor-owned electric utilities whose rates are set by the Florida Public Service Commission. The general rate case proceeding in this Docket No. 20210015-EI has the potential to increase the rates paid by FPL's customers by more than \$1.1 billion in 2022 alone, and by more than \$6.2 billion over the four years covered by FPL's proposals in this case.

Thus, FAIR was formed, in part, for the specific purpose of participating, by intervention, in proceedings like this rate case, in order to oppose rate increases like those proposed by FPL.

**QUESTION:**

Please identify what member interests FAIR will represent for its members in this proceeding that are not already represented by the Office of Public Counsel and/or other parties. In your response, please identify the rate schedules pursuant to which members of FAIR receive service from FPL.

**RESPONSE:**

FAIR reasserts and reiterates its specific objection to this interrogatory as set forth in FAIR's Specific Objections served on June 1, 2021. FAIR specifically objects to this interrogatory to the extent it seeks irrelevant information not reasonably calculated to lead to discovery of relevant admissible information. As set forth in the Order Provisionally Granting Floridians Against Increased Rates, Inc.'s Motion to Intervene (Order No. PSC-2021-0180-PCO-EI) (the "Intervention Order"), "FAIR's associational standing shall be issues in this proceeding and FAIR shall have the burden of proof with regard to this issue." Intervention Order at 3. The Intervention Order further provides

The test for associational standing was established in Florida Home Builders and Farmworker Rights Organization, Inc. v. Dept. of Health and Rehabilitative Services, 417 So. 2d 753 (Fla. 1<sup>st</sup> DCA 1982), which is also based on the basic standing principles established in Agrico Chemical Company v. Department of Environmental Regulation (Agrico), 406 So. 2d 478, 482 (Fla. 2d DCA 1981). Associational standing may be found where: (1) the association demonstrates that a substantial number of an association's members may be substantially affected by the Commission's decision in a docket; (2) the subject matter of the proceeding is within the association's general scope of interest and activity; and (3) the relief requested is of a type appropriate for the association to receive on behalf of its members.

Intervention Order at 2. The information requested in this interrogatory is not reasonably calculated to lead to the discovery of relevant admissible information concerning any of the specific standing requirements under Agrico or Florida Home Builders. Subject to and without waiving this specific objection, and without waiving any other objections to any effort by FPL to use this response in any way, FAIR responds as follows:

While the interests of FAIR's members in having the Florida PSC set rates for FPL that are

as low as possible while ensuring that FPL can provide safe and reliable service coincide to some degree with the interests represented by other “consumer parties” in this case, FAIR’s members have specific interests in presenting their evidence and arguments to the PSC in the manner determined to be in the members’ interests by FAIR’s board of directors, including all rights set forth in Section 120.57(1)(b), Florida Statutes. FAIR’s witnesses are likely to take somewhat differing positions on certain issues in this case, and FAIR’s members have specific rights to present their specific evidence and argument on all issues in the case.

Further, as FPL is well aware from past actions and decisions, there is a significant probability that this case will be resolved by a settlement agreement involving some, but not all, of the parties to the docket. FAIR’s members have specific interests in participating in any settlement discussions or negotiations involving any parties to this case, because otherwise, the case is subject to being “settled out from under” FAIR and its members without their even participating in such negotiations.

#### Rate Schedules of FAIR Members

FAIR has not surveyed its members or collected specific information regarding the specific rate schedules under which they take service from FPL. Without waiving its objections, FAIR states that FAIR has members that are both residential and business customers of FPL. On information and belief, FAIR believes that these customers are served under FPL’s residential rate schedules, possibly including time-of-use rates, and under FPL’s general service schedules, possibly including time-of-use rates and possibly including demand-metered rates.

**QUESTION:**

For any interests identified in Interrogatory No. 19 above, please explain whether and, if so, how those interests are not adequately represented by the Office of Public Counsel and/or other parties in this proceeding without FAIR's participation?

**RESPONSE:**

FAIR reasserts and reiterates its specific objection to this interrogatory as set forth in FAIR's Specific Objections served on June 1, 2021. FAIR specifically objects to this interrogatory to the extent it seeks irrelevant information not reasonably calculated to lead to discovery of relevant admissible information. As set forth in the Order Provisionally Granting Floridians Against Increased Rates, Inc.'s Motion to Intervene (Order No. PSC-2021-0180-PCO-EI) (the "Intervention Order"), "FAIR's associational standing shall be issues in this proceeding and FAIR shall have the burden of proof with regard to this issue." Intervention Order at 3. The Intervention Order further provides

The test for associational standing was established in Florida Home Builders and Farmworker Rights Organization, Inc. v. Dept. of Health and Rehabilitative Services, 417 So. 2d 753 (Fla. 1<sup>st</sup> DCA 1982), which is also based on the basic standing principles established in Agrico Chemical Company v. Department of Environmental Regulation (Agrico), 406 So. 2d 478, 482 (Fla. 2d DCA 1981). Associational standing may be found where: (1) the association demonstrates that a substantial number of an association's members may be substantially affected by the Commission's decision in a docket; (2) the subject matter of the proceeding is within the association's general scope of interest and activity; and (3) the relief requested is of a type appropriate for the association to receive on behalf of its members.

Intervention Order at 2. The information requested in this interrogatory is not reasonably calculated to lead to the discovery of relevant admissible information concerning any of the specific standing requirements under Agrico or Florida Home Builders. Subject to and without waiving this specific objection, and without waiving any other objections to any effort by FPL to use this response in any way, FAIR responds as follows:

This Interrogatory is redundant to FPL's Interrogatory No. 19. Please see FAIR's response to Interrogatory No. 19 above.

**QUESTION:**

How, if at all, does FAIR believe that its members will be harmed if FAIR is not allowed to participate in this proceeding?

**RESPONSE:**

FAIR reasserts and reiterates its specific objection to this interrogatory as set forth in FAIR's Specific Objections served on June 1, 2021. FAIR specifically objects to this interrogatory to the extent it seeks irrelevant information not reasonably calculated to lead to discovery of relevant admissible information. As set forth in the Order Provisionally Granting Floridians Against Increased Rates, Inc.'s Motion to Intervene (Order No. PSC-2021-0180-PCO-EI) (the "Intervention Order"), "FAIR's associational standing shall be issues in this proceeding and FAIR shall have the burden of proof with regard to this issue." Intervention Order at 3. The Intervention Order further provides

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Intervention Order at 2. The information requested in this interrogatory is not reasonably calculated to lead to the discovery of relevant admissible information concerning any of the specific standing requirements under Agrico or Florida Home Builders. Subject to and without waiving this specific objection, and without waiving any other objections to any effort by FPL to use this response in any way, FAIR responds as follows:

If FAIR's members are not allowed to participate through FAIR's intervention as a full party in this proceeding, they would, at a minimum, be harmed in that they would be deprived of their specific rights guaranteed to them by Section 120.57(1)(b), Florida Statutes, to present their specific evidence and argument, to conduct their own specific cross-examination of witnesses, to submit proposed findings of facts, and to file exceptions to any orders as may be appropriate. This would likely rise to the level of a denial of their fundamental procedural due process rights under the Florida and United States Constitutions.

Moreover, FAIR's members would be harmed by being deprived of their statutory rights to have the Commission hear their specific evidence, which in this case will include the expert testimony of Timothy J. Devlin, who served for 35 years on the Florida PSC Staff, including service as Director of Auditing and Finance and as the PSC's Executive Director; of John Thomas Herndon, who served as a member of the Florida PSC, who served two Florida Governors as their Chief of Staff, and who also served as the Executive Director of the Florida State Board of Administration, which administers the State's pension funds and other significant accounts; and of FAIR's chosen witness on cost of capital and capital structure.

Further, as FPL is well aware from past actions and decisions, there is a significant probability that this case will be resolved by a settlement agreement involving some, but not all, of the parties to the docket. FAIR's members have specific interests in participating in any settlement discussions or negotiations involving any parties to this case, because otherwise, the case is subject to being "settled out from under" FAIR and its members without their even participating in such negotiations.

**QUESTION:**

Please identify each issue that FAIR plans to raise in this proceeding that it feels will not be adequately addressed by other parties in this proceeding.

**RESPONSE:**

FAIR reasserts and reiterates its specific objection to this interrogatory as set forth in FAIR's Specific Objections served on June 1, 2021. FAIR specifically objects to this interrogatory to the extent it seeks irrelevant information not reasonably calculated to lead to discovery of relevant admissible information. As set forth in the Order Provisionally Granting Floridians Against Increased Rates, Inc.'s Motion to Intervene (Order No. PSC-2021-0180-PCO-EI) (the "Intervention Order"), "FAIR's associational standing shall be issues in this proceeding and FAIR shall have the burden of proof with regard to this issue." Intervention Order at 3. The Intervention Order further provides

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Intervention Order at 2. The information requested in this interrogatory is not reasonably calculated to lead to the discovery of relevant admissible information concerning any of the specific standing requirements under Agrico or Florida Home Builders. Subject to and without waiving this specific objection, and without waiving any other objections to any effort by FPL to use this response in any way, FAIR responds as follows:

The suggestion that FAIR's intervention and standing to intervene depends in any way on

whether other parties might “adequately address” such issues is irrelevant, spurious, and nonsensical in that it asks FAIR to predict what the other parties in the case will do over the next three months, and the interrogatory has no basis in law.

At this time, FAIR has not identified all of the issues that it will raise or litigate in this proceeding, but even as to those issues that FAIR will litigate, including the specific issues that its witnesses will address, it is obviously impossible to state with certainty whether any other party will “adequately address” any issue, from the perspective of FAIR’s members, because FAIR is obviously without knowledge as to what evidence and cross-examination the other parties will advance either in their direct testimony or at the hearings in the case, and also without knowledge as to what legal and policy arguments the other parties will advance.

Further, FAIR’s concerns that it would be excluded from any settlement discussions are exacerbated and compounded by the fact that FAIR does not know what positions any other parties might agree to in such discussions or negotiations.

**QUESTION:**

Regarding the statement in its Motion to Intervene that “FAIR’s membership is growing,” please explain what efforts have led to this growth?

**RESPONSE:**

FAIR reasserts and reiterates its specific objection to this interrogatory as set forth in FAIR’s Specific Objections served on June 1, 2021. FAIR specifically objects to this interrogatory to the extent it seeks irrelevant information not reasonably calculated to lead to discovery of relevant admissible information. As set forth in the Order Provisionally Granting Floridians Against Increased Rates, Inc.’s Motion to Intervene (Order No. PSC-2021-0180-PCO-EI) (the “Intervention Order”), “FAIR’s associational standing shall be issues in this proceeding and FAIR shall have the burden of proof with regard to this issue.” Intervention Order at 3. The Intervention Order further provides

The test for associational standing was established in Florida Home Builders and Farmworker Rights Organization, Inc. v. Dept. of Health and Rehabilitative Services, 417 So. 2d 753 (Fla. 1<sup>st</sup> DCA 1982), which is also based on the basic standing principles established in Agrico Chemical Company v. Department of Environmental Regulation (Agrico), 406 So. 2d 478, 482 (Fla. 2d DCA 1981). Associational standing may be found where: (1) the association demonstrates that a substantial number of an association’s members may be substantially affected by the Commission’s decision in a docket; (2) the subject matter of the proceeding is within the association’s general scope of interest and activity; and (3) the relief requested is of a type appropriate for the association to receive on behalf of its members.

Intervention Order at 2. The information requested in this interrogatory is not reasonably calculated to lead to the discovery of relevant admissible information concerning any of the specific standing requirements under Agrico or Florida Home Builders. Subject to and without waiving this specific objection, and without waiving any other objections to any effort by FPL to use this response in any way, FAIR responds as follows:

FAIR has established a website that invites customers of Florida’s investor-owned utilities

to join FAIR for the purposes of advocating by all lawful means for the lowest possible electric rates that are consistent with their utilities providing safe and reliable service, and of opposing by all lawful means utility proposals for rates and rate increases that are greater than necessary for their utilities to provide safe and reliable service. FAIR has placed advertisements for FAIR on Facebook that provide the opportunity for customers to connect to the FAIR website and consider whether to join.

These efforts have led to growth in FAIR's membership to a total of 536 members, including 436 FPL customers as FAIR members, as of June 17, 2021.

**QUESTION:**

Please provide the following information regarding FAIR's membership:

- a. The current number of active members
- b. The names of active members
- c. The dates that each person became a member
- d. The current number of active members that are residents of the State of Florida
- e. For the members identified in your response to subpart d, the counties and cities within the State of Florida where those members reside
- f. The current number of active members that are residents of states outside of Florida
- g. For the members identified in your response to subpart f, the states where those members reside
- h. The number of members that are customers of FPL
- i. The names of members that are customers of FPL

**RESPONSE:**

See response to Interrogatory No. 12.

**QUESTION:**

Please provide the following information for any FAIR members that are FPL customers:

- a. The dates they became members of FAIR
- b. Their addresses
- c. A list of every issue they would like to have or believe should be addressed in this proceeding that is unique to FAIR members
- d. The reason or reasons why they believe the issues identified in your response to subpart c cannot be adequately addressed by other parties to this proceeding
- e. The reason or reasons why they believe the issues identified in your response to subpart c cannot be adequately addressed through their individual intervention in this proceeding

**RESPONSE:**

FAIR reasserts and reiterates its specific objection to this interrogatory as set forth in FAIR's Specific Objections served on June 1, 2021. FAIR specifically objects to this interrogatory to the extent it seeks irrelevant information not reasonably calculated to lead to discovery of relevant admissible information. As set forth in the Order Provisionally Granting Floridians Against Increased Rates, Inc.'s Motion to Intervene (Order No. PSC-2021-0180-PCO-EI) (the "Intervention Order"), "FAIR's associational standing shall be issues in this proceeding and FAIR shall have the burden of proof with regard to this issue." Intervention Order at 3. The Intervention Order further provides

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Intervention Order at 2. The information requested in this interrogatory is not reasonably calculated to lead to the discovery of relevant admissible information concerning any of the specific standing requirements under Agrico or Florida Home Builders. Subject to and without waiving this specific

objection, and without waiving any other objections to any effort by FPL to use this response in any way, FAIR responds as follows:

The information requested in subparts a and b is provided in the membership roster that FAIR is providing in response to Interrogatory No. 12.

Regarding subparts c, d, and e, please see FAIR's responses to Interrogatories Nos. 19, 20, 21, and 22.

**QUESTION:**

Does FAIR receive financial support or funding from any person or persons other than its members? If so, please identify this/these person or persons.

**RESPONSE:**

FAIR reasserts and reiterates its specific objection to this interrogatory as set forth in FAIR's Specific Objections served on June 1, 2021. FAIR specifically objects to this interrogatory to the extent it seeks irrelevant information not reasonably calculated to lead to discovery of relevant admissible information. As set forth in the Order Provisionally Granting Floridians Against Increased Rates, Inc.'s Motion to Intervene (Order No. PSC-2021-0180-PCO-EI) (the "Intervention Order"), "FAIR's associational standing shall be issues in this proceeding and FAIR shall have the burden of proof with regard to this issue." Intervention Order at 3. The Intervention Order further provides

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Intervention Order at 2. The information requested in this interrogatory is not reasonably calculated to lead to the discovery of relevant admissible information concerning any of the specific standing requirements under Agrico or Florida Home Builders. Subject to and without waiving this specific objection, and without waiving any other objections to any effort by FPL to use this response in any way, FAIR responds as follows:

FAIR will not respond to this interrogatory. FAIR's funding is not an issue nor related to

any issue in this case.

**QUESTION:**

Please explain why FAIR selected the Gray Robinson law firm in Orlando to be its organizational headquarters.

**RESPONSE:**

FAIR reasserts and reiterates its specific objection to this interrogatory as set forth in FAIR's Specific Objections served on June 1, 2021. FAIR specifically objects to this interrogatory to the extent it seeks irrelevant information not reasonably calculated to lead to discovery of relevant admissible information. As set forth in the Order Provisionally Granting Floridians Against Increased Rates, Inc.'s Motion to Intervene (Order No. PSC-2021-0180-PCO-EI) (the "Intervention Order"), "FAIR's associational standing shall be issues in this proceeding and FAIR shall have the burden of proof with regard to this issue." Intervention Order at 3. The Intervention Order further provides

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Intervention Order at 2. The information requested in this interrogatory is not reasonably calculated to lead to the discovery of relevant admissible information concerning any of the specific standing requirements under Agrico or Florida Home Builders. Subject to and without waiving this specific objection, and without waiving any other objections to any effort by FPL to use this response in any way, FAIR responds as follows:

FAIR selected the Gray Robinson law firm to be its organizational headquarters

because Gray Robinson is FAIR's corporate counsel.

**QUESTION:**

Please provide the following information for all persons that have executed the Confidentiality Agreement and/or acknowledged the Electronic Data Room Procedures on behalf of FAIR in this proceeding:

- a. Their names, addresses, occupations, and business addresses
- b. Their relationship to FAIR (e.g. officer, employee, attorney, consultant, etc.)
- c. A summary of their background and qualifications
- d. Whether they will provide fact or expert opinions in this proceeding
- e. If they are expected to provide fact or expert opinions, a list of the issues they plan to address

**RESPONSE:**

- a. FAIR has previously furnished to FPL its roster for access to the electronic data room. The business address for Wright, LaVia, and Hill is 1300 Thomaswood Drive, Tallahassee, Florida 32308. The business address for the GDS Associates personnel is 1850 Parkway Place, Suite 800, Marietta, Georgia 30067. The business address for Herndon is 9062 Eagles Ridge Drive, Tallahassee, Florida 32312. The business address for Devlin is 21 Equine Drive, Crawfordville, Florida 32327.
- b. Wright and LaVia are attorneys, and Hill is their legal assistant. The others are consultants.
- c,d,e. The background and qualifications of the three persons on the data room roster who will testify in the case (Mac Mathuna, Herndon, and Devlin) will be provided in their direct testimony submitted on Monday, June 21, 2021. They will provide expert opinions and some fact testimony in this proceeding. The issues that they will address will be set forth clearly and specifically in their direct testimony that will be filed and served on Monday, June 21, 2021.

**REQUEST:**

Please produce documents identified in your response to FPL's First Set of Interrogatories Nos. (1-28) to FAIR or that support those responses.

**RESPONSE:**

Interrogatory No. 4: The resumes of FAIR's witnesses are attached.

Interrogatory No. 6 and No. 8: Please see the responsive document.

Interrogatory No. 12: A redacted roster of FAIR's members as of June 17, 2021 is attached. The unredacted membership roster is being produced subject to FAIR's First Request for Confidential Classification.

**Nancy H. Watkins, C.P.A.**  
**610 S. Boulevard**  
**Tampa, FL 33606**  
**813/254-3369**

### **Professional History**

Robert Watkins and Company, P.A. January, 1980-present  
 610 South Boulevard  
 Tampa, FL 33606  
 813/254-3369

- Public practice of accounting. Professional services rendered to clients engaged in wide variety of businesses.
- Services include:
  - Accounting and review services: all services typically provided by an independent CPA such as preparation of financial statements, including underlying records, ledgers and trials; accounts payable, accounts receivable; payroll processing and reporting; forensic accounting.
  - Management advisory services: design and implementation of internal control systems; selection and implementation of computer systems; staff training in accounting, bookkeeping and systems; other general planning and consulting.
  - Tax services: individual and corporate Federal income tax; state income tax; various additional state and local tax returns.
  - Specialized services for federal, state and local political candidates and committees, specifically compliance and control systems as well as consulting in various aspects of operations and activity.

Prior work experience from 1974-1980 includes commercial bank operations and the non-certified practice of public accounting.

### **Education**

University of South Florida, Tampa, FL	1980-82
<ul style="list-style-type: none"> <li>• BA in Business Administration, major in accounting</li> </ul>	
Hillsborough Community College, Tampa, FL	1979-80
<ul style="list-style-type: none"> <li>• Associate of Arts degree</li> </ul>	

**Professional designations, recognitions and appointments**

- Passed Uniform CPA exam and received certification in 1983
- While in college, member of Beta Alpha Psi, the national honorary accounting fraternity
- Member of the American Institute of Certified Public Accountants
- Member of the Florida Institute of Certified Public Accountants
- Named to *Who's Who in American Junior Colleges* in 1980
- Served for 3 years on Judicial Grievance Committee for the 13<sup>th</sup> District in the State of Florida.
- Appointed to District Board of Trustees of Hillsborough Community College in February 1999, subsequently serving for 14 years until May 2013.
- Appointed to Board of Trustees of University of South Florida in March 2013, serving for 8 years until January 2021, leaving due to term limits.
- Reappointed to District Board of Trustees of Hillsborough Community College in December 2020, presently serving.

**Personal**

- Age 65
- Married since 1980 to Robert I. Watkins, C.P.A.
- Two sons, born 1981 and 1985



Breandan T. Mac Mathuna  
Principal

## EDUCATION •

Master of Business Studies (MBS) in Strategic Management and Planning, University College Dublin, 2008  
Bachelor of Commerce, Finance, University College Dublin, 2007

## PROFESSIONAL SUMMARY •

Breandan T. Mac Mathuna has more than twelve years of professional experience in the electric power industry. In 2008, he began his career at EirGrid, the Transmission System Operator and Market Operator in Ireland and Northern Ireland, which is owned by the Irish government. As part of his responsibilities, Mr. Mac Mathuna developed a business case and financial model for the transfer of transmission network assets from the Electric Supply Board, the Transmission Asset Owner and dominant energy company in the then newly-deregulated market, to EirGrid. He later became a transmission pricing specialist and was assigned to a task force to design and implement a new transmission network tariff for generators that were interconnected to the transmission system.

In 2010, Mr. Mac Mathuna was promoted to the group regulation team as a Regulatory Analyst and later to a Senior Regulatory Analyst role. During this time, he was tasked with developing and coordinating the revenue requirement submission to the Irish energy regulator regarding the Ireland and Great Britain electricity interconnector link project. Additionally, Mr. Mac Mathuna worked with senior management to develop a sustainable dividend payment framework, with EirGrid subsequently paying its first dividend to the Irish government. Finally, Mr. Mac Mathuna worked closely with senior management regarding EirGrid's regulatory engagement as part of the price control process determining the five-year revenue requirement for EirGrid. In particular, he worked on developing EirGrid's position on an appropriate return on equity ("ROE") rate, prepared material filed with the Irish regulator, and participated in regulatory negotiations to present and defend EirGrid's positions.

In 2014, Mr. Mac Mathuna joined GDS Associates, a multi-disciplinary engineering and consulting firm primarily serving electric, gas and water utilities. At GDS, Mr. Mac Mathuna, has provided a wide variety of financial consulting services with a focus on rates, state and federal regulatory matters, and strategic power supply advice. His work has involved the development of financial, wholesale power cost, and annual operating budget forecasts for numerous clients in the electric utility industry. He has developed power supply procurement strategies and managed the Request for Proposal processes and contracting for these efforts. In addition, Mr. Mac Mathuna has performed long-term asset reviews and economic feasibility analyses of power purchase contracts and/or ownership of renewable generation facilities. He also has participated in Regional Transmission Organization ("RTO") stakeholder processes, and completed a comprehensive financial analysis of RTO participation for a large client located in an unstructured market.

Mr. Mac Mathuna also has acted as an expert witness in regulatory proceedings before the Federal Energy Regulatory Commission ("FERC"). In that role, he has prepared testimony and affidavits addressing the just and reasonable ROE in the several proceedings which are listed further below. In addition, Mr. Mac Mathuna has assisted legal counsel in developing ROE-related positions in contested rate proceedings and in supervised settlement procedures before FERC. He has participated in formal reviews of the revenue requirement updates of public utility transmission owners pursuant to their open access transmission tariffs, including both for Network Transmission Service and Ancillary Services charges. In connection with his financial consulting assignments, Mr. Mac Mathuna regularly follows the capital markets and reviews on an ongoing basis changes in financial factors that affect the cost of capital for electric utilities.

## • Breandan T. Mac Mathuna

### PROFESSIONAL EXPERIENCE •

1. **GDS Associates, Inc.**, Marietta, Georgia, 2014 to Present  
Principal

Mr. Mac Mathuna has advised electric cooperative, municipality and state agencies on many aspects of their strategic power supply needs and regulatory policy matters. For example:

- Provided expert testimony before FERC in relation to ROE complaints, protests and an affidavit in response to FERC's ROE Notice of Inquiry.
- Represented clients' interests at a number of FERC settlement conferences and technical conferences.
- Provided assistance to FERC counsel regarding protests of transmission formula rates requests and provided supporting ROE analysis.
- Analyzed transmission cost of service rates and generator reactive revenue filings at FERC and developed investigative discovery requests.
- Support provided to expert witnesses testifying at FERC and state commissions regarding ROE, generator reactive revenue filings, rate cases and integrated resource plans among other issues.
- Performed long-term asset reviews and economic feasibility analysis of purchase power contracts and/or ownership of renewable generation.
- Managed detailed financial forecast models and analytical reviews of wholesale power costs.
- Project managed energy procurement and annual operating budget processes.
- Participated and represented clients in MISO RTO stakeholder groups.

2. **EirGrid**, Dublin, Ireland, 2008-2013  
Senior Energy Regulatory Analyst

As a Senior Energy Regulatory Analyst at EirGrid, the transmission and market operator in Ireland and Northern Ireland, Mr. Mac Mathuna advised senior management on matters relating to both regulatory revenue and regulatory compliance. For example:

- Responsible for development of revenue requirement submission to industry regulator regarding the electricity interconnector link project between Ireland and Great Britain electricity interconnector link project.
- Supported key elements of EirGrid's regulatory 5-year revenue control project. For example, position development on the Return on Equity.
- Developed company dividend payment framework. Involved financial modeling and scenario planning.
- Detailed analysis of regulatory compliance levels of transmission system operator license and made recommendations to senior management on best practice.
- Designed core elements of a new generator electricity network tariff.

### EXPERT WITNESS TESTIMONY •

- *Pacific Gas & Electric Company*, Federal Energy Regulatory Commission, Docket No. ER16-2320-002, Direct Testimony, filed December 14, 2020 and Answering Testimony, filed February 12, 2021.
- *Keystone Appalachian Transmission Company*, Federal Energy Regulatory Commission, Docket No. ER21-265-000, Affidavit, filed November 20, 2020.
- *South FirstEnergy Operating Companies*, Federal Energy Regulatory Commission, Docket No. ER21-253-000, Affidavit, filed November 19, 2020.
- *Wabash Valley Power Association, Inc.*, Federal Energy Regulatory Commission, Docket No. ER20-1041-003, Prepared Direct Testimony, Exhibit No. WV-027, filed November 9, 2020, Rebuttal Testimony, April 28, 2021 and Hearing Examination on June 1-2, 2021.

- Breandan T. Mac Mathuna

- *North Carolina Electric Membership Cooperative v. Duke Energy Progress, LLC*, Federal Energy Regulatory Commission, Docket No. EL21-9-000, Direct Testimony, filed October 16, 2020 and Answering Testimony, filed December 7, 2020.
- *Cloverland Electric Cooperative v. Wisconsin Electric Power Company*, Federal Energy Regulatory Commission, Docket No. EL20-57-000, Affidavit filed July 1, 2020, Second Affidavit, filed September 9, 2020 and Third Affidavit, filed October 28, 2020.
- *PP&L Industrial Customer Alliance v. PPL Electric Utilities Corporation*, Federal Energy Regulatory Commission, Docket No. EL20-48-000, Affidavit, filed June 10, 2020 and Second Affidavit, filed July 27, 2020.
- *The Dayton Power & Light Company*, Federal Energy Regulatory Commission, Docket No. ER20-1150-000, Affidavit of Breandan T. Mac Mathuna filed March 24, 2020.
- *North Carolina Eastern Municipal Power Agency v. Duke Energy Progress, LLC*, Federal Energy Regulatory Commission, Docket No. EL20-4-000, Affidavit and Exhibits filed October 10, 2019; Second Affidavit and Exhibits filed December 6, 2019; Third Affidavit filed on February 4, 2020 and Fourth Affidavit of Breandan T. Mac Mathuna (July 9, 2020).
- *Florida Power & Light Company*, Federal Energy Regulatory Commission, Docket No. ER19-2585-000, Affidavit and Exhibits filed September 20, 2019.
- *Inquiry Regarding the Commission's Policy for Determining Return on Equity*, Federal Energy Regulatory Commission, Docket No. PL19-4-000, Affidavit and Exhibits submitted on behalf of the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California, filed June 26, 2019, and Reply Affidavit filed July 25, 2019.
- *Alabama Municipal Elec. Authority and Cooperative Energy v. Alabama Power Company*, Federal Energy Regulatory Commission, Docket No. EL18-147-000, Direct Testimony and Exhibits filed May 10, 2018.

May 2021

**RESUME**  
**JOHN T. (TOM) HERNDON**

**RESIDENCE**

9062 Eagles Ridge Drive  
Tallahassee, FL 32312

850-893-2252 (Home)  
850-459-3513 (Cell)  
tom-herndon@comcast.net

**EDUCATION**

St. Petersburg Junior College, 1966  
University of South Florida, Interdisciplinary Social Services, B.A., 1968  
Florida State University, Master's Degree in Social Work, 1972

**WORK EXPERIENCE**

**Independent Contractor**  
**As of October 2005**

Southern Strategies Group  
**Governmental Consulting & Lobbying Firm**  
August 21, 2002 to October 2005

Executive Director  
**State Board of Administration**  
November 12, 1996 to August 21, 2002

President  
**Tom Herndon and Associates**  
August 11, 1995 to November 11, 1996

Chief of Staff to Governor Lawton Chiles  
**Executive Office of the Governor**  
August 10, 1992 to August 11, 1995

Executive Director  
**Florida Department of Revenue**  
April 18, 1990 to August 7, 1992

Commissioner  
**Florida Public Service Commission**  
January 6, 1986 to April 17, 1990

Chief of Staff to Governor Bob Graham  
**Executive Office of the Governor**  
July 1, 1985 to January 5, 1986

Deputy Chief of Staff and Director  
**Office of Planning and Budgeting**  
**Executive Office of the Governor**  
October 1984 to July 1985

Director  
Office of Planning and Budgeting  
**Executive Office of the Governor**  
August 1980 to July 1985

Staff Director  
**Florida House of Representatives**  
**Committee on Appropriations**  
August 1978 to August 1980

Deputy Assistant Secretary of Operations  
**Dept. Health & Rehabilitative Services**  
October 1977 to August 1978

Administrator, District V  
**State of Florida, DHRS**  
November 1975 to October 1977

Staff Director  
**House of Representatives**  
**Committee on HRS**  
June 1974 to November 1975

Herndon pg. 2

### CURRENT ACTIVITIES as INDEPENDENT CONTRACTOR

- Current Board Member **Citizens for Lower Electric Rates**: Secretary
- Current Board Member **Floridians Against Increased Rates**: Secretary
- Current Executive Director, Treasurer and Board Member of the **Claude Pepper Foundation**
- Current Board member **Capital Health Plan**: Member of Personnel, Compensation, and Finance Committees; Chair of Audit Committee
- Current Board member **Helios Education Foundation**: Member of Executive, Finance, Public Policy and Audit Committees

### SELECTED PROFESSIONAL ACTIVITIES:

- Former Board member and member of Executive Committee of the **Federation of Tax Administrators**
- **National Association of State Budget Officers**, Chairman of Education and Human Resources Committee and Executive Committee, Southern Regional Director
- Past President of the National Governors' Association **Council of State Planning Agencies** for 1985-86
- Former member of the **National Association of Regulatory Utility Commissioners**
- Former member of the **Southern States Energy Board**
- Former Chairman of the **Florida Energy Center** Advisory Board
- **Council of Institutional Investors**, Board of Directors and past Chair of Executive Committee
- Two term member, **New York Stock Exchange's** Pensions Managers Advisory Committee

### CIVIC AND VOLUNTARY ACTIVITIES:

- Past President, **Big Bend United Way**
- Current member **Lawton Chiles Foundation**
- Past President, **Florida Economics Club**
- Past Chairman, **Big Bend Child Care Coordinating Council**
- Past Chairman, **Florida Comprehensive Health Association**
- Former Two Term Board member of the **FSU Foundation**
- Past Treasurer of **Highlands Falls Country Club**

002280

- Past President, **Highlands Falls Homeowner Association**

Herndon pg. 3

**SELECTED AWARDS:**

- 1983 Outstanding Public Administrator by the American Society of Public Administrators
- 1985 Distinguished Alumnus for the University of South Florida, Florida Chapter
- 1990 Distinguished Alumnus for the University of South Florida, National
- 1990 Distinguished Alumnus for Florida State University School of Social Work
- 1995 Jack Brizius Memorial Roughrider Award for Excellence in Public Policy
- 1995 Florida Distinguished Service Medal for Exceptionally Meritorious Service to the State

21 Equine Drive • Crawfordville, Florida 32327 • 850 408 4972 • timdevlin3@comcast.net

# Timothy J. Devlin

## Overview

With over 35 years experience in utility regulation at the Florida Public Service Commission (PSC), I have acquired unique and extensive knowledge of the utility industry. This includes dealing with accounting, finance and other regulatory issues associated with electric utilities, local natural gas distribution companies, telecommunications companies and water/wastewater utilities. During the last 11 years with the PSC, the majority of my work centered on the energy needs for the State of Florida.

## Professional Experience

I was employed by the Florida Public Service from February 1976 to July 2011. I worked for the Department of Agriculture and Consumer Services (Office of Energy) from October 2011 to March 2012.

<u>Beginning Date</u>	<u>Ending Date</u>	<u>Position</u>
February 1976	August 1984	Various positions involving auditing and finance.
August 1984	May 2000	Director, Auditing and Financial Analysis, FPSC: Responsible for audits of utilities and regulatory issues involving finance, security applications, income taxes and depreciation.
May 2000	January 2010	Director, Economic Regulation, FPSC: Responsible for utility rate cases, finance issues, certification of utility service, territorial disputes, rate structure, energy conservation, and power plant siting.
January 2010	July 2011	Executive Director, FPSC: Responsible for technical staff, PSC budget and administrative functions.
October 2011	March 2012	Consultant for Office of Energy, FDACS: Provide support for the Office in its development of legislative recommendations relating to energy policy.

# Timothy J. Devlin

## Education

January 1971-June 1974 University of South Florida in Tampa, Florida  
Bachelor of Arts in Finance

## Professional Certifications, Awards and Accomplishments

2010, Member of the National Association of Regulatory Commissions' Executive Management Subcommittee.  
2008, Member of the Florida Cap and Trade Technical Working Group.  
2004, Gunter Award for Distinguished Service, Florida Public Service Commission.  
1997-2000, Chairman of the National Association of Regulatory Commissions' Accounting and Finance Subcommittee.  
1994, Honored by the Florida Public Service Commission for management of the multi-state audit of BellSouth.  
1985-1988, Member of the Southern Task Force formed under the Southeastern Association of Regulatory Commissions.  
1983-1985, Member of the Federal/State Joint Board core staff working group on telephone cost separations reform and establishment of the Universal Service Fund.  
1980, Developed the earnings surveillance program, which is an integral tool in the Florida Public Service Commission's regulatory oversight.  
1976 to present, Certified Public Accountant in good standing.

## Professional and Community Memberships

Certified Public Accountant licensed in Florida  
Warden of the Vestry and member of the Finance Committee for Christ Church Anglican  
Accountant, The Farm Homeowners' Association  
Vice Chairman, Wakulla Advisory Group for the Community Center  
Treasurer for the Master Gardener program, Wakulla Extension Office  
Treasurer for the 4-H program, Wakulla Extension Office  
Tax preparer for AARP's Tax-Aide program

Thank you for signing up to become a member of Floridians Against Increased Rates, Inc. (FAIR).

We appreciate that you took the time to become a member and stand with us in opposing Florida Power & Light Company's (FPL) latest proposal to raise your electric rates.

The public input process is fast approaching, and we are hopeful that you can help us by signing up to speak virtually at an upcoming hearing of the Florida Public Service Commission. This is an opportunity for you to let those who will be making this decision hear your thoughts on this matter.

Here are the details...

**SIGN UP STARTS AT 9:00 AM, TOMORROW -THURSDAY, JUNE 10<sup>TH</sup>**

**GO TO: [www.floridapsc.com](http://www.floridapsc.com)**

Click on the "Hot Topics" heading and sign up!

You can sign up to speak at any of the following dates and times - indicating which time slot you are signing up to speak at:

June 21 at 10 am

June 22 at 2 pm & 6 pm

June 24 at 2 pm & 6 pm

June 25 at 10 am

July 1 at 2 pm & 6 pm

July 2 at 10 am

SPEAKING SLOTS ARE LIMITED, so plan to go on-line at the PSC's website to reserve your slot as close as you can to 9:00 AM TOMORROW, Thursday, June 10<sup>th</sup>. You don't have to go anywhere – since citizens who want to speak will do so by phone. Although you'll probably be given 2 or 3 minutes, you don't have to say much - this is a time for public input so just say what's on your mind about why you don't think there should be a rate increase. It's unusual for the PSC or FPL to ask questions of members of the public who speak at these hearings, but it is possible, in which case you would simply give an honest and straightforward response.

Finally, if you could share your best phone number with us by reply email so we can stay in touch, that would be great as well.

Thank you again for joining FAIR, and for having your voice heard!

Sincerely,

Floridians for Lower Electric Rates

EXHIBIT D

First Name	Last Name	Address	City	State	Zip	email	Phone	Utility	Business Name	Source
			Punta Horda	Florida	33950			FPL		online
			Melbourne	Florida	32940			FPL		online
			Boca Raton	Florida	33434			FPL		online
			Keystone Hgts	Florida	32656			FPL		online
			Homestead	Florida	33030-6255			FPL		online
			Immokalee	Florida	34142			FPL		online
			Miami	Florida	33193			FPL		online
			Malabar	Florida	32950			FPL		online
			Melbourne	Florida	32935			FPL		online
			Sebastian	Florida	32976			FPL		online
			Naples	Florida	34114			FPL		online
			Palm Bay	Florida	32907			FPL		online
			Fort Myers	Florida	33919			FPL		online
			Palm Coast	Florida	32137			FPL		online
			Hialeah	Florida	33016			FPL		online
			St. Augustine	Florida	32086			FPL		online
			Ormond Beach fl	Florida	32174			FPL		online
			Groveland	Florida	34736			FPL		online
			Lauderhill	Florida	33319			FPL		online
			Vero Beach	Florida	32967			FPL		online
			Ormond Beach	Florida	32174			FPL		online
			Port Charlotte	Florida	33948			FPL		online
			Lake Worth	Florida	33467			FPL		online
			Port St. Lucie	Florida	34986			FPL		online
			Boynton Beach	Florida	33436			FPL		online
			Cutler Bay	Florida	33189			FPL		online
			Delray Beach	Florida	33484			FPL		online
			Ormond Beach	Florida	32174			FPL		online
			Hollywood	FL	33021			FPL		pdf
			Vero Beach	Florida	32963			FPL		online
			Boca Raton	Florida	33498			FPL		online
			Jacksonville	Florida	32225			FPL		online
			Ormond Beach	Florida	32174			FPL		online
			Fort Lauderdale	Florida	33316			FPL		online
			Palm Beach Gardens	Florida	33418			FPL		online
			plantation	Florida	33322			FPL		online
			Yulee	Florida	32097			FPL		online
			Melbourne	Florida	32940			FPL		online
			Indialantic	Florida	32903			FPL		online
			Indialantic	Florida	32903			FPL		online
			Port Charlotte	Florida	33953			FPL		online
			Lehigh Acres	Florida	33936			FPL		online
			Palm Bay	Florida	32905			FPL		online
			Titusville	Florida	32780			FPL		online
			Stuart	Florida	34997			FPL		online
			Titusville	FL	32780			FPL		pdf
			Mims	Florida	32754			FPL		online
			Palm Bay	Florida	32907			FPL		online
			Port Saint Lucie	Florida	34952			FPL		online
			Davie	Florida	33328			FPL		online
			Bonita Springs	Florida	34135			FPL		online
			Jensen Beach	Florida	34957			FPL		online
			West Palm beach	Florida	33404			FPL		online
			NORTH PALM BEACH	Florida	334085561			FPL		online
			Port St Lucie	Florida	34986			FPL		online
			Pory St Lucie	Florida	34986			FPL		online
			Port St Lucie	Florida	34986			FPL		online
			Oviedo	FL	32766			FPL		PDF
			Palm Bay	Florida	32905			FPL		online

EXHIBIT D

	Fort Lauderdale	Florida	33315	FPL	online	
	Cooper City Fl	Florida	33330	FPL	online	
	Tamarac	Florida	33321	FPL	online	
	Melbourne	Florida	32935	FPL	online	
	St Augustine	Florida	32080	FPL	online	
	palm coast	Florida	32164	FPL	online	
	Deltona	Florida	32738	FPL	online	
	Fort Myers	Florida	33905	FPL	online	
	Miami	Florida	33128	FPL	online	
	Miami	Florida	33170	FPL	online	
	Port Charlotte	Florida	33953	FPL	online	
	ft. Mccoy	Florida	32134	FPL	online	
	Merritt Island	Florida	32952	FPL	online	
	Port Orange	Florida	32128	FPL	online	
	Miami	Florida	33138	FPL	online	
	Vero Beach	Florida	32967	FPL	online	
	Titusville	FL	32796	FPL	pdf	
	St. Augustine	Florida	32095	FPL	online	
	Vero Beach	FL	32968	FPL	PDF	
	Miami	Florida	33125	FPL	online	
	Daytona Beach	Florida	32124	FPL	online	
	Stuart	Florida	34997	FPL	online	
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	Port Orange	Florida	32127	FPL	online	
	Geneva	FL	32732	FPL	PDF	
	Pompano Beach	Florida	33064	FPL	online	
	Palm Beach Gardens	Florida	33418	FPL	online	
	Rockledge Fl	Florida	32955	FPL	online	
	Bonita Springs	Florida	34135	FPL	online	
	Port Saint Lucie	Florida	34953	FPL	online	
	Fort Pierce	Florida	34951	FPL	online	
	Vero Beach	Florida	32960	FPL	online	
	Melbourne	Florida	32901	FPL	online	
	Fort Myers	Florida	33913	FPL	online	
	Pomona Park	Florida	32181	FPL	online	
	Jupiter	Florida	33458	FPL	online	
	LAKE WORTH	Florida	33467	FPL	online	
	Ormond Beach	Florida	32174	FPL	online	
	North Port	Florida	34287	FPL	online	
	Orange Park	Florida	32073	FPL	online	
	Palm Coast	Florida	32137	FPL	online	
	tamarac	Florida	33321	FPL	online	
	Englewood	Florida	34224	FPL	online	
	Fort Myers	Florida	33919	FPL	online	
	Coral Springs	Florida	33065	FPL	online	
	Tavernier	Florida	33070	FPL	online	
	Port St. Lucie	Florida	34953	FPL	online	
	Port Saint Lucie	Florida	34984	FPL	online	
	Cocoa	Florida	32926	FPL	online	
	Sunrise	Florida	33323	FPL	online	
	Naples	Florida	34112	FPL	online	
	Daytona Beach	Florida	32118	FPL	online	
	Geneva	Florida	32732	FPL	online	
	Naples	Florida	34109	FPL	online	
	Naples	Florida	35114	FPL	online	
	Daytona Beach	Florida	32117	FPL	online	
	Port orange	Florida	32128	FPL	online	
	Pembroke pines	Florida	33027	FPL	online	
	Cocoa Beach	FL	32931	FPL	online	
	Boca Raton	Florida	33487	FPL	online	

EXHIBIT D

	Delray Beach	Florida	33484		FPL	online	
	Boynton Beach	Florida	33473		FPL	online	
	Cocoa	Florida	32923		FPL	online	
	Miami	Florida	33162		FPL	online	
	Palm coast	Florida	32137		FPL	online	
	Wellington	Florida	33414		FPL	online	
	Merritt Island	Florida	32952		FPL	online	
	Palm Coast	Florida	32164		FPL	online	
	Deltona	Florida	32738		FPL	online	
	Boynton Beach	Florida	33435		FPL	online	
	Ormond Beach	Florida	32174		FPL	online	
	Pembroke Pines	Florida	33029		FPL	online	
	Parrish	Florida	34219		FPL	online	
	Middleburg	Florida	32068		FPL	online	
	Naples	Florida	34108		FPL	online	
	Fort Myers	Florida	33916		FPL	online	
	Boynton Beach	Florida	33437		FPL	online	
	Coconut Creek	Florida	33066		FPL	online	
	Miami	Florida	33193-2474		FPL	online	
	Delray Beach	Florida	33446		FPL	online	
	Hollywood	FL	33019		FPL	pdf	
	Boynton Beach	Florida	33472		FPL	online	
	Delray Beach	Florida	33445		FPL	online	
	Pembroke Pines	Florida	33026		FPL	online	
	lake city	Florida	32024		FPL	online	
	Port Charlotte	Florida	33948		FPL	online	
	Boca raton	Florida	11709		FPL	online	
	Palm City	Florida	34990		FPL	online	
	Hollywood	Florida	33027		FPL	online	
	Lake Worth	Florida	33467		FPL	online	
	Ocala	Florida	34482		FPL	online	
	Vero Beach	FL	32960		FPL	pdf	
	Yulee	Florida	32097		FPL	online	
	PEMBROKE PINES	Florida	33028		FPL	online	
	Delray Beach	Florida	33445		FPL	online	
	Fort Pierce	Florida	34982		FPL	online	
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	Coconut Creek	Florida	33066		FPL	online	
	Stuart	Florida	34997		FPL	online	
	Miami	Florida	33133		FPL	online	
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	Ormond Beach	Florida	32174		FPL	online	
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	Ft. Pierce	Florida	34951		FPL	online	
	Homestead	Florida	33032		FPL	online	
	Mims	Florida	32754		FPL	online	
	Cape Canaveral	Florida	32920		FPL	online	
	Ormond beach	Florida	32174		FPL	online	
	Ormond beach	Florida	32174		FPL	online	
	Palm Coast	Florida	32137		FPL	online	
	The Villages	Florida	32159		FPL	online	
	Port Orange	Florida	32128		FPL	online	
	Tamarac	Florida	33321		FPL	online	
	Fort Pierce	Florida	34982		FPL	online	
	Palm Bay	Florida	32905		FPL	online	
	palm coast	Florida	32137		FPL	online	

EXHIBIT D

	Plantation	Florida	33324	FPL	online
	Holly Hill	Florida	32117	FPL	online
	Charlotte Harbor	Florida	33980	FPL	online
	Palm Coast	Florida	32137	FPL	online
	Viera	Florida	32940	FPL	online
	Fort Myers	Florida	33919	FPL	online
	Delray Beach	Florida	33484		online
	Palm Bay	Florida	32909	FPL	online
	Palm Bay	Florida	32907	FPL	online
	Palm Bay	Florida	32907	FPL	online
	Burnsville	Florida	55337	FPL	online
	Port saint Lucie	Florida	34987	FPL	online
	West Melbourne	Florida	32904	FPL	online
	Ormond beach	Florida	32174	FPL	online
	Tequesta	Florida	33469	FPL	online
	Pembroke Pines	Florida	33024	FPL	online
	Daytona Beach, florida	Florida	32117	FPL	online
	Naples	Florida	34114	FPL	online
	Naples	Florida	34114	FPL	online
	Delray Beach	Florida	33445	FPL	online
	Vero Beach	FL	32963	FPL	pdf
	Tamarac	Florida	33321	FPL	online
	PALM COAST	Florida	32137	FPL	online
	Delray beach, FL	Florida	33446	FPL	online
	Palm Coast	Florida	32164	FPL	online
	Vero Beach	FL	32963	FPL	pdf
	Vero Beach	FL	32963	FPL	pdf
	Vero Beach	FL	32963	FPL	pdf
	Cape Canaveral	Florida	33920	FPL	online
	Ft Lauderdale	Florida	33317	FPL	online
	Sarasota	Florida	34236	FPL	online
	Sarasota	Florida	34236	FPL	online
	Rotonda West	Florida	33947	FPL	online
	Palm Coast	Florida	32137	FPL	online
	Hollywood	FL	33021	FPL	pdf
	Hollywood	FL	33021	FPL	pdf
	Aventura	FL	33180	FPL	pdf
	KEY WEST	Florida	33040	FPL	online
	KEY WEST	Florida	33040	FPL	online
	Satsuma	Florida	32189	FPL	online
	Palm Coast	Florida	32164	FPL	online
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	Palm coast	Florida	32164	FPL	online
	Palm Coast	Florida	32164	FPL	online
	Palm Bay	Florida	32905	FPL	online
	S Palm Beach	Florida	33480	FPL	online
	Holly Hill	Florida	32117	FPL	online
	Ormond beach	Florida	32174	FPL	online
	Melbourne	Florida	32940	FPL	online
	Davie	FL	33324	FPL	pdf
	Ormond Beach	Florida	32174	FPL	online
	Daytona Beach	Florida	32114	FPL	online
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	Stuart	Florida	34997	FPL	online
	Palm Coast	Florida	32164	FPL	online
	Boynton beach	Florida	33435	FPL	online
	Vero Beach	FL	32963	FPL	pdf
	Boynton Beach	Florida	33437	FPL	online
	Cocoa	Florida	32926	FPL	online
	Delray Beach	Florida	33484	FPL	online

EXHIBIT D

	Port St. John	Florida	32927		FPL	online	
	West Palm Beach	Florida	33411		FPL	online	
	Mims	Florida	32754		FPL	online	
	Coral Springs, FL	Florida	33076		FPL	online	
	Port St Lucie	Florida	34953		FPL	online	
	Miramar	Florida	33027		FPL	online	
	Hialeah	Florida	33015		FPL	online	
	Maclenny	Florida	32063		FPL	online	
	South Daytona	Florida	32119		FPL	online	
	St Augustine	Florida	32095		FPL	online	
	Titusville	Florida	32780		FPL	online	
	daytona beach	Florida	32129		FPL	online	
	Naples	Florida	34113		FPL	online	
	Daytona beach	Florida	32119		FPL	online	
	Melbourne	Florida	32934		FPL	online	
	ESTERO	Florida	33928		FPL	online	
	Miami	Florida	33165		FPL	online	
	Deerfield Beach	Florida	33443		FPL	online	
	Miami	Florida	33186		FPL	online	
	Punta Gorda	Florida	33950		FPL	online	
	Hobe Sound	Florida	33455		FPL	online	
	Miami	FL	33176		FPL	pdf	
	Melrose	Florida	32666		FPL	online	
	Palm Coast	Florida	32164		FPL	online	
	Cutler Bay	Florida	33190		FPL	online	
	delray beach	Florida	33446		FPL	online	
	Bonita Springs	Florida	34135		FPL	online	
	Port St. Lucie	Florida	34983		FPL	online	
	PaLm bay	Florida	32907		FPL	online	
	Port Saint Lucie	Florida	34952		FPL	online	
	Miami	Florida	36176		FPL	online	
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	Vero Beach	FL	32966		FPL	pdf	
	Vero Beach	FL	32966		FPL	pdf	
	Arcadia	Florida	34266		FPL	online	
	Ormond Beach	Florida	32174		FPL	online	
	Melbourne	Florida	32940		FPL	online	
	Jupiter	Florida	33478		FPL	online	
	Boynton Beach	Florida	33437		FPL	online	
	Chuluota	Florida	32766		FPL	online	
	St. augustine	Florida	32092		FPL	online	
	Naples	Florida	34120		FPL	online	
	Palm Coast	Florida	32164		FPL	online	
	Punta Gorda	Florida	33982		FPL	online	
	Port St. Lucie	Florida	34952		FPL	online	
	Naples	Florida	34112-7239		FPL	online	
	Plantation	Florida	33322-4806		FPL	online	
	Port St. Lucie	Florida	34984		FPL	online	
	west palm beach	Florida	33411		FPL	online	
	Port St. Lucie	Florida	34983		FPL	online	
	Lake Worth	Florida	33467		FPL	online	
	W.P.B.	Florida	33413		FPL	online	
	Hialeah FL	Florida	33018		FPL	online	
	Miami	Florida	33174-1880		FPL	online	
	Punta GORDA	Florida	33950		FPL	online	
	Cape Coral	Florida	33914		FPL	online	
	North Port	Florida	34288		FPL	online	
	Lehigh Acres	Florida	33936		FPL	online	
	Ormond Beach	Florida	32174		FPL	online	
	Merritt Island	Florida	32953		FPL	online	

EXHIBIT D

	Port Saint Lucie	Florida	34987		FPL	online	
	Vero Beach	Florida	32963		FPL	online	
	Cocoa, Fl	Florida	32926		FPL	online	
	Delray Beach	Florida	33484		FPL	online	
	JUPITER	Florida	33458		FPL	online	
	cocoa	Florida	32926		FPL	online	
	Port Charlotte	Florida	33981		FPL	online	
	Port Charlotte	Florida	33981		FPL	online	
	Lake Worth	Florida	33467		FPL	online	
	West Palm Beach	Florida	33417		FPL	online	
	Fort Myers, FL	Florida	33901		FPL	online	
	Orlando	Florida	32832		FPL	online	
	Sanford	Florida	32771		FPL	online	
	Rotonda West	Florida	33947		FPL	online	
	Micco	Florida	32976		FPL	online	
	Pompano Beach	Florida	33060		FPL	online	
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	Oakland Park	Florida	33309		FPL	online	
	Davie	Florida	33324		FPL	online	
	Palm Coast	Florida	32137		FPL	online	
	Boca Raton,	Florida	33496		FPL	online	
	Boca Raton, Fl	Florida	33496		FPL	online	
	BUNNELL	Florida	32110		FPL	online	
	Fort Pierce	Florida	34982		FPL	online	
	Miami	Florida	33187		FPL	online	
	Miami, Fl	Florida	33174		FPL	online	
	Hollywood	Florida	33021		FPL	online	
	Naples	Florida	34116		FPL	online	
	Boynton Beach	Florida	33436		FPL	online	
	Fort Lauderdale	Florida	33321		FPL	online	
	Hollywood	Florida	33024		FPL	online	
	Vero Beach	Florida	32968		FPL	online	
	Merritt Island	Florida	32952		FPL	online	
	Coral springs	Florida	33065		FPL	online	
	Pembroke Pines	Florida	33029		FPL	online	
	Boynton Beach	Florida	33437-7541		FPL	online	
	Davie	Florida	33324		FPL	online	
	Barefoot Bay	Florida	32976		FPL	online	
	Palm bay	Florida	32907		FPL	online	
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	Palm Bay	Florida	32909		FPL	online	
	Port St Lucie	Florida	34987		FPL	online	
	Pembroke Pines	Florida	33029		FPL	online	
	Port Saint Lucie	Florida	34953		FPL	online	
	DAYTONA BEACH	Florida	32114		FPL	online	
	Palm Coast	Florida	32164		FPL	online	
	Crescent city	Florida	32112		FPL	online	
	Fort LauderdaleLauderh	Florida	33313		FPL	online	
	Melbourne fl	Florida	32935		FPL	online	
	Deerfield Beach	Florida	33441		FPL	online	
	Palm Bay	Florida	32909-5576		FPL	online	
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	Cooper City	Florida	33328		FPL	online	
	Miami	Florida	33174		FPL	online	
	Ft Myers	Florida	33913		FPL	online	
	Port st Lucie	Florida	34986		FPL	online	
	Ormond Beach	Florida	32176		FPL	online	

## EXHIBIT D

Vero Beach	Florida	32960	FPL	online
Melbourne	Florida	32940	FPL	online
Fort Lauderdale	Florida	33309	FPL	online
Stuart	Florida	34997	FPL	online
Ormond Beach	Florida	32176	FPL	online
North Miami	Florida	33161	FPL	online
Vero Beach	Florida	32963	FPL	online
Vero Beach	Florida	32966	FPL	online
Miami	FL	33138	FPL	pdf
Ft Myers	Florida	33967	FPL	online
Miami	Florida	33175	FPL	online
Ormond Beach	Florida	32174	FPL	online
Pompano beach	Florida	33064	FPL	online
merritt island	Florida	32953	FPL	online
Rockledge, FL	Florida	32955	FPL	online
Ormond Beach	Florida	32174	FPL	online
Sebastian	Florida	32958	FPL	online
Edgewater	Florida	32141	FPL	online
Melbourne	Florida	32940	FPL	online
Vero Beach	Florida	32960	FPL	online
arcadia	Florida	34266	FPL	online
Vero Beach	Florida	32968	FPL	online
Hollywood	Florida	33026	FPL	online
Lake Worth	Florida	33463	FPL	online
Naples	Florida	34114	FPL	online
PORT ST. LUCIE	Florida	34983	FPL	online
Punta Gorda	Florida	33955	FPL	online
FT. MYERS, FL.	Florida	33912	FPL	online
Bunnell	Florida	32110	FPL	online
Port Charlotte	Florida	33981	FPL	online
Melbourne	Florida	32901	FPL	online
Tavenier	Florida	33070	FPL	online
Port St. Lucie	Florida	34962	FPL	online
Fort Myers	Florida	33905	FPL	online
Stuart	Florida	34997	FPL	online
Vero Beach	FL	32963	FPL	pdf
Vero Beach	Florida	32963	FPL	online
Hobe Sound	Florida	33455	FPL	online
Vero Beach	FL	32963	FPL	pdf
Vero Beach	FL	32963	FPL	pdf
Vero Beach	Florida	32960	FPL	online
Palm bay	Florida	32907	FPL	online
Cape Canaveral	Florida	32920	FPL	online
Daytona Beach	Florida	32114	FPL	online
Boynton beach	Florida	33426	FPL	online
Palm Bay	Florida	32907	FPL	online
pompano beach	Florida	33060	FPL	online
Edgewater	Florida	32141	FPL	online
St. Augustine	Florida	32084	FPL	online
Coral Springs	Florida	33065-4506	FPL	online
Fernandina Beach	Florida	32034	FPL	online
Port saint Lucie	Florida	34983	FPL	online
Daytona Beach	Florida	32124	FPL	online
Cocoa Beach	FL	32931	FPL	PDF
Fort Myers	Florida	33913	FPL	online
LANTANA	Florida	33462	FPL	online
Pompano Beach	Florida	33062	FPL	online
Vero Beach	Florida	32966	FPL	online
Greenacres	Florida	33463	FPL	online
Viera	Florida	32940	FPL	online

EXHIBIT D

[REDACTED]	Fort pierce	Florida	34951	[REDACTED]	FPL	[REDACTED]	online	[REDACTED]
[REDACTED]	Palm coast	Florida	32164	[REDACTED]	FPL	[REDACTED]	online	[REDACTED]
[REDACTED]	Fort Lauderdale	Florida	33304	[REDACTED]	FPL	[REDACTED]	online	[REDACTED]
[REDACTED]	Jacksonville	Florida	32258	[REDACTED]	FPL	[REDACTED]	online	[REDACTED]
[REDACTED]	Bonita Springs	Florida	34135	[REDACTED]	FPL	[REDACTED]	online	[REDACTED]
[REDACTED]	Arcadia	Florida	34269	[REDACTED]	FPL	[REDACTED]	online	[REDACTED]
[REDACTED]	Cocoa	Florida	32936	[REDACTED]	FPL	[REDACTED]	online	[REDACTED]
[REDACTED]	South Daytona	Florida		[REDACTED]	FPL	[REDACTED]	online	[REDACTED]
[REDACTED]	Bonita Springs	Florida	34134	[REDACTED]	FPL	[REDACTED]	online	[REDACTED]
[REDACTED]	Sebastian Fla	Florida	32976	[REDACTED]	FPL	[REDACTED]	online	[REDACTED]
[REDACTED]	Ft Myers	Florida	33912	[REDACTED]	FPL	[REDACTED]	online	[REDACTED]
[REDACTED]	Port Saint Lucie	Florida	34952	[REDACTED]	FPL	[REDACTED]	online	[REDACTED]
[REDACTED]	Punta Gorda	Florida	33983	[REDACTED]	FPL	[REDACTED]	online	[REDACTED]
[REDACTED]	Elkton	Florida	3.2034E+20	[REDACTED]	FPL	[REDACTED]	online	[REDACTED]
[REDACTED]	cocoa	Florida	32922	[REDACTED]	FPL	[REDACTED]	online	[REDACTED]
[REDACTED]	Ormond Beach	Florida	32174	[REDACTED]	FPL	[REDACTED]	online	[REDACTED]
[REDACTED]	Bonita Springs	Florida	34134	[REDACTED]	FPL	[REDACTED]	online	[REDACTED]

EXHIBIT D

First Name	Last Name	Address	City	State	Zip	email	Phone	Utility	Business Name	Source
			Deltona	Florida	32725-9624			Duke Energy Florida (Duke)		ONLINE
			Orlando	Florida	32821			Duke Energy Florida (Duke)		ONLINE
			The Villages	Florida	32159			Duke Energy Florida (Duke)		ONLINE
			Ocklawaha	Florida	32179			Duke Energy Florida (Duke)		ONLINE
			Summerfield	Florida	34491			Duke Energy Florida (Duke)		ONLINE
			Fort Pierce	Florida	34982			Florida Public Utilities Company (FPUC)		ONLINE
			Tampa	Florida	33609-1219			Tampa Electric Company (TECO)		ONLINE
			Meritt Island	Florida	32953			Florida Public Utilities Company (FPUC)		ONLINE
			DeLand	Florida	32720			Duke Energy Florida (Duke)		ONLINE
			Pierson	Florida	32180			Duke Energy Florida (Duke)		ONLINE
			Mount Dora	Florida	32757			Duke Energy Florida (Duke)		ONLINE
			Jacksonville	Florida	32258			Florida Public Utilities Company (FPUC)		ONLINE
			Bellevue	Florida	34420			Duke Energy Florida (Duke)		ONLINE
			Apopka	Florida	32703			Duke Energy Florida (Duke)		ONLINE
			WINTER GARDEN	Florida	34787			Duke Energy Florida (Duke)		ONLINE
			Umatilla	Florida	32784-7118			Duke Energy Florida (Duke)		ONLINE
			Kissimmee fl	Florida	34747			Duke Energy Florida (Duke)		ONLINE
			Altamonte Springs, FL	Florida	32701			Duke Energy Florida (Duke)		ONLINE
			Kissimmee, FL	Florida	34747			Duke Energy Florida (Duke)		ONLINE
			Oviedo	Florida	32765			Duke Energy Florida (Duke)		ONLINE
			Longwood	Florida	32779			Duke Energy Florida (Duke)		ONLINE
			Summerfield	Florida	34491			Duke Energy Florida (Duke)		ONLINE
			Fort Myers Beach	Florida	33931			Florida Public Utilities Company (FPUC)		ONLINE
			DeBary	Florida	32713			Duke Energy Florida (Duke)		ONLINE
			DeBary	Florida	32713			Duke Energy Florida (Duke)		ONLINE
			Lake Worth Beach	Florida	33460			Florida Public Utilities Company (FPUC)		ONLINE
			Orlando	Florida	32822			Duke Energy Florida (Duke)		ONLINE
			Casselberry, FL	Florida	32707			Duke Energy Florida (Duke)		ONLINE
			tampa	Florida	33610			Tampa Electric Company (TECO)		ONLINE
			Umatilla	Florida	32784			Duke Energy Florida (Duke)		ONLINE
			Mount Dora	Florida	32757			Duke Energy Florida (Duke)		ONLINE
			Cape Coral	Florida	33914			Florida Public Utilities Company (FPUC)		ONLINE
			Clermont	Florida	34711			Duke Energy Florida (Duke)		ONLINE
			Bushnell	Florida	33513			Duke Energy Florida (Duke)		ONLINE
			Fernandina Beach	Florida	32034			Florida Public Utilities Company (FPUC)		ONLINE
			Davenport FL	Florida	33897			Duke Energy Florida (Duke)		ONLINE
			Orlando	Florida	32817			Duke Energy Florida (Duke)		ONLINE
			Orange City	Florida	32763			Duke Energy Florida (Duke)		ONLINE
			Oakland	Florida	34760			Duke Energy Florida (Duke)		ONLINE
			POINCIANA FLORIDA	Florida	34758			Duke Energy Florida (Duke)		ONLINE
			Mt. Dora	Florida	32757			Duke Energy Florida (Duke)		ONLINE
			Oviedo	Florida	32765			Duke Energy Florida (Duke)		ONLINE
			The Villages	Florida	32162			Tampa Electric Company (TECO)		ONLINE
			FL	Florida	34472			Duke Energy Florida (Duke)		ONLINE
								Florida Public Utilities Company (FPUC)		ONLINE
			Eustis	Florida	32726			Duke Energy Florida (Duke)		ONLINE
			Davenport	Florida	33897			Duke Energy Florida (Duke)		ONLINE
			Orlando	Florida	32822			Duke Energy Florida (Duke)		ONLINE
			Lady Lake	Florida	3259			Duke Energy Florida (Duke)		ONLINE
			OCALA	Florida	34481			Duke Energy Florida (Duke)		ONLINE
			Jacksonville	Florida	32254			Florida Public Utilities Company (FPUC)		ONLINE
			Longwood	Florida	32779			Duke Energy Florida (Duke)		ONLINE
			St. Cloud	Florida	34772			Duke Energy Florida (Duke)		ONLINE
			LEESBURG	Florida	34788			Duke Energy Florida (Duke)		ONLINE
			Longwood	Florida	32779			Duke Energy Florida (Duke)		ONLINE
			Oviedo	Florida	32765			Duke Energy Florida (Duke)		ONLINE
			Orlando	Florida	32820			Duke Energy Florida (Duke)		ONLINE
			Winter Springs	Florida	32708			Duke Energy Florida (Duke)		ONLINE
			Saint Cloud	Florida	34771			Florida Public Utilities Company (FPUC)		ONLINE
			Dunnellon	Florida	34431			Duke Energy Florida (Duke)		ONLINE
			Ocala	Florida	34482			Florida Public Utilities Company (FPUC)		ONLINE
			Lady Lake	Florida	32159			Duke Energy Florida (Duke)		ONLINE
			Ocala	Florida	34481			Duke Energy Florida (Duke)		ONLINE
			Orlando	Florida	32821			Duke Energy Florida (Duke)		ONLINE
			Reddick	Florida	32686			Duke Energy Florida (Duke)		ONLINE
			Ocala	Florida	34480			Florida Public Utilities Company (FPUC)		ONLINE
			st. cloud	Florida	34769			Florida Public Utilities Company (FPUC)		ONLINE
			Pensacola	Florida	32504			Gulf Power Company (Gulf)		ONLINE
			eutis	Florida	32726			Duke Energy Florida (Duke)		ONLINE
			Summerfield	Florida	34491			Duke Energy Florida (Duke)		ONLINE
			Windermere	Florida	34786			Duke Energy Florida (Duke)		ONLINE
			Ocala	Florida	34472			Duke Energy Florida (Duke)		ONLINE
			Orlando	Florida	32807			Duke Energy Florida (Duke)		ONLINE
			Fernandina beach	Florida	32034			Florida Public Utilities Company (FPUC)		ONLINE
			Ocala	Florida	34472			Duke Energy Florida (Duke)		ONLINE
			Ocala	Florida	34476			Florida Public Utilities Company (FPUC)		ONLINE
			Bellevue, fl	Florida	34420			Duke Energy Florida (Duke)		ONLINE
			Ocala	Florida	34475			Duke Energy Florida (Duke)		ONLINE
			Saint Johns	Florida	32259			Florida Public Utilities Company (FPUC)		ONLINE

EXHIBIT D

[REDACTED]	Dunnellon	Florida	34432	[REDACTED]	Duke Energy Florida (Duke)	[REDACTED]	ONLINE	[REDACTED]
[REDACTED]	Hernando	Florida	34442	[REDACTED]	Duke Energy Florida (Duke)	[REDACTED]	ONLINE	[REDACTED]
[REDACTED]	Eustis	Florida	32726	[REDACTED]	Duke Energy Florida (Duke)	[REDACTED]	ONLINE	[REDACTED]
[REDACTED]	Cape Coral	Florida	33990	[REDACTED]	Duke Energy Florida (Duke)	[REDACTED]	ONLINE	[REDACTED]
[REDACTED]	Winter Springs	Florida	32708	[REDACTED]	Duke Energy Florida (Duke)	[REDACTED]	ONLINE	[REDACTED]
[REDACTED]	Jacksonville	Florida	32250	[REDACTED]	Florida Public Utilities Company (FPUC)	[REDACTED]	ONLINE	[REDACTED]
[REDACTED]	mt dora	Florida	32757	[REDACTED]	Duke Energy Florida (Duke)	[REDACTED]	ONLINE	[REDACTED]
[REDACTED]	Cape Coral	Florida	33990	[REDACTED]	Florida Public Utilities Company (FPUC)	[REDACTED]	ONLINE	[REDACTED]
[REDACTED]	Orlando	Florida	32808	[REDACTED]	Florida Public Utilities Company (FPUC)	[REDACTED]	ONLINE	[REDACTED]
[REDACTED]	Deland	Florida	32720	[REDACTED]	Duke Energy Florida (Duke)	[REDACTED]	ONLINE	[REDACTED]
[REDACTED]	Mount Dora	Florida	32757	[REDACTED]	Duke Energy Florida (Duke)	[REDACTED]	ONLINE	[REDACTED]
[REDACTED]	Ocala	Florida	34472	[REDACTED]	Duke Energy Florida (Duke)	[REDACTED]	ONLINE	[REDACTED]
[REDACTED]	Mount Dora	Florida	32757	[REDACTED]	Duke Energy Florida (Duke)	[REDACTED]	ONLINE	[REDACTED]
[REDACTED]	Jacksonville	Florida	32210	[REDACTED]	Florida Public Utilities Company (FPUC)	[REDACTED]	ONLINE	[REDACTED]
[REDACTED]	Florida	Florida	32735	[REDACTED]	Duke Energy Florida (Duke)	[REDACTED]	ONLINE	[REDACTED]
[REDACTED]	Casselberry	Florida	32707	[REDACTED]	Duke Energy Florida (Duke)	[REDACTED]	ONLINE	[REDACTED]
[REDACTED]	Lady Lake	Florida	32159	[REDACTED]	Duke Energy Florida (Duke)	[REDACTED]	ONLINE	[REDACTED]
[REDACTED]	Orlando	Florida	32806	[REDACTED]	Duke Energy Florida (Duke)	[REDACTED]	ONLINE	[REDACTED]
[REDACTED]	Sorrento	Florida	32776	[REDACTED]	Duke Energy Florida (Duke)	[REDACTED]	ONLINE	[REDACTED]
[REDACTED]	Bellevue	Florida	34420	[REDACTED]	Duke Energy Florida (Duke)	[REDACTED]	ONLINE	[REDACTED]
[REDACTED]	The Villages	Florida	32163	[REDACTED]	Florida Public Utilities Company (FPUC)	[REDACTED]	ONLINE	[REDACTED]



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LaVia, Wright & Perry, P.A.  
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June 21, 2021

**VIA ELECTRONIC FILING**

Adam Teitzman, Commission Clerk  
Division of the Commission Clerk and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399

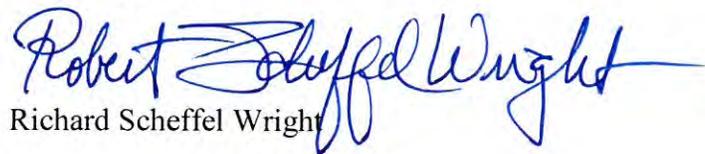
RE: Docket No. 20210015-EI  
Petition by FPL for Base Rate Increase and Rate Unification

Dear Mr. Teitzman:

Attached for filing on behalf of Floridians Against Increased Rates, Inc. ("FAIR") in the above-referenced docket are the Direct Testimony and Exhibits of FAIR witness John Thomas Herndon.

Please let me know if you should have any questions regarding this submission.

Cordially yours,

  
Richard Scheffel Wright

RSW:mae  
Encl.

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition by Florida Power & Light )  
Company for Rate Unification and for ) DOCKET NO. 20210015-EI  
Base Rate Increase ) FILED: JUNE 21, 2021  
\_\_\_\_\_)

**DIRECT TESTIMONY**

**OF JOHN THOMAS HERNDON**

**On Behalf of**

**Floridians Against Increased Rates, Inc.**

**IN RE: PETITION BY FLORIDA POWER & LIGHT COMPANY FOR  
RATE UNIFICATION AND FOR BASE RATE INCREASE,  
DOCKET NO. 20210015-EI**

**DIRECT TESTIMONY OF JOHN THOMAS HERNDON  
ON BEHALF OF FLORIDIANS AGAINST INCREASED RATES, INC.**

**INTRODUCTION AND QUALIFICATIONS**

1

2 **Q. Please state your name and business address.**

3 A. My name is John Thomas Herndon, and my address is 9062 Eagles Ridge  
4 Drive, Tallahassee, Florida 32312.

5

6 **Q. By whom and in what position are you employed?**

7 A. In practical terms, I am self-employed as an independent contractor. After  
8 more than thirty years of service to two Florida governors, the Florida  
9 Legislature, the Public Service Commission, and other agencies in Florida's  
10 state government, as well as brief periods in consulting, I retired from full-  
11 time employment in 2005. Since that time, I have worked as an independent  
12 contractor, including service as a director and board member for several  
13 organizations and occasionally as a consultant on various matters, including  
14 utility issues.

15

16

17

1 **Q. On whose behalf are you testifying in this proceeding?**

2 A. I am testifying on behalf of Floridians Against Increased Rates, Inc., a  
3 Florida not-for-profit corporation and FAIR's members who are customers  
4 of FPL.

5  
6 **Q. Please summarize your educational background and professional  
7 experience.**

8 A. I received a Bachelor of Arts degree in Interdisciplinary Social Services from  
9 the University of South Florida in 1968, and a Master of Social Work degree  
10 from Florida State University in 1972. Beginning in 1974, I held several  
11 positions of increasing responsibility in Florida state government, including  
12 service in the Florida Legislature as staff director of the Florida House of  
13 Representatives Appropriations Committee. After that I served six years as  
14 state budget director and later Deputy Chief of Staff and Chief of Staff for  
15 Governor Bob Graham. I then served as a Public Service Commissioner  
16 from 1986 until 1990, after which Governor Bob Martinez nominated me to  
17 serve as Director of the Florida Department of Revenue from 1990 to 1992.  
18 Governor Lawton Chiles appointed me as his Chief of Staff for three years,  
19 from 1992 until 1995. My career in Florida state government culminated with  
20 my serving six years as Executive Director of the State Board of  
21 Administration managing the state pension fund and other accounts. My  
22 professional experience also included two relatively brief periods, 1995-

1 1996 and 2002-2005, in which I provided governmental consulting and  
2 lobbying services to a range of clients. My résumé is provided as Exhibit  
3 JTH-1 to my testimony.

4  
5 **Q. Please describe your responsibilities and activities with respect to FAIR.**

6 A. I am a director of FAIR. In that capacity, I participate in the usual range of  
7 decisions made by directors of non-profit corporations that work to promote  
8 the public interest. Pursuant to applicable law, I receive no compensation for  
9 my services as a director. However, I am compensated pursuant to an  
10 engagement agreement for my services as an expert witness in this  
11 proceeding.

12  
13 **Q. Are you testifying as an expert in this proceeding? If so, please state the  
14 area or areas of your expertise relevant to your testimony.**

15 A. Yes. From my perspective as a former member of the Florida Public Service  
16 Commission, as the Executive Director of the Florida State Board of  
17 Administration, as the Director of the Office of Planning and Budgeting in  
18 the administration of Governor Bob Graham, and as the chief of staff for  
19 Governor Bob Graham and Governor Lawton Chiles, I am testifying as an  
20 expert regarding utility ratemaking, including appropriate rates of return on  
21 common equity for investor-owned electric companies such as Florida Power  
22 & Light Company (“FPL”) and Gulf Power Company (“Gulf”); regarding

1 the principles applicable to setting fair, just, and reasonable rates for electric  
2 utility customers; and regarding sound public policy, including public  
3 interest considerations applicable to promoting electric utility service and the  
4 Commission's role in setting utility rates.

5

6 **Q. Have you previously testified in proceedings before utility regulatory**  
7 **commissions or similar authorities?**

8 A. Yes. I testified before the Florida Public Service Commission  
9 ("Commission," "Florida PSC," or "PSC") in Docket No. 20080317-EI, a  
10 previous general rate case before the PSC involving Tampa Electric  
11 Company. In my career, I also testified many times regarding financial,  
12 investment, and policy issues before committees and subcommittees of the  
13 Florida Legislature and before the Florida Governor and Cabinet.

14

15 **Q. Are you sponsoring any exhibits with your testimony?**

16 A. Yes. I am sponsoring the following exhibits:

17 Exhibit JTH-1

Résumé of John Thomas Herndon;

18

19 Exhibit JTH-2

Florida PSC document titled "REVENUE  
20 REDUCTIONS AND INCREASES ORDERED  
21 BY THE FLORIDA PUBLIC SERVICE  
22 COMMISSION FOR CERTAIN INVESTOR-  
23 OWNED ELECTRIC AND NATURAL GAS  
24 UTILITIES, UTILITIES FROM 1960 TO  
25 PRESENT (All Utilities from 1968 to Present);  
26

1 Exhibit JTH-3 Articles of Incorporation of Floridians Against  
2 Increased Rates, Inc.;

3

4 Exhibit JTH-4 FAIR Membership Application; and

5

6 Exhibit JTH-5 FPL's Proposed Rate Increases Over 2022-2025.

7

8

9 **PURPOSE AND SUMMARY OF TESTIMONY**

10 **Q. What is the purpose of your testimony in this docket?**

11 A. The purpose of my testimony in this proceeding is to provide the  
12 Commissioners with a brief description of FAIR and to share my professional  
13 opinions regarding the appropriate standards for setting allowed revenues or  
14 revenue requirements, for setting rates of return on common equity for rate-  
15 regulated electric companies in Florida, and ultimately, for setting the retail  
16 electric rates to be charged to FPL's customers at the conclusion of this case.  
17 I also address the need for the Commission to consider the overall public  
18 policy aspects of the Commission's decisions on the public interest,  
19 particularly in the real-world circumstances in which this rate case is being  
20 conducted. By that I mean, the disastrous impact of FPL's proposed rate  
21 increases during the recovery from the most devastating economic and  
22 related challenges that the United States and the world have faced since  
23 World War II.

24

1   **Q.   Please summarize the main points of your testimony.**

2   A.   FAIR is a Florida not-for-profit corporation that exists to inform the public  
3       regarding energy issues and to advocate by all lawful means for laws, rules,  
4       and government decisions – including decisions to be made by the Florida  
5       Public Service Commission – that will result in the retail electric rates  
6       charged by Florida’s investor-owned electric utilities being as low as  
7       possible while ensuring that the utilities are able to provide safe and reliable  
8       electric service. In joining FAIR, the members request and authorize FAIR  
9       to represent their interests in having the lowest possible electric rates  
10      consistent with their respective utility providing safe and reliable service.  
11      While FAIR continues to recruit new members on an ongoing basis, as of the  
12      date on which this testimony is being filed, FAIR has more than 500  
13      members. The substantial majority – approximately 80 percent – of FAIR’s  
14      members are customers of FPL.

15           Pursuant to Florida law and fundamental principles of utility rate-  
16      making, the Commission is responsible to set a utility’s allowed revenues (or  
17      “revenue requirements”) and the utility’s rates at levels that are fair, just, and  
18      reasonable to both the utility and its customers.

19           From the utility’s perspective, fair, just, and reasonable rates are rates  
20      that provide the utility with revenues that are sufficient to cover all of its  
21      reasonable and prudent operating and maintenance (“O&M”) costs, cover its  
22      reasonable costs of borrowing debt capital, and provide the utility with the

1 opportunity to earn a return on a reasonable and appropriate amount of equity  
2 capital that is sufficient to attract the needed capital to finance its reasonable  
3 and prudent investments that are necessary to provide safe and reliable  
4 service.

5 From the perspective of customers, fair, just, and reasonable rates are  
6 rates that enable the utility to provide safe and reliable service, including  
7 earning a reasonable return on investment, but no more than that. This means  
8 that whatever the utility pays for materials, capital equipment, and borrowed  
9 capital should be no greater than the amount truly necessary to provide safe  
10 and reliable service.

11 FPL's requests in this case represent the largest rate increase request  
12 made by any Florida public utility in history, and if granted, these new rates  
13 would be the largest rate increases in Florida history. (My Exhibit JTH-2 is  
14 a copy of a PSC report of rate case decisions of the PSC; the largest previous  
15 request was FPL's request in Docket No. 20080677-EI, made in 2008 and  
16 decided in 2010.) FPL's requests are excessive to the degree that it is highly  
17 likely that FPL can provide safe and reliable service with no rate increase  
18 before 2023 at the earliest. It is my opinion, based on reviewing FPL's claims  
19 and the testimony of the intervenor witnesses in this case, including the other  
20 witnesses sponsored by FAIR, that FPL can recover all of its O&M costs,  
21 pay all of its borrowing (debt) interest costs, and earn a fair return on its  
22 equity investment if the Commission simply sets FPL's rates applying a rate

1 of return on common equity (“ROE”) close to the average currently and  
2 recently approved by other states’ regulatory commissions to a capital  
3 structure that includes an average amount of equity capital (“equity ratio”)  
4 compared to those currently and recently approved by other state  
5 commissions. A PSC decision on these principles and parameters will not  
6 harm FPL’s financial integrity, and given the very low financial risks faced  
7 by Florida IOUs, an average return in Florida – vs. the same return in other  
8 states – will be viewed favorably by potential investors.

9 FPL’s request of for a midpoint ROE of 11.50 percent, including its  
10 requested 50 basis point “ROE performance incentive,” is excessive vs. the  
11 national average for vertically integrated electric utilities of 9.55 percent.  
12 FPL’s proposed equity ratio of 59.6 percent is excessive vs. the national  
13 average for all electric utilities of less than 50 percent. FPL’s proposed  
14 values are also greater than those supported by other witnesses in this case.  
15 Just these two factors taken together, if decided fairly by the Florida PSC,  
16 would reduce FPL’s revenue requirement for 2022 by more than \$1 billion.  
17 This means that in 2022, FPL could cover all of its labor, materials and  
18 supplies, and other O&M costs, cover all of its borrowing (interest) costs,  
19 and make all of its proposed investments, and still earn returns demonstrated  
20 by national experience to be fair and reasonable, with no rate increase at all!  
21 Another way of looking at FPL’s financial conditions is to see how they fared

1 using the existing rate plans. The answer is, they did very well as measured  
2 by any financial metric.

3 From the basic viewpoint of good public policy, FPL's requests for  
4 the largest rate increases in Florida history and for an equity return that is  
5 dramatically greater than relevant national averages on an inflated equity  
6 ratio that is also substantially greater than relevant national averages, are  
7 excessive and unnecessary. In the simplest terms, FPL wants to overcharge  
8 its customers by more than \$1 billion annually. For FPL to make this request  
9 against the backdrop of its earning returns much, much greater than the  
10 national averages over the past three years defies logic. And finally, for FPL  
11 to make these requests in the context of Florida and the United States still  
12 recovering from the most devastating economic, public health, and related  
13 challenges that the United States and the world have faced since World War  
14 II, is plainly contrary to the public interest of Florida and Florida's citizens.

15 The Florida PSC should stand up for what its statutes require: the  
16 Commission should appropriately consider the public interest of all  
17 Floridians and set rates for FPL and its customers that will enable FPL to  
18 recover its costs and earn a fair return on reasonable investment, sufficient to  
19 provide safe and reliable service, no more and no less. The PSC should deny  
20 FPL's excessive requests.

21

22

1     **BACKGROUND – FLORIDIANS AGAINST INCREASED RATES, INC.**

2     **Q.     Please describe FAIR and its purposes.**

3     A.     FAIR is a Florida not-for-profit corporation that was formed in March of this  
4           year. FAIR’s purposes are set forth in the corporation’s Articles of  
5           Incorporation, which are included as Exhibit JTH-3 to my testimony. In  
6           summary, FAIR’s purposes are to inform the public regarding energy issues  
7           and to advocate by all lawful means for laws, rules, and government  
8           decisions – including decisions to be made by the Florida Public Service  
9           Commission – that will result in the retail electric rates charged by Florida’s  
10          investor-owned electric utilities being as low as possible while ensuring that  
11          the utilities are able to provide safe and reliable electric service.

12  
13    **Q.     Who are FAIR’s members?**

14    A.     Membership in FAIR is open to any customer, including both residential and  
15          business customers, of any Florida investor-owned utility, i.e., FPL, Duke  
16          Energy Florida, Tampa Electric Company, Gulf Power Company, and  
17          Florida Public Utilities Company. In joining FAIR, the members request and  
18          authorize FAIR to represent their interests in having the lowest possible  
19          electric rates consistent with their respective utility providing safe and  
20          reliable service. A copy of FAIR’s basic membership application is included  
21          as Exhibit JTH-4 to my testimony.

22

1 **Q. How many members does FAIR have?**

2 A. As indicated above, FAIR is a relatively new organization. Thus, not  
3 surprisingly, FAIR has an ongoing membership recruitment program. As of  
4 the time that this direct testimony is being filed, FAIR has more than 500  
5 members, including customers of FPL, Duke Energy Florida, Tampa Electric  
6 Company, Gulf Power Company, and Florida Public Utilities Company's  
7 electric division. FAIR's members include customers from residential and  
8 general service rate classes. The vast majority of FAIR's members –  
9 approximately 80 percent of the total membership as of this date – are  
10 customers of FPL.

11

12 **BACKGROUND – REGULATORY PRINCIPLES**

13 **Q. From your perspective as a former Florida Public Service**  
14 **Commissioner, what do you believe are the primary policies and**  
15 **principles that should guide the PSC's decisions in this case?**

16 A. In general, the fundamental principles of setting a utility's allowed revenues  
17 and rates are simple: the utility should be allowed to recover all of its  
18 reasonable and prudent operating and maintenance ("O&M") costs, its  
19 reasonable and prudent costs of borrowing debt capital (i.e., interest  
20 expense), and a reasonable return on its reasonably and prudently incurred  
21 investments necessary to provide safe and reliable service at the lowest  
22 possible cost. In this context, "reasonable and prudent" costs must be

1 determined as those that are cost-effective as compared to available  
2 alternatives, and this principle applies equally to the cost paid for a length of  
3 power line, a power pole, the interest cost on a bond, the ROE rate required  
4 in objective and competitive capital markets to attract equity capital, and the  
5 amount of equity capital that the utility objectively needs in order to support  
6 its investments.

7 These fundamental principles are frequently referred to as a set of  
8 policies and principles known as the “Regulatory Compact.” The “bargain”  
9 contained within this Regulatory Compact is that the utility enjoys a  
10 government-protected monopoly in its service area, in return for which it is  
11 allowed to recover its necessary costs incurred in providing safe and reliable  
12 service to its captive customers. This bargain is fair to utilities because it  
13 ensures that, assuming reasonable and sound management, the utility will  
14 recover its legitimate costs and earn a fair and reasonable return, and it is fair  
15 to customers because, properly followed, it will ensure that customers  
16 receive safe and reliable utility services, like electricity, which is generally  
17 regarded as a necessity, at the lowest possible cost. In this context, cost-  
18 effective means at the lowest cost available from functionally equivalent  
19 alternatives; if the utility overpays or attempts to charge rates based on such  
20 over-payments, the bargain is violated.

21

22

1 **Q. How does this relate to utility rates?**

2 A. The utility's rates must be fair, just, and reasonable (and not unduly  
3 discriminatory). Fair, just, and reasonable rates are those that allow the  
4 utility to recover its reasonable, legitimate costs incurred through cost-  
5 effective management and to recover a reasonable and cost-effective return  
6 on its investments, also evaluated on the basis of cost-effective financing and  
7 management. Rates that include expenses for materials or labor that could  
8 have been procured at lower cost, and rates that include excessive returns,  
9 are unfair, unjust, and unreasonable.

10

11 **BACKGROUND – FPL'S RATE INCREASE REQUESTS**

12 **Q. Please summarize your understanding of FPL's requested rate**  
13 **increases in this case.**

14 A. From FPL's petition filed on March 12, 2021, and from the letter submitted  
15 by FPL's president, Eric Silagy, to PSC Chairman Gary Clark on January  
16 11, 2021, I understand FPL's requests to include the following:

- 17 1. An increase in FPL's general base rates of \$1.108 billion per year to  
18 be effective on January 1, 2022;
- 19 2. An additional increase in FPL's general base rates of \$607 million  
20 per year (on top of the \$1.108 billion increase in 2022) to be  
21 effective on January 1, 2023; and

1           3.     Additional increases in base rates for planned solar generation  
2                     investments in 2024 and 2025. (The revenue requirements for FPL’s  
3                     planned solar expansions are not specified in FPL’s MFRs or  
4                     testimony, so I have omitted these amounts from further discussion  
5                     here.)

6                     Adding all of these requested increases together over the four-year  
7                     period from 2022 through 2025 covered by FPL’s requests, it appears that  
8                     FPL is requesting that its customers pay approximately \$6.25 billion in  
9                     additional base rates over this period. My Exhibit JTH-5 shows a simple  
10                    tabulation of these amounts, excluding any of the 2024 and 2025 solar rate  
11                    increases.

12  
13   **Q.    Do FPL’s proposals include any other features that affect its customers**  
14   **rates?**

15   A.    Yes. FPL also proposes to implement a “Reserve Surplus Amortization  
16           Mechanism” ( to which FPL applies the acronym “RSAM”) that would  
17           impact at least the rates of future FPL customers. This RSAM proposal is  
18           discussed further below and more fully by another FAIR witness, Timothy  
19           J. Devlin, a Certified Public Accountant and former Executive Director of  
20           the PSC.

21

22

**RETURN ON EQUITY**

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**Q. What is meant by “return on equity” in the context of regulatory decisions determining a utility’s allowed revenues and rates?**

A. Given the monopoly enjoyed by electric utilities such as FPL, these utilities are generally regulated by government agencies and are entitled to recoup through their regulated rates prudently incurred costs for O&M, cost of borrowing debt capital, and a reasonable return on investment such that investors are willing to support the utility operations.

**Q. What is the basic standard that a regulatory authority, such as the Florida PSC, should use in deciding what ROE to use in setting a utility’s allowed revenue requirements and rates?**

A. Consistent with the Regulatory Compact principles and the PSC’s obligation to set fair, just, and reasonable rates, the basic standard is that the ROE should be sufficient to enable the utility to cover its O&M costs, borrowing costs, and prudently incurred investments that are necessary to provide reliable, safe, and adequate service to its customers. No more, no less!

**Q. How would you go about evaluating a utility’s ROE?**

A. While there are other analytical methods used by ROE witnesses in cases such as this, as an investor and as a former investment manager of major

1 public funds, I believe that it is also useful and meaningful to “ground  
2 truth” any such estimates against what can be observed in the real world as  
3 the ROEs that are used by other regulatory authorities and the experience of  
4 utilities subject to those other authorities’ decisions in being able to fulfill  
5 their obligation to provide safe and reliable service.

6 I would review, as many observers do, reports such as the S&P  
7 Global Market Intelligence Report. I would then look at the rates approved  
8 by other commissions and authorities and observe how the utilities whose  
9 rates were thus determined or approved are functioning in the real world.  
10 In the simplest terms, if the utilities are providing safe and reliable service  
11 with rates set based on the reported values, then it is obvious that those  
12 values are sufficient to enable the utility to do its job and to recover a fair  
13 return to equity capital.

14 Note that all of this assumes, reasonably, that the utility is allowed to  
15 recover all of its reasonable O&M costs and all of its borrowing (interest)  
16 costs. One can then observe whether the utility is able to issue bonds,  
17 whether it has experienced a debt downgrade, whether it (or its parent) has  
18 been able to issue new stock, and whether it has any readily observable  
19 reliability issues, that is, whether it is, in fact, providing safe and reliable  
20 service.

21

1 **Q. Where does FPL's requested midpoint ROE of 11.5 percent fall**  
2 **relative to national averages?**

3 A. FPL's request is substantially higher than the national average of 9.55%  
4 approved by other states' regulatory bodies – public service commissions  
5 and public utility commissions – for vertically integrated electric utilities in  
6 2020, and it is excessive by any measure.

7

8 **Q. Do you believe that FPL is really asking that it be allowed to earn an**  
9 **ROE of 11.5 percent?**

10 A. No. I believe that, by use of its proposed RSAM, FPL wants to earn an  
11 ROE of 12.5 percent, just as it has earned 100 basis points above the  
12 midpoint of its current ROE range for the past 30-plus months for which  
13 data are available. This pattern of FPL's use of the RSAM and earning  
14 hundreds of millions of dollars a year above the midpoint ROE is  
15 documented in the exhibits of FAIR's witness Tim Devlin.

16

17 **Q. Do you believe that FPL needs an ROE of 11.5 percent in order to**  
18 **attract sufficient equity capital and debt capital to support the**  
19 **investments that are reasonable, prudent, and necessary to maintain**  
20 **reliable service?**

21 A. No. I believe that FPL's requested ROE of 11.5 percent is far out of line  
22 with what would be required in any objective capital market.

1 **Q. What are the consequences to customers?**

2 A. Again referring to the fundamental principles of utility ratemaking, the  
3 Regulatory Compact, and the principle that rates must be fair, just, and  
4 reasonable, if the PSC were to set FPL's allowed revenue requirements and  
5 rates using an ROE rate greater than what is required to attract needed  
6 capital, FPL and the PSC would be violating the Regulatory Compact and  
7 causing customers to pay rates that are too high – i.e., in regulatory  
8 terminology, rates that are unfair, unjust, and unreasonable.

9

10 **EQUITY RATIO**

11 **Q. What is meant by the “equity ratio” in electric utility rate cases like**  
12 **this one?**

13 A. It is a financial metric based on the amount of debt a company has vs. the  
14 shareholder equity in the company.

15

16 **Q. How does the equity ratio affect customer rates?**

17 A. Rates are set to recover the utility's costs, including a fair and reasonable  
18 return on equity (common stock). In capital markets, the cost of equity  
19 capital – i.e., the ROE – demanded by common stock investors is greater  
20 than the interest cost on long-term debt. Since utilities generally need some  
21 balance of equity and debt to support their investments, the question or  
22 issue for regulatory commissions becomes what the appropriate balance is.

1 Keeping in mind that, adhering to the Regulatory Compact, the utility and  
2 its regulators should always be striving to ensure safe and reliable service at  
3 the lowest possible cost, the regulatory authority must consider and  
4 determine the appropriate balance. Since equity capital costs more than  
5 debt, a higher equity ratio will (within a broad range) result in higher  
6 customer rates than a lower equity ratio.

7 To give a simple example, if a utility pays 5 percent on its bonds and  
8 a pre-tax ROE of 14 percent on its equity capital, its weighted cost of  
9 capital will be 9.5 percent if it has a 50 percent equity ratio (i.e., if it  
10 finances its investments with 50 percent equity and 50 percent debt or  
11 bonds). On the other hand, if the utility uses 60 percent equity, its weighted  
12 cost of capital will be 10.4 percent. On a rate base of \$10 billion, this  
13 would cost customers roughly \$90 million a year more than if the utility  
14 were to use the 50-50 financing structure.

15  
16 **Q. Do you believe that FPL needs an equity ratio of 59.6 percent?**

17 A. No! The national average equity ratio approved by other state commissions  
18 for electric utilities in 2020 was 49.69 percent, nearly twenty percent lower,  
19 and nearly ten full percentage points lower, than FPL's request. This  
20 demonstrates that, in an objective capital market, utilities do not need  
21 equity ratios like FPL's requested 59.6 percent to attract capital, cover their  
22 costs, and provide service.

1                   From my perspective as a former member of the PSC and as a  
2                   former manager of the State’s major pension funds, I will simply say that  
3                   FPL’s requested equity ratio of 59.6 percent is excessive. This issue is  
4                   addressed in witness Mac Mathuna’s testimony, with due consideration to  
5                   FPL’s financial integrity and bond rating considerations, and he  
6                   recommends an equity ratio of 55 percent. Even though that is higher than  
7                   current national averages, I would not object to that value.

8  
9                   **FPL’S PROPOSED “RESERVE SURPLUS AMORTIZATION MECHANISM”**

10                  **Q.     What is FPL’s proposed “Reserve Surplus Amortization Mechanism,”**  
11                  **or “RSAM?”**

12                  A.     The RSAM as employed by FPL is the functional equivalent of a  
13                  specialized depreciation reserve amortization scheme. According to the  
14                  testimony that I have seen, the basic mechanism of FPL’s RSAM arose  
15                  from settlement agreements in 2010, 2012, and 2016; as far as I can tell, it  
16                  was never specifically voted on as a separate litigated issue by the Florida  
17                  PSC. FPL should be required to explicitly detail how it has used the  
18                  RSAM in the past and how it proposes to utilize it going forward.

19                         As employed by FPL, FPL can debit the RSAM or “Reserve  
20                         Surplus” account in its discretion to offset amortization expense, which  
21                         increases book earnings, and it can use any amount available in the RSAM  
22                         account to achieve earnings up to the top of its ROE range. If FPL is

1 allowed to use up a depreciation surplus of any amount, e.g., the \$1.48  
2 billion surplus proposed by FPL, such that that surplus is fully depleted at  
3 the end of the four-year period, then FPL's customers as of that time will be  
4 deprived of the rate-reduction benefits that the surplus would provide when  
5 applied to FPL's future rate base. Whatever the amount of FPL's rate base  
6 might be in the future, if FPL is allowed to use up the surplus, then FPL's  
7 rate base in its next rate case would be \$1.48 billion greater than if the  
8 surplus were not used up, and FPL's future customers would be saddled  
9 with the capital costs – return on equity and interest cost – of that much  
10 greater rate base. This is clearly intergenerational inequity!

11 To emphasize this point, customers create any depreciation surplus  
12 by over-paying depreciation expense over time. Standard regulatory  
13 accounting and ratemaking practice is to flow back this customer-created  
14 value to the utility's customers; although there are sometimes arguments  
15 over the term of the amortization period (e.g., 4 years vs. 20 years), the  
16 value is always flowed back to customers. FPL's proposal, in stark  
17 contrast, would keep up to the entire \$1.48 billion of customer-created  
18 value for FPL and its shareholder.

19  
20 **Q. Is this RSAM proposal appropriate?**

21 A. At a minimum, it is not appropriate as proposed by FPL. I have reviewed  
22 the testimony of FAIR's witness Tim Devlin on this subject, and I agree

1 with Mr. Devlin that it is not appropriate. I further agree that, if any  
2 RSAM-type proposal is to be allowed in this case, FPL's ability to use it  
3 should be capped to only amounts necessary for FPL to achieve its  
4 midpoint ROE, which is the fair and reasonable return to FPL's equity  
5 investor. Anything more than that is taking customer-created value away  
6 from customers, and any such practice is unfair, unjust, and unreasonable.  
7

8 **SERVING THE PUBLIC INTEREST**

9 **Q. What is the Florida PSC's basic statutory mandate?**

10 **A.** As articulated by the Florida Legislature in Section 366.01, Florida  
11 Statutes, the PSC's basic statutory mandate is as follows:

12 The regulation of public utilities as defined herein is declared  
13 to be in the public interest and this chapter shall be deemed to  
14 be an exercise of the police power of the state for the  
15 protection of the public welfare and all the provisions hereof  
16 shall be liberally construed for the accomplishment of that  
17 purpose.

18 As a non-lawyer and former PSC Commissioner, I believe that this  
19 means what it says: the PSC is charged by the applicable Florida Statutes  
20 with carrying out its duties to protect the public welfare of the citizens of  
21 the state.  
22

1 **Q. From your perspective as a former Public Service Commissioner, as a**  
2 **former staff director for committees of the Florida Legislature, as a**  
3 **former policy and budget director and chief of staff to two Florida**  
4 **governors, and as a lifelong citizen of Florida, what does the “public**  
5 **interest” mean to you?**

6 A. I believe that the “public interest” means the public welfare generally, and  
7 this includes considerations of the overall health of the Florida economy  
8 and the welfare of all citizens. With respect to a specific utility such as  
9 FPL, including both the historical FPL and the new, combined FPL  
10 including Gulf Power Company, this means at least the welfare of all of the  
11 people served and directly affected by the utility’s service. This includes  
12 considerations of the economic impacts of a utility’s rates and rate increase  
13 requests on individuals, households, and businesses. To be completely  
14 clear, I am not advocating in any way that low-income customers should be  
15 subsidized by a utility’s other customers or by the utility’s shareholders, but  
16 I am saying that the PSC must consider the overall impacts on the Florida  
17 economy and on all customers.

18 In present-day, real-world circumstances, the PSC must recognize  
19 that many Floridians, Florida households, and Florida businesses are still  
20 struggling toward recovery from the impacts of the COVID-19 pandemic.

21

1   **Q.    Considering all of the circumstances confronting Florida and**  
2           **Floridians at the present time, what opinions, if any, do you have**  
3           **regarding whether FPL’s proposed rate increases are consistent with**  
4           **the public interest of Florida and her citizens?**

5    A.    I believe that FPL’s rate increase requests are excessive and contrary to the  
6           public interest. Particularly considering the amounts of equity returns that  
7           FPL hopes to harvest from its captive customers, FPL’s requests are  
8           harmful to the Florida economy and to Floridians because they would, if  
9           allowed by the PSC, drain several billion dollars away from customers and  
10          give that money to FPL’s shareholder, NextEra Energy. The requested  
11          increases are demonstrably and observably excessive compared to the  
12          returns – due both to an excessive ROE and an excessive equity ratio – that  
13          have been recently and currently approved by other state regulatory  
14          commissions, which tells the PSC that FPL can obtain needed capital at  
15          costs much, much less than what it is asking in this case.

16                 As a side note, FPL requests a 50 basis point "ROE performance  
17                 incentive" for what it claims is superior performance better than its peers. I  
18                 would hope that FPL strives for superior performance as a matter of routine  
19                 operation. Further, FPL's proposal is not an incentive at all - they are really  
20                 asking for a reward for past behavior. Their behavior going forward will  
21                 not in any way be incentivized by giving them a higher ROE. Their  
22                 requested ROE performance incentive should be rejected.

1   **Q.    What, if anything, should the PSC do with respect to these public**  
2    **interest concerns in this case?**

3    A.    Again being perfectly clear, FPL should be allowed to recover its legitimate  
4    O&M and debt costs. If a length of power line costs \$10 a foot, then that's  
5    what FPL should be allowed to recover in its rates. If an experienced line-  
6    worker's fair compensation is \$90,000 a year, plus benefits and overtime  
7    premiums where applicable, then that's what FPL should be allowed to  
8    recover.

9           When it comes to FPL's equity costs, however, the PSC often  
10   applies a "range of reasonableness," typically framed as a range of 100  
11   basis points below to 100 basis points above a defined midpoint. The PSC  
12   also frequently discusses a reasonable range for an ROE in deciding on that  
13   midpoint. In today's real world conditions facing Floridians, if the PSC  
14   recognizes that the "reasonable range" of ROEs is probably somewhere  
15   between 8.5 percent and 10.0 percent, given the national averages clustered  
16   around 9.5 percent, the PSC should act in the public interest to set rates  
17   using a value in the low end of any range of reasonableness.

18           This result would fulfill the PSC's statutory mandate to regulate in  
19   the public interest and to promote the public welfare by keeping spending  
20   power in the pockets of customers rather than unnecessarily transferring it  
21   to FPL and NextEra.



May 2021

**RESUME**  
**JOHN T. (TOM) HERNDON**

**RESIDENCE**

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Tallahassee, FL 32312

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**EDUCATION**

St. Petersburg Junior College, 1966  
University of South Florida, Interdisciplinary Social Services, B.A., 1968  
Florida State University, Master's Degree in Social Work, 1972

**WORK EXPERIENCE**

**Independent Contractor**  
**As of October 2005**

Southern Strategies Group  
**Governmental Consulting & Lobbying Firm**  
August 21, 2002 to October 2005

Executive Director  
**State Board of Administration**  
November 12, 1996 to August 21, 2002

President  
**Tom Herndon and Associates**  
August 11, 1995 to November 11, 1996

Chief of Staff to Governor Lawton Chiles  
**Executive Office of the Governor**  
August 10, 1992 to August 11, 1995

Executive Director  
**Florida Department of Revenue**  
April 18, 1990 to August 7, 1992

Commissioner  
**Florida Public Service Commission**  
January 6, 1986 to April 17, 1990

Chief of Staff to Governor Bob Graham  
**Executive Office of the Governor**  
July 1, 1985 to January 5, 1986

Deputy Chief of Staff and Director  
**Office of Planning and Budgeting**  
**Executive Office of the Governor**  
October 1984 to July 1985

Director  
Office of Planning and Budgeting  
**Executive Office of the Governor**  
August 1980 to July 1985

Staff Director  
**Florida House of Representatives**  
**Committee on Appropriations**  
August 1978 to August 1980

Deputy Assistant Secretary of Operations  
**Dept. Health & Rehabilitative Services**  
October 1977 to August 1978

Administrator, District V  
**State of Florida, DHRS**  
November 1975 to October 1977

Staff Director  
**House of Representatives**  
**Committee on HRS**  
June 1974 to November 1975

Herndon pg. 2

### CURRENT ACTIVITIES as INDEPENDENT CONTRACTOR

- Current Board Member **Citizens for Lower Electric Rates**: Secretary
- Current Board Member **Floridians Against Increased Rates**: Secretary
- Current Executive Director, Treasurer and Board Member of the **Claude Pepper Foundation**
- Current Board member **Capital Health Plan**: Member of Personnel, Compensation, and Finance Committees; Chair of Audit Committee
- Current Board member **Helios Education Foundation**: Member of Executive, Finance, Public Policy and Audit Committees

### SELECTED PROFESSIONAL ACTIVITIES:

- Former Board member and member of Executive Committee of the **Federation of Tax Administrators**
- **National Association of State Budget Officers**, Chairman of Education and Human Resources Committee and Executive Committee, Southern Regional Director
- Past President of the National Governors' Association **Council of State Planning Agencies** for 1985-86
- Former member of the **National Association of Regulatory Utility Commissioners**
- Former member of the **Southern States Energy Board**
- Former Chairman of the **Florida Energy Center** Advisory Board
- **Council of Institutional Investors**, Board of Directors and past Chair of Executive Committee
- Two term member, **New York Stock Exchange's** Pensions Managers Advisory Committee

### CIVIC AND VOLUNTARY ACTIVITIES:

- Past President, **Big Bend United Way**
- Current member **Lawton Chiles Foundation**
- Past President, **Florida Economics Club**
- Past Chairman, **Big Bend Child Care Coordinating Council**
- Past Chairman, **Florida Comprehensive Health Association**
- Former Two Term Board member of the **FSU Foundation**
- Past Treasurer of **Highlands Falls Country Club**

- Past President, **Highlands Falls Homeowner Association**

Herndon pg. 3

**SELECTED AWARDS:**

- 1983 Outstanding Public Administrator by the American Society of Public Administrators
- 1985 Distinguished Alumnus for the University of South Florida, Florida Chapter
- 1990 Distinguished Alumnus for the University of South Florida, National
- 1990 Distinguished Alumnus for Florida State University School of Social Work
- 1995 Jack Brizius Memorial Roughrider Award for Excellence in Public Policy
- 1995 Florida Distinguished Service Medal for Exceptionally Meritorious Service to the State

REVENUE REDUCTIONS AND INCREASES ORDERED  
BY THE FLORIDA PUBLIC SERVICE COMMISSION FOR CERTAIN  
INVESTOR-OWNED ELECTRIC AND NATURAL GAS UTILITIES  
UTILITIES FROM 1960 TO PRESENT  
(All Utilities from 1968 to Present)

Revised 06/17/2021

ELECTRIC UTILITIES									
Docket No.	Order No.	Date of Order	Effective Date	Nature of Case	\$ Amount Requested	\$ Reduction	\$ Increase	Allowable Return on Equity Set	Range
DUKE ENERGY FLORIDA, LLC d/b/a DUKE ENERGY (Formerly DUKE ENERGY FLORIDA, INC. d/b/a DUKE ENERGY (Formerly Progress Energy FL., Inc. (Formerly Florida Power Corpor.									
6414-EU		02-28-62	05-01-62	Company Request		1,600,000			
	3684	08-31-64	10-01-64	Company Request		513,000			
7739-PU	3843	07-22-65	08-01-65	Commission Required		2,418,638			
7767-EU	4139	03-15-67	01-01-68	Commission Required		726,000			
9426-EU	4341	04-09-68	06-01-68	Commission Required		4,094,000			
9731-EU	4488	12-31-68	02-01-69	Company Request		1,519,213			
69230-EU	4654	05-07-69	07-01-69	Commission Required		1,730,998			
69486-EU	4804	12-01-69	01-01-70	Commission Required		2,500,000			
71370-EU	5619	12-29-72	02-01-73	Company Request	18,600,000		1,796,096	13.75%	13.50 - 14.25%
	5904	10-24-73	11-30-73				1,558,016		
74061-EU	6094	04-05-74	04-10-74	Company Request	12,348,975		12,120,919	13.50%	13.50 - 14.25%
74461-EU	6289	09-18-74		Company Request	14,500,000				
74806-EU	6450	01-09-75	01-29-75	Company Request	65,600,000	(Interim)	33,283,144		
	6794	07-22-75	08-22-75			(Final)	45,081,074		
770316-EU	7791	04-28-77	04-28-77	Company Request	62,325,262	(Interim)	60,767,961	14.60%	14.30 - 14.90%
	8160	02-02-78	02-07-78			(Final)	59,468,468		
800119-EU	9451	07-15-80	08-06-80	Company Request	99,000,000	(Interim)	54,606,000	14.30%	14.30 - 14.90%
	9577	10-02-80	10-07-80			(Interim)	40,434,000		
	9864	03-11-80	03-22-81	Company Request		(Final)	58,378,993	15.50%	14.50 - 16.50%
	10162	07-27-81	07-30-81			(Reconsideration)	57,108,497		
820100-EU	11165	09-15-82	09-29-82	Company Request	169,225,000	(Interim)	33,129,000		
	11628	02-17-83	02-27-83			(Final)	111,330,000	15.85%	14.85 - 16.85%
830470-EU	13771	10-12-84	10-11-84	Company Request	40,827,000		10,182,000	15.55%	14.55 - 16.55%
		01-31-85		Company Request (CR5)	83,259,000		83,253,000	15.55%	14.55 - 16.55%
861096-EI	16862	11-19-86	01-01-87	Income Tax & ROE		54,000,000 #		12.50%	
870220-EI	18627	01-04-88	01-01-88	Complaint-Occidental	(61,679,000)	121,500,000		12.60%	12.60 - 13.60%
						18,500,000 #			
	20632	01-20-89	01-01-89	Complaint-Occidental	10,669,000		10,669,000		
					(11,879,000)	11,879,000 #			
891298-EI	22437	01-22-90	01-01-90	Commission Required		11,879,000			
900935-EI	23910	12-21-90	01-01-91	Company Request			11,879,000		
910890-EI	92-0208	04-14-92	04-23-92	Company Request	11,879,000		31,208,000		
	92-1197	10-22-92	11-01-92	Company Request	31,601,000	(Interim)	57,986,000	12.00%	11.00 - 13.00%
			04-01-93	Company Request	108,096,000	(Final)	9,660,000 #	12.00%	11.00 - 13.00%
			11-01-93	Company Request	13,320,000 *		18,111,000 #	12.00%	11.00 - 13.00%
000824-EI	02-0655	05-14-02	05-01-02	Earnings Review	24,437,000 *	35,000,000 #			
				Earnings Review		125,000,000			
	03-0876	07-30-03		2002 Sharing		23,034,004 #			
				2003 Sharing		18,354,585 #			
				2004 Sharing		9,051,959 #			
				2005 Sharing		0			
050078-EI	05-0945	09-28-05	01-01-06	Company Request 2006	205,556,000		0	11.75%	N/A
070290-EI	07-0900	11-07-07	01-01-08	Hines Unit 2	36,339,546		36,339,546		
				Hines Unit 4	52,354,000		52,354,000		
080603-EI	08-0779	11-26-08	01-01-09	CR3 Uprate (MUR)	1,297,979		1,297,979		
090144-EI	09-0415	06-12-09	07-01-09	Bartow Repowering Project	126,212,000		126,212,000		

090079-EI	09-0413	06-10-09	07-01-09	Company Request	13,078,000		(Interim)	13,078,000		
	10-0131	03-05-10	04-04-10	Company Request	499,997,000		(Final)	0	10.50%	9.50 - 11.50%
	10-0398	06-18-10	07-17-10	Reconsideration	36,179,000			0		
120022-EI	12-0104	03-08-12	01-01-13	Settlement	150,000,000			150,000,000		
			01-01-13			129,000,000 #			10.50%	9.50 - 11.50%
			01-01-14			139,000,000 #				
			01-01-15			50,000,000 #				
			01-01-16			70,000,000 #				
130208-EI	13-0597	11-12-13		Revised Settlement					10.50%	9.50 - 11.50%
20170183-EI	17-0451	11-20-17	2018	2nd Revised Settlement Citrus Co. GBRA	TBD			TBD	10.50%	9.50 - 11.50%
			2019	2nd Revised Settlement	67,000,000			67,000,000	10.50%	9.50 - 11.50%
			2020	2nd Revised Settlement	67,000,000			67,000,000	10.50%	9.50 - 11.50%
			2021	2nd Revised Settlement	67,000,000			67,000,000	10.50%	9.50 - 11.50%
			2019	SoBRA 2019	15,232,000			15,232,000		
			2020	SoBRA 2020	32,000,000			32,000,000		
			2021	SoBRA 2021	62,600,000			TBD		

\* Step Increase

# One-time Refund

⊖ Stipulation

Docket No.	Order No.	Date of Order	Effective Date	Nature of Case	\$ Amount Requested	\$ Reduction	\$ Increase	Allowable Return on Equity Set Range	
<b>FLORIDA POWER &amp; LIGHT COMPANY</b>									
6015-EU		03-25-60	04-01-60	Commission Required		200,000			
6165-EU		12-19-60	01-01-61	Commission Required		6,250,000			
U-273		05-08-64	05-08-64	Commission Required		10,000,000			
7739-PU	3737	01-11-65	02-01-65	Commission Required		3,750,000			
7759-EU	3926	11-10-65	01-01-66	Commission Required		9,467,900			
	4078-A	12-15-66	01-01-67	Commission Required		7,073,000			
71627-EU	5620	12-29-72	01-31-73	Company Request	80,000,000		14,566,384	12.875%	12.75 - 13.25%
	5696	04-03-73	05-10-73	Company Request	79,900,000		40,062,804		12.75 - 13.25%
	5905	10-25-73	11-30-73				6,173,528		
74509-EU	6456	01-10-75	01-28-75	Company Request	143,000,000	(Interim)	68,983,743		
	6591	04-01-75	05-01-75			(Final)	77,377,918	13.75%	13.50 - 14.00%
760727-EU	7668	03-04-77	03-14-77	Company Request	349,000,000	(Interim)	87,877,577		
	7943	06-16-77	07-08-77			(Final)	195,496,841	13.75%	13.50 - 14.00%
770810-EU	9025	08-22-79	11-01-79	Commission Required		14,446,975 #			
810002-EU	9941	04-09-81	04-29-81	Company Request	476,000,000	(Interim)	147,928,930		
	10306	09-23-81	10-04-81			(Final)	257,004,289	15.85%	14.85 - 16.85%
	10467	12-21-81	02-01-82			(Reconsideration)	255,832,324		
820097-EU	10931	06-23-82	07-22-82	Company Request	281,220,000	(Interim)	44,427,000		
	11437	12-22-82	12-23-82			(Final)	100,805,000	15.85%	14.85 - 16.85%
	12348	08-09-83	09-07-83	Company Request	256,716,000		237,816,000 †		
830465-EI	13537	07-24-84	07-20-84	Company Request	335,274,000	(Final)	81,464,000		
	13948	12-28-84	10-31-84			(Reconsideration)	84,103,000	15.60%	14.60 - 16.60%
	13537	07-24-84	01-31-85	Company Request	120,279,000	(Final)	114,984,000		
	14005	01-16-85	01-31-85			(Reconsideration)	120,447,000	15.60%	14.60 - 16.60%
880355-EI	19158	04-19-88	06-01-88	1987 Tax Savings		56,470,774 #		13.60%	
890319-EI	21143	04-28-89	05-01-89	1988 Tax Savings		38,221,663 #		13.60%	
	22334	12-22-89	01-01-90	1988 Tax Savings		38,460,672			
900478-EI	23349	08-13-90	09-04-90	1989 Tax Savings		39,553,605 #			
890319-EI	23727	11-07-90	10-01-90	1988 Tax Savings		6,716,875 #			
900038-EI	23996	01-16-91	01-16-91	Earnings Review				12.80%	11.80 - 13.80%
900478-EI	24644	06-10-91	09-01-91	1989 Tax Savings		2,835,466 #			
930612-EI	93-1024	07-16-93	07-13-93	ROE Review				12.00%	11.00 - 13.00%
990067-EI	99-0519	03-17-99	04-15-99	Earnings Review		350,000,000		11.00%	10.00 - 12.00%
				Year 1 Sharing		22,774,000 #			
				Year 2 Sharing		108,827,000 #			
				Year 3 Sharing		86,184,000 #			
001148-EI	02-0501	04-11-02	04-15-02	Earnings Review		250,000,000			
				2002 Sharing		11,156,000 #			
				2003 Sharing		3,071,000 #			
				2004 Sharing		0			
				2005 Sharing		0			
050045-EI	05-0902	09-14-05	01-01-06	Company Request 2006	430,198,000		0	11.75%	N/A
				Company Request 2007	122,757,000		120,100,000		
060001-EI	06-1057	12-22-06	05-01-07	Turkey Point Unit 5	126,800,000		126,800,000		
080001-EI				Turkey Point Unit 5	(5,490,000)	5,490,000			
				West County Energy Center					
			06-09	Unit 1	138,520,000		138,520,000		
			11-09	Unit 2	127,100,000		127,100,000		
080677-EI	10-0153	03-17-10	03-01-10	Company Request 2010	1,043,535,000	(Final)	75,470,948	10.00%	9.00 - 11.00%
	10-0153	03-17-10	N/A	Company Request 2011	247,367,000	(Final)	0		
	11-0089	02-01-11	N/A	Reconsideration	0		0		
090529-EI	10-0207	04-05-10	04-26-10	Nuclear EPU Project	371,149		361,361		
100419-EI	11-0078	01-31-11	02-10-11	Nuclear EPU Project	2,199,261		2,199,261		

110270-EI	11-0575	12-14-11	01-03-12	Nuclear EPU Project	20,856,111		20,383,107		
120015-EI	13-0023	01-14-13	01-02-13	☐ Settlement	350,000,000		350,000,000	10.50%	9.50% - 11.50%
			04-23-13	# Cape Canaveral	163,673,000		163,673,000		
			06-01-14	# Riviera	234,000,000				
			06-01-16	# Port Everglades	216,000,000				
120244-EI	12-0647	12-11-12	01-02-13	Nuclear EPU Project	246,053,294		246,047,170		
130245-EI	14-0024	01-10-14	01-02-14	Nuclear EPU Project	113,206,484		113,030,694		
140197-EI	14-0686	12-10-14	01-02-15	EPU True-Up		761,690			
150208-EI	16-0075	02-17-16	03-01-16	Rate Reduction		222,192			
160021-EI	16-0560	12-15-16	01-01-17	☐ Company Request 2017	866,000,000		(Final) 400,000,000	10.55% *	9.60% - 11.6%
			01-01-18	☐ Company Request 2018 - SYA	262,000,000		211,000,000		
			01-01-18	2017 SoBRA	60,523,000		60,523,000		
			03-01-18	2018 SoBRA	59,890,000		59,890,000		
			06-01-19	Pending In-Service Date of Okeechobee	209,000,000		200,000,000		
			03-01-19	2019 SoBRA	51,685,454		51,685,454		
			2020	2020 SoBRA	50,491,000		50,491,000		

☐ Generation Base Rate Adjustment (GBRA)

♣ St. Lucie No. 2 Increase

@ Rate Base Reduction

# One-time Refund

☐ Stipulation

Docket No.	Order No.	Date of Order	Effective Date	Nature of Case	\$ Amount Requested	\$ Reduction	\$ Increase	Allowable Return on Equity Set	Range
<b>FLORIDA PUBLIC UTILITIES COMPANY</b>									
8567-EU	4506	01-14-69	06-19-69	Commission Required Marianna Division		34,500			
69443-EU	4776	10-20-69	11-01-69	Company Request Fernandina Division		48,000			
750289-EU	7001	11-17-75	12-17-75	Company Request Marianna Division	463,747		306,671	14.50%	14.25 - 14.75%
770652-EU	8502	10-04-78	11-03-78	Company Request Marianna Division	456,200		397,840	13.25%	12.75 - 13.75%
780921-PU	9456-A	10-03-80	11-01-80	Commission Required Fernandina Division		31,257 #			
800609-EU	9613	10-27-80	11-01-80	Commission Required Marianna Division		55,227 #			
790637-EU	10261	09-03-81	10-03-81	Commission Required Fernandina Division		26,000 #			
810342-EU	10526	01-19-82	02-04-82	Company Request Fernandina Division	(269,311)	243,311			
810271-EU	10605	02-17-82	03-19-82	Commission Required Fernandina Division		94,440 #			
	10832	06-02-82	07-02-82	Commission Required Fernandina Division		16,008 #			
840100-EI	13672	09-13-84	09-13-84	Commission Required Fernandina Division		13,152 #			
880558-EI	20472	12-20-88	12-29-88	Company Request Marianna Division	690,888	(Interim) (Final)	473,603 539,720		
	21532	07-12-89	06-24-89	Company Request Fernandina Division	908,662	(Interim) (Final)	456,195 579,872	13.55%	12.35 - 14.35%
881056-EI	21211	05-09-89	05-18-89	Company Request Fernandina Division		(Interim) (Final)	456,195 579,872	12.85%	11.85 - 13.85%
	22224	11-27-89	11-15-89	Company Request Marianna Division	857,520	(Interim) (Final)	137,172 515,108	10.85%	9.85 - 11.85%
930400-EI	93-1640	11-08-93	10-19-93	MMFR-Fernandina				11.60%	10.60 - 12.60%
	94-0170	02-10-94	02-17-94	1995 Overearnings - Fernandina		63,506 →			
930720-EI	94-0983	08-12-94	09-03-94	1996 Overearnings - Fernandina		136,019 →			
961542-EI	97-0135	02-10-97	01-01-96	1996 Overearnings - Marianna		37,148 →			
971227-EI	97-1505	11-25-97	01-01-97	1997 Overearnings - Fernandina		248,145 →			
971228-EI	97-1487	11-24-97	01-01-97	1998 Overearnings - Fernandina		139,228 →			
981678-EI	99-0022	01-04-99	01-01-98	1999 Overearnings - Marianna		8,561 →			
991109-EI	99-2119	10-25-99	01-01-99	1999 Overearnings - Fernandina		204,670 →			
001146-EI	00-1685	09-20-00	01-01-00	Company Request Marianna & Fernandina Combined	4,117,121		1,820,373	11.50%	10.50 - 12.50%
001147-EI	00-1883	10-16-00	01-01-00	Company Request	790,784	(Interim)	790,784		
030438-EI	04-0369	04-06-04	04-15-04	Company Request	5,249,895	(Final)	3,856,897	11.00%	10.00 - 12.00%
070304-EI	07-0897	11-05-07	11-22-07	Rate Case Settlement Agreement	5,852,171		3,750,000	10.25%	9.25 - 11.25%
	08-0327	05-19-08	05-22-08	Limited Proceeding Settlement Agreement	1,823,869		1,558,050	10.25%	9.25 - 11.25%
140025-EI	14-0517	09-29-14	11-01-14	TCJA Rate Reduction Settlement	-638,158		-638,158		
20170150-EI	17-0488	12-26-17	1-1-18	TCJA Rate Reduction Settlement	-288,230		-288,230		
20170150-EI	19-0010	01-02-19	01-01-19	Storm Settlement Agreement(UPIS/AD)	7,306,454		3,355,080		
20200156-EI	20-0347	10-08-20	11-01-20						

→ Applied to Storm Damage Reserve

# One-time Refund

Docket No.	Order No.	Date of Order	Effective Date	Nature of Case	\$ Amount Requested	\$ Reduction	\$ Increase	Allowable Return on Equity Set	Range
<b>GULF POWER COMPANY</b>									
U-398		12-21-64	01-01-65	Company Request		424,548			
7739-PU	3849	08-04-65	10-01-65	Commission Required		677,974			
71342-PU	5471	06-30-72	07-19-72	Company Request	6,726,000	(Final)	3,722,866		
			01-08-73			(Reconsideration)	2,833,425	14.13%	13.50 - 14.75%
73695-EU	6116	04-22-74		Company Request	9,606,000				
74437-EU	6420	12-20-74	01-08-75	Company Request	18,798,000	(Interim)	17,220,182		
	6650	05-07-75	05-07-75			(Final)	17,306,001	14.25%	14.00 - 14.50%
760858-EU	7727	03-31-77	04-10-77	Company Request	31,800,000	(Final)	11,307,335		
	7978	09-27-77	10-08-77			(Reconsideration)	10,145,953	14.25%	14.00 - 14.50%
770872-EU	8305	05-15-78	05-16-78	Company Request	12,563,049	(Interim)	6,697,331		
	5424	08-07-78	09-07-78			(Final)	10,856,437	13.50%	13.25 - 13.75%
800001-EU	9311	04-02-80	05-02-80	Company Request	46,376,576	(Interim)	6,257,000		
	9628	11-10-80	11-10-80			(Final)	34,366,065		
	9852	03-05-81	04-01-81			(Reconsideration)	33,769,065	14.75%	13.75 - 15.75%
						2,405,000 #			
810136-EU	10557	02-01-82	02-12-82	Company Request	38,663,000	(Final)	5,543,620		
	10963	07-07-82	06-17-82			(Reconsideration)	6,917,897	15.85%	14.75 - 16.75%
820150-EU	11498	01-11-83	01-21-83	Company Request	36,944,000		3,366,000	15.85%	14.85 - 16.85%
840086-EI	14030	01-21-85	12-17-84	Company Request	28,447,000		4,659,000	15.60%	14.60 - 16.60%
880360-EI	19185	04-19-88	06-01-88	1987 Tax Savings		1,143,211 #		13.60%	
	20969	03-31-89	05-01-89	1987 Tax Savings		416,328 #		13.60%	
890324-EI	23536	09-27-90	10-01-90	1988 Tax Savings		3,618,332 #			
891345-EI	22681	03-13-90	03-10-90	Company Request	26,295,000	(Interim)	5,751,000		
	23573	10-03-90	09-13-90			(Final)	11,838,000 †	12.05%	11.55 - 13.55%
			09-13-92				14,131,000	12.55%	11.55 - 13.55%
930139-EI	93-0771	05-20-93	06-11-93	ROE Review				12.00%	11.00 - 13.00%
990947-EI	99-2131	10-28-99	11-04-99	Earnings Review		10,000,000			
				2000 Sharing		7,203,024 #			
				2001 Sharing		1,529,875 #			
010949-EI	02-0787	06-10-02	06-07-02	Company Request	69,867,000		53,240,000	12.00%	10.75 - 12.75%
110138-EI	11-0382	09-12-11	09-22-11	Company Request	38,549,000	38,549,000 (Interim)			
	12-0179	04-03-12	04-11-12	Company Request	93,504,000	64,101,662 (Final)		10.25%	9.25 - 11.25%
130140-EI			01-01-14	Settlement	35,000,000		35,000,000	10.25%	9.25 - 11.25%
			01-01-15		20,000,000		20,000,000		
160186-EI	17-0178	05-16-17	07-01-17	Settlement	56,000,000		56,000,000	10.25%	9.25 - 11.25%
20180039	18-0548	11-19-18	01-01-19	TCJA Rate Reduction Settlement	-9,600,000		-9,600,000		

† Reduced by 2 Year Annual Penalty of \$2,293,000

# One-time Refund

‡ Stipulation

Docket No.	Order No.	Date of Order	Effective Date	Nature of Case	\$ Amount Requested	\$ Reduction	\$ Increase	Allowable Return on Equity Set	Range
<b>TAMPA ELECTRIC COMPANY</b>									
6240-EU	3078	12-29-60	01-01-61	Company Request			1,585,000		
7739-PU	3782	03-25-65	04-01-65	Commission Required		1,331,000			
8935-EU	4200	05-29-67	08-01-67	Commission Required		2,608,992			
9776-EU	4490	01-06-69	02-01-69	Company Request	2,286,000		2,286,000	13.75%	
70532-EU	5278	11-30-71	01-01-72	Company Request	13,900,000		11,495,559	15.50%	
73604-EU	6133	05-02-74	06-01-74	Company Request	11,200,000		10,024,366	15.50%	
74597-EU	6539	02-28-75	03-15-75	Company Request	43,000,000		(Interim) 20,179,000		
	6681	05-21-75	06-20-75				(Final) 37,116,177	14.75%	
760846-EU	7987	10-04-77	10-05-77	Company Request	39,900,000		19,309,135	13.75%	13.50 - 14.00%
800011-EU	9288	03-18-80	04-17-80	Company Request	50,704,000		(Interim) 20,429,000		
	9599	10-17-80	10-18-80				(Final) 31,030,000	14.50%	13.50 - 15.50%
	9810	02-23-81	03-01-81	Commission Required		1,078,000 #			
820007-EU	11307	11-10-82	11-20-82	Company Request	124,894,000		61,971,000	15.75%	14.75 - 16.57%
830012-EU	11964	05-24-83	06-16-83	Company Request	80,189,000		(Interim) 3,391,000		
	12663	11-07-83	11-16-83				(Final) 23,539,000	15.50%	14.50 - 16.50%
850050-EI	14538	07-08-85	06-28-85	Company Request	136,518,000		(Interim) 21,446,000		
	15451	12-13-85	12-04-85				(Final) 45,683,000	14.50%	13.50 - 15.50%
			01-31-87				10,408,000 *		
			01-31-88				7,688,000 *		
880356-EI	19185	04-19-88	06-01-88	1987 Tax Savings		4,822,613 #			
890325-EI	21136	04-27-89	05-02-89	1988 Tax Savings		21,850,882 #		13.60%	
891140-EI	22217	11-21-89	01-01-90	Commission Required		22,017,000		13.60%	
900153-EI	22719	03-22-90	04-13-90	1989 Tax Savings		20,426,922 #		13.60%	
	23883	12-14-90	01-08-91	1989 Tax Savings		68,586 #		13.60%	
920062-EI	92-0022	03-10-92	04-01-92	ROE				12.50%	11.50 - 12.50%
920324-EI	93-0165	02-02-93	02-04-93	Company Request '93	42,331,000		1,163,000	12.00%	11.00 - 13.00%
			01-01-94	Company Request '94	30,736,000		17,412,000 *		
930987-EI	94-0337	03-25-94	02-03-94	ROE		4,000,000 (2)		11.35%	10.35 - 12.35%
950379-EI	95-0580	05-10-95	01-01-95	1995 Overearnings				11.75%	10.75 - 12.75%
			01-01-96			12,000,000			
	96-0670	05-20-96	10-01-96	1995 Overearnings		10,000,000 #			
				1996 Overearnings		15,000,000 #			
960409-EI	96-1300	10-24-96	10-01-97			25,000,000 #			
950379-EI	00-1441	08-08-00	09-01-00	1997 & 1998 Overearnings		13,000,000 #			
	01-2515	12-24-01	01-01-02	1999 Overearnings		6,307,427 #			
080317-EI	09-0283	04-30-09	05-07-09	Company Request	228,167,000		(Final) 104,268,536	11.25%	10.25 - 12.25%
			01-01-10	Step Increase	0		33,561,370		
	09-0571	08-21-09	08-13-09	Reconsideration - Base Rates			9,335,585		
			01-01-10	Reconsideration - Step Increase			515,709		
090368-EI	10-0572	09-16-10	11-14-10	Refund	(24,000,000)	24,000,000 #			
			01-01-11	IS Customer Class Reduction	(1,280,000)	1,280,000			
130040-EI	13-0443	09-30-13	11-01-13	Settlement	57,000,000	0	57,000,000	10.25%	9.25 - 11.25%
			11-01-14		7,500,000	0	7,500,000		
			11-01-15		5,000,000	0	5,000,000		
			01-01-17	GBRA	110,000,000	0	110,000,000		
20170210-EI	15-0456	11-27-17	11-27-17	Settlement Agreement	0		0	10.25%	9.25 - 11.25%
			2018	Settlement Agreement SoBRA 1	30,600,000		30,600,000		
			2019	Settlement Agreement SoBRA 2	50,900,000		50,900,000		
			2020	Settlement Agreement SoBRA 3	30,600,000		30,600,000		
			2021	Settlement Agreement SoBRA 4	10,200,000		10,200,000		
20180045-EI	18-0457	09-10-18	01-01-19	TCJA Rate Reduction Stipulation	(102,700,000)		(102,700,000)		

\* Step Increase

⊠ Stipulation

(2) Storm damage accrual

# One-time Refund

REVENUE REDUCTIONS AND INCREASES ORDERED  
BY THE FLORIDA PUBLIC SERVICE COMMISSION FOR CERTAIN  
INVESTOR-OWNED ELECTRIC AND NATURAL GAS UTILITIES  
UTILITIES FROM 1960 TO PRESENT  
(All Utilities from 1968 to Present)

GAS UTILITIES

Docket No.	Order No.	Date of Order	Effective Date	Nature of Case	\$ Amount Requested	\$ Reduction	\$ Increase	Allowable Return on Equity Set	Range
<b>CHESAPEAKE UTILITIES CORPORATION (Formerly Central Florida Gas Company and Plant City Natural Gas Company)</b>									
891179-GU	22475	01-29-90	02-01-90	Company Request	1,315,496	(Interim)	328,301		
	23166	07-10-90	07-09-90			(Final)	780,097	13.00%	12.00 - 14.00%
920729-GU	92-0817	08-14-92	07-01-92	1991 Overearnings		284,782 #		12.00%	11.00 - 13.00%
920729-GU	93-0520	04-06-93	04-30-93	1991 Overearnings		116,849 +			
931099-GU	93-1772	12-10-93	01-01-94	ROE				11.00%	10.00 - 12.00%
940818-GU	95-1205	09-28-95	12-31-94	1994 Overearnings		62,360 ✓			
970023-GU	97-0136	02-10-97	01-01-96	1995 Overearnings		229,679 +			
000108-GU	00-1416	08-03-00	08-10-00	Company Request	830,330	(Interim)	591,579		
	00-2263	11-28-00	12-07-00		1,826,569	(Final)	1,251,900	11.50%	10.50 - 12.50%
090125-GU	09-0606	09-08-09	09-17-09	Company Request	417,555	(Interim)	417,555		
	10-0029	01-14-10	01-14-10	Company Request	2,965,398	(Final)	2,536,307	10.80%	9.80 - 11.80%
			01-14-10	Environmental Clean-Up Surcharge			239,064		
<b>FLORIDA CITY GAS (Formerly City Gas Company of Florida)</b>									
6001-GU	4064	09-07-66	11-01-66	Commission Required Miami Division		172,600			
8766-GU	4186	04-19-67	05-05-67	Company Request Brevard Division	299,963		299,963		
8960-GU	4342	04-09-68	05-08-68	Company Request Miami Division	425,802		321,647		13.00 - 13.60%
70576-GU	5164	07-16-71	08-21-71	Company Request Miami Division	563,219		372,000	14.00%	13.75 - 14.25%
70577-GU	5164	07-16-71	08-21-71	Company Request Brevard Division	311,595		311,595	14.00%	13.75 - 14.25%
74596-GU	6544	03-04-75	03-17-75	Company Request All Divisions	1,484,599		1,144,428	14.50%	
810004-GU	10192	08-07-81	09-02-81	Company Request All Divisions	4,451,687	(Interim)	855,455		
	10395	11-06-81	12-03-81			(Final)	3,706,276	16.00%	15.00 - 17.00%
830581-GU	13271	05-04-84	05-31-84	Company Request All Divisions	4,870,385	(Interim)	2,330,555		
	13609	08-22-84	09-08-84			(Final)	3,887,830	15.75%	14.75 - 16.75%
891175-GU	23159	07-09-90	07-05-90	Company Request	6,757,589	(Interim)	2,501,885		
	24013	01-23-91	01-21-91			(Final)	3,106,420	13.00%	12.00 - 14.00%
	24925	08-19-91	08-30-91	PC Debt		119,012			
931098-GU	93-1820	12-22-93	01-01-94	ROE				11.00%	10.00 - 12.00%
940276-GU	94-0957	08-09-94	08-19-94	Company Request	1,193,525	(Interim)	260,169		
	94-1570	12-19-94	12-29-94		8,594,727	(Final)	1,566,657	11.30%	10.30 - 12.30%
960502-GU	96-1113	09-03-96	09-23-96	Company Request	2,312,853	(Interim)	2,151,503		
	96-1404	11-20-96	11-29-96		5,283,344	(Final)	3,752,678	11.30%	10.30 - 12.30%
000768-GU	00-2101	11-06-00	11-16-00	Company Request	1,886,605	(Interim)	1,640,777		
	01-0316	02-05-01	02-15-01		7,181,988	(Final)	5,132,356	11.50%	10.50 - 12.50%
030569-GU	03-1217	10-27-03	11-06-03	Company Request	3,548,987	(Interim)	2,942,306		
	04-0128	02-09-04	02-20-04		10,489,305	(Final)	6,699,655	11.25%	10.25 - 12.25%
20170179-GU	18-0011	01-04-18	01-11-18	Interim Rate Increase	4,893,061	(Interim)	4,893,061		

20170179-GU	18-0190	04-20-18	06-01-18	Company Request	19,300,000	11,500,000	10.19%	9.19 - 11.19%
20180154-GU	18-0596	12-20-18	01-01-19	TCJA Rate Reduction Settlement	-304,943	-304,943		

# One-time Refund  
 ☐ Stipulation

+ Applied to environmental clean-up costs  
 ✓ Deferred to following year

Docket No.	Order No.	Date of Order	Effective Date	Nature of Case	\$ Amount Requested	\$ Reduction	\$ Increase	Allowable Return on Equity Set	Allowable Return on Equity Range
<b>FLORIDA PUBLIC UTILITIES COMPANY</b>									
9937-GU	4795-A	11-20-69	12-01-69	Company Request	14,128		14,128		
9935-GU	4794	11-20-69	12-01-69	Sanford Division Company Request	20,692		20,692		
73589-GU	6273	09-05-74	10-05-74	Deland Division Commission Required		159,572		14.50%	14.25 - 14.75%
760469-GU	7629	02-04-77	02-21-77	West Palm Beach Division Company Request	784,725		570,916	14.50%	14.25 - 14.75%
800414-GU	9584	10-06-80	10-30-80	Company Request	724,983		282,940		
	9956	04-20-81	04-30-81				(Final) 656,907	15.00%	14.00 - 16.00%
820249-GU	11389	12-07-82	12-15-82	Company Request	1,080,199		(Interim) 725,736		
	11855	04-19-83	05-01-83				(Final) 915,806	16.04%	16.04 - 16.14%
850172-GU	15460	12-18-85	01-16-86	Company Request	1,923,989		(Interim) 697,917		
	16195	06-06-86	06-06-86				(Final) 1,283,781	14.50%	13.50 - 15.50%
900151-GU	23516	09-19-90	09-27-90	Company Request	2,239,827		(Interim) 997,055		
	23987	01-15-91	02-23-91				(Final) 2,320,561	13.00%	12.00 - 14.00%
931100-GU	94-0249	03-07-94	01-01-94	ROE				11.00%	10.00 - 12.00%
940620-GU	94-1519	12-09-94	12-22-94	Company Request	496,326		(Interim) 386,927		
	95-0518	04-26-95	05-06-95		2,079,120		(Final) 1,282,001	11.40%	10.40 - 12.40%
040216-GU	04-0721	07-26-04	08-05-04	Company Request	1,490,980		(Interim) 1,236,108		
	04-1110	11-08-04	11-18-04		8,186,989		(Final) 5,865,903	11.25%	10.25 - 11.25%
050224-GU	05-0769	07-25-05	08-15-05	2002 Overearnings		142,963 (1)			
070107-GU	07-0671	08-21-07	09-11-07	2005 Overearnings		735,182 (2)			
080514-GU	08-0697	10-20-08	11-10-08	2006 Overearnings		176,144 (2)			
080366-GU	09-0123	03-03-09	03-12-09	Company Request	984,054		(Interim) 984,054		
	09-0375	05-27-09	06-03-09	Company Request	9,917,690		(Final) 8,496,230	10.85%	9.85 - 11.85%
	09-0848	12-28-09	01-14-10	Reconsideration		527,230			
<b>INDIANTOWN GAS COMPANY</b>									
020470-GU	02-1666	11-26-02	12-20-02	Company Request				11.50%	10.50 - 12.50%
030954-GU	04-0180	02-23-04	03-03-04	Company Request	138,602		(Interim) 137,014		
	04-0565	06-02-04	06-17-04		306,751		(Final) 131,539	11.50%	10.50 - 12.50%

Stipulation

- (1) Applied to Storm Restoration Costs, and NTAC and TCR factor final true-ups
- (2) Applied to Storm Surcharge and Storm Reserve.

Docket No.	Order No.	Date of Order	Effective Date	Nature of Case	\$ Amount Requested	\$ Reduction	\$ Increase	Allowable Return on Equity Set	Allowable Return on Equity Range
<b>PEOPLES GAS SYSTEM, INC.</b>									
5760-GU	3452	09-26-62		Company Request			43,771	11.32%	
6076-GU		09-26-62		East Coast Division Company Request					
72446-GU	5826-A	08-14-73	08-30-73	West Coast Division Company Request	1,907,374		1,325,283	14.25%	14.00 - 14.50%
74767-GU	6542	03-04-75	03-20-75	All Divisions Company Request	2,986,421	(Interim)	1,165,510		
	6737	06-24-75	07-24-75	All Divisions		(Final)	2,203,997	14.75%	14.50 - 15.00%
760922-GU	7897	07-15-77	08-14-77	Company Request	3,930,381		2,950,310	14.75%	14.50 - 15.00%
				All Divisions					
810302-GU	10397	11-10-81	12-04-81	Company Request	15,793,907	(Interim)	6,739,616		
	11612	02-14-83	03-28-82			(Final)	10,836,670		
	11612-A	03-22-83	04-01-83			(Reconsideration)	9,405,473	16.00%	15.00 - 17.00%
830123-GU	12271	07-18-83	07-28-83	Company Request	12,102,111	(Interim)	3,360,776		
	12712	11-28-83	11-05-83			(Final)	6,326,005	15.75%	14.75 - 16.75%
850811-GU	15762	02-28-86	03-20-86	Company Request	11,242,000 *	(Interim)	2,958,000		
	16313	07-08-86	07-18-86	Company Request		(Final)	12,776,000	14.25%	13.25 - 15.25%
891353-GU	23858	12-11-90	11-16-90	Company Request	14,283,000		7,489,913	13.00%	12.00 - 14.00%
911150-GU	92-0188	04-13-92	04-24-92	Company Request	4,406,000	(Interim)	3,268,080		
	92-0924	09-03-92	09-11-92	Company Request	15,410,924	(Final)	11,861,944	12.00%	11.00 - 13.00%
931101-GU	93-1773	12-10-93	01-01-94	ROE		1,248,000 +		11.25%	10.25 - 12.25%
971310-GU	98-0329	02-24-98	12-31-96	1996 Overearnings		973,572 +			
980434-GU	98-0739	05-28-98	08-01-98	WFNG Reserve		626,334 #			
020384-GU	02-1227	09-09-02	09-19-02	Company Request	5,421,000	(Interim)	1,461,000		
	03-0038	01-06-03	01-13-03	Company Request	22,615,228	(Final)	12,050,000	11.25%	10.25 - 12.25%
080318-GU	08-0696	10-20-08	10-28-08	Company Request	3,748,000	(Interim)	2,380,000		
	09-0411	06-09-09	06-18-09	Company Request	26,488,091	(Final)	19,152,365	10.75%	9.75 - 11.75%
	10-0208	04-05-10	05-04-10	Reconsideration	169,912		0		
100462-GU	11-0111	02-10-11	04-01-11	2010 Overearnings	(3,000,000) #	3,000,000			
20180044-GU	18-0501	10-18-18	01-01-19	TCJA Rate Reduction Settlement	-11,599,038		-11,599,038		
20200051-GU	20-0485	12-10-20	01-01-21	Rate Case Settlement	85,300,000		58,000,000	9.90%	8.90 - 11.0%

# One-time Refund

\* Due to rate restructuring and loss of load, company would have asked for \$16,461,000

+ Applied to environmental clean-up costs

# Stipulation

Docket No.	Order No.	Date of Order	Effective Date	Nature of Case	\$ Amount Requested	\$ Reduction	\$ Increase	Allowable Return on Equity Set	Range
<b>ST. JOE NATURAL GAS COMPANY</b>									
8702-GU	4138	02-16-87	04-04-87	Company Request	25,205		19,895		
820490-GU	12372	08-16-83	08-16-83	Commission Required					
870986-GU	19793	08-11-88	08-11-88	Commission Required		8,665 #		16.00%	15.70 - 17.70%
890620-GU	22199	11-20-89	12-11-89	Tax Refund		138,867		13.70%	12.70 - 14.70%
931102-GU	93-1775	12-10-93	01-01-94	ROE		24,340 #			
960930-GU	96-1188	09-23-96	10-15-96	1994 Overearnings		183,339 ≡		11.00%	10.00 - 12.00%
			10-15-96	1995 Overearnings		77,979 ≡			
001447-GU	01-0465	02-26-01	02-06-01	Company Request	459,185	(Interim)	355,984		
	01-1274	06-08-01	06-14-01		551,923	(Final)	327,149	11.50%	10.50 - 12.50%
070592-GU	08-0135	03-03-08	03-13-08	Company Request	274,981	(Interim)	157,775		
	08-0436	07-08-08	07-17-08		624,166	(Final)	543,868	11.00%	10.00 - 12.00%
<b>SEBRING GAS SYSTEM, INC.</b>									
910873-GU	92-0229	04-20-92	03-30-92	Company Request	422,795		422,795	12.00%	11.00 - 13.00%
931103-GU	93-1774	12-10-93	01-01-94	ROE				11.00%	10.00 - 12.00%
040270-GU	04-0860	09-02-04	09-16-04	Company Request	110,957	(Interim)	97,211		
	04-1260	12-20-04	12-30-04		234,641	(Final)	163,262	11.50%	10.50 - 12.50%
<b>SOUTH FLORIDA NATURAL GAS COMPANY (Merged with Florida Public Utilities Company)</b>									
72344-GU	5816	08-03-73	10-20-73	Company Request	96,923		82,906	14.50%	14.00 - 16.00%
810147-GU	10425	11-25-81	12-25-81	Company Request	211,907	(Interim)	89,743		
	10695	04-05-82	04-11-82			(Final)	170,873		
	11280	10-29-82	09-29-82			(Reconsideration)	168,471		
830330-GU	12789	12-16-83	01-05-84	Company Request	258,651	(Interim)	217,627		
	13193	04-16-84	05-04-84			(Final)	218,564	15.75%	14.75 - 16.75%
860341-GU	16861	11-19-86	12-04-86	Company Request	343,414	(Interim)	88,392		
	17933	08-04-87	08-14-87			(Final)	49,542	13.23%	12.23 - 14.23%
900623-GU	24056	02-04-91	02-15-91	Company Request	509,765	(Interim)	297,577		
	24608	06-03-91	06-14-91			(Final)	329,255	13.00%	12.00 - 14.00%
931104-GU	93-1776	12-10-93	01-01-94	ROE				11.00%	10.00 - 12.00%
<b>WEST FLORIDA NATURAL GAS COMPANY (Merged with Peoples Gas System, Inc.)</b>									
8574-GU	4502	01-06-69	05-25-69	Commission Required		56,000			
				Panama City Division					
69490-GU	4878	12-19-69	01-12-70	Company Request	56,500		56,500		
				Panama City Division					
72676-GU	5685	03-29-73	04-28-73	Company Request	169,655		99,145	14.75%	
820404-GU	11516	01-18-83	02-03-83	Company Request	1,339,195	(Interim)	780,716		
	12217	07-11-83	07-11-83			(Final)	572,861	16.20%	15.20 - 17.20%
850503-GU	15527	01-06-86	01-16-86	Company Request	1,453,598	(Interim)	947,537		
	16549	09-05-86	09-04-86			(Final)	694,808	13.15%	12.15 - 14.15%
871255-GU	19239	04-28-88	05-19-88	Company Request	1,109,227	(Interim)	584,212		
	21054	04-17-89	02-25-89			(Final)	1,518,271	13.50%	12.50 - 14.50%
910778-GU	25522	12-23-91	01-02-92	Company Request	1,930,801	(Interim)	853,689		
	92-0580	06-29-92	07-08-92			(Final)	1,023,118	12.00%	11.00 - 13.00%
931105-GU	93-1777	12-10-93	01-01-94	ROE				11.00%	10.00 - 12.00%
930091-GU	94-0452	04-14-94	06-30-94	6-30-93 Overearnings		515,622 +			
						64,006 #			
940927-GU	95-0964	08-08-95	06-30-94	6-30-94 Overearnings		347,718 ✕			

# One-time Refund  
: Stipulation  
--- Partially deferred to next rate case

+ Applied to environmental clean-up costs  
\* Applied to debt refinancing costs

**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.

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

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").

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.

### 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.

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.

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:

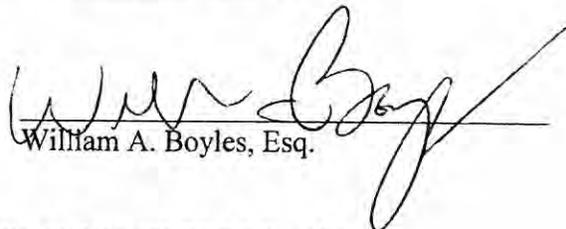
GrayRobinson, P.A.  
c/o William A. Boyles, Esq.  
301 E. Pine Street, Suite 1400  
Orlando, Florida 32801

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

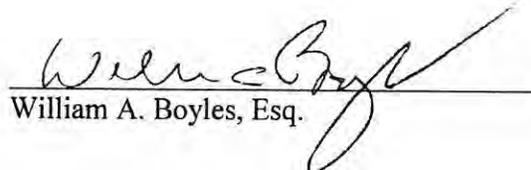
IN WITNESS WHEREOF, I submit these Articles of Incorporation and affirm that the facts stated herein are true. I am aware that any false information submitted in a document to the Florida Department of State constitutes a third degree felony as provided for in Section 817.155 of the Florida Statutes.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



I certify the attached is a true and correct copy of the Articles of Incorporation of FLORIDIANS AGAINST INCREASED RATES, INC., a Florida corporation, filed on March 16, 2021, as shown by the records of this office.

I further certify the document was electronically received under FAX audit number H21000106133. This certificate is issued in accordance with section 15.16, Florida Statutes, and authenticated by the code noted below

The document number of this corporation is N21000003036.

Authentication Code: 221A00005639-031721-N21000003036-1/1

Given under my hand and the  
Great Seal of the State of Florida,  
at Tallahassee, the Capital, this the  
Seventeenth day of March, 2021



*Raunel M. Bee*  
Secretary of State



March 17, 2021

FLORIDA DEPARTMENT OF STATE  
Division of Corporations

FLORIDIANS AGAINST INCREASED RATES, INC.  
GRAYROBINSON, P.A., WILLIAM A. BOYLES, E  
301 E. PINE STREET, SUITE 1400  
ORLANDO, FL 32801

The Articles of Incorporation for FLORIDIANS AGAINST INCREASED RATES, INC. were filed on March 16, 2021, and assigned document number N21000003036. Please refer to this number whenever corresponding with this office.

Enclosed is the certification requested. To be official, the certification for a certified copy must be attached to the original document that was electronically submitted and filed under FAX audit number H21000106133.

To maintain "active" status with the Division of Corporations, an annual report must be filed yearly between January 1st and May 1st beginning in the year following the file date or effective date indicated above. It is your responsibility to remember to file your annual report in a timely manner.

A Federal Employer Identification Number (FEI/EIN) will be required when this report is filed. Apply today with the IRS online at:

<https://sa.www4.irs.gov/modiein/individual/index.jsp>.

Please be aware if the corporate address changes, it is the responsibility of the corporation to notify this office.

Should you have questions regarding corporations, please contact this office at (850) 245-6052.

Tyrone Scott  
Regulatory Specialist II  
New Filings Section  
Division of Corporations

Letter Number: 221A00005639

P.O BOX 6327 - Tallahassee, Florida 32314



**I hereby request to become a member of Floridians Against Increased Rates, Inc. (FAIR).**

I confirm that I am a customer of the Florida electric utility identified below. I support FAIR's purposes of (a) advocating by all lawful means for the lowest possible electric rates that are consistent with my utility providing safe and reliable electric service, and (b) opposing by all lawful means utility proposals for rates and rate increases that are greater than necessary for my utility to provide safe and reliable service. I request and authorize FAIR to represent my interests in having the lowest possible rates for my electric service that are consistent with my utility providing safe and reliable service. I understand that no payment of dues is required for my membership in FAIR. I consent to FAIR's collection and use of my personal information provided below for the purposes associated with my membership as described in my application.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Business Name: \_\_\_\_\_  
(Only if joining as a business electric customer)

Address: \_\_\_\_\_  
(Location where you receive your utility service)

Address Line 2: \_\_\_\_\_

City: \_\_\_\_\_

ZIP Code: \_\_\_\_\_

Email: \_\_\_\_\_

Name of Utility: \_\_\_\_\_

Please note: We respect your privacy. We will not send you hard copy mail. We need your address in case FAIR is required to prove that its members are customers of utilities in proceedings before the Florida Public Service Commission (PSC), including cases before the PSC where your utility is seeking to increase your rates. As unlikely as this may sound, we have to recognize that when FAIR challenges a utility's proposed rate increases, the utility may try to keep FAIR from intervening to represent customers' interests. We also represent that FAIR will not share your information with others unless FAIR is required by law, rule, or order to do so, and if we are required to provide such information in legal proceedings before the PSC, FAIR will seek to protect the confidentiality of your information.

**Floridians Against Increased Rates, Inc.**  
301 East Pine Street, Suite 1400  
Orlando, Florida 32801

**FLORIDA POWER & LIGHT COMPANY**  
**PROPOSED RATE INCREASES, ANNUALLY AND CUMULATIVE**  
**2022-2025**

EXHIBIT JTH-5  
DOCKET NO. 20210015-EI

Docket 20210015

2022 Request	\$1,108,000,000	\$1,108,000,000	\$1,108,000,000	\$1,108,000,000	\$1,108,000,000	\$4,432,000,000
2023 Request	\$607,000,000		\$607,000,000	\$607,000,000	\$607,000,000	\$1,821,000,000
2024 Request	(*)		(*)	(*)	(*)	
2025 Request	(*)			(*)	(*)	
Total Requested Over 4 Years						\$6,253,000,000

NOTE: (\*) FPL has requested authorization to increase its base rates in 2024 and 2025 to recover the costs of certain solar generating facilities that it plans to add to its rate base. Since neither its MFRs nor testimony specify the associated revenue requirements, no values for these potential increases are included here.

**Appendix B**

**Transcript of Deposition of Nancy Watkins**

**Docket No. 20210015**

**July 29, 2021**

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO: 20210015-EI  
Date: July 15, 2021

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

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DEPOSITION OF:

NANCY WATKINS

July 29th, 2021

1:35 p.m. - 3:20 p.m.

WEBEX

Reported By: DANIA ALEN, FPR  
Florida Professional Reporter



Page 6

1 THE WITNESS: I do.  
2 THEREUPON,  
3 NANCY WATKINS,  
4 having been first duly sworn, was examined and testified  
5 as follows:  
6 DIRECT EXAMINATION  
7 BY MR. MCALILEY:  
8 Q. Okay. Ma'am, could you please state your full  
9 name for the record and spell your last name, please?  
10 A. Nancy Hemmingway Watkins, W-A-T-K-I-N-S.  
11 Q. Thank you.  
12 Ms. Watkins, my name is Neal McAliley. I'm  
13 outside counsel for Florida Power & Light, and I'm going  
14 to be taking your deposition today. And I just -- before  
15 we get into the main questioning, I want to ask, have you  
16 ever had your deposition taken before?  
17 A. Yes.  
18 Q. Have you ever had it done on a remote platform  
19 like today on Webex?  
20 A. No.  
21 Q. Okay. So let me just explain how this works  
22 from my perspective, just for the purpose of trying to  
23 make this a little bit easier.  
24 So this is a deposition like any other  
25 deposition. You've sworn an oath. I ask questions. You

Page 7

1 give -- you answer questions. If your counsel objects,  
2 that's what counsel does and -- but you still answer the  
3 questions unless he directs you otherwise.  
4 Do you understand that so far?  
5 A. Yes.  
6 Q. Also, it's my job as a lawyer to ask a question  
7 that you can -- that you can understand, and this is  
8 where the doing depositions over virtual platform gets  
9 more challenging 'cause it can both be that I ask a bad  
10 question and it could also be that we have some technical  
11 glitch. I've been in depositions where there is a  
12 thunderstorm outside and people lose power in their  
13 houses, or suddenly you'll hear the voice sounds like  
14 Donald Duck for a few seconds.  
15 If there's any point in which you don't  
16 understand my question or I cut out or you need me to  
17 repeat it, please ask me to repeat it. I'll be happy to  
18 do that.  
19 Does that make sense?  
20 A. Yes.  
21 Q. Okay. And I may do the same thing for you. So  
22 it may be that you cut out at some point in your answer,  
23 and I may ask you at that point, "Ma'am, could you say  
24 that again?" or "I missed something," and just so you  
25 understand what I'm trying to do.

Page 8

1 I also like to take breaks periodically. I  
2 think it's good for everybody to stretch their legs, and  
3 it doesn't have to be a marathon. So what I try to do is  
4 aim for about every hour, when I'm at a logical breaking  
5 point in my questions, to take a break. But if you want  
6 to take a break at any point for whatever reason, just  
7 please let me know and we're happy to sort of, you know,  
8 step away for a few minutes for all of us, and then we  
9 can pick up.  
10 Does that make sense?  
11 A. Yes.  
12 Q. Okay. Do you have any questions for me before  
13 we start?  
14 A. No.  
15 Q. Okay. Thank you. Okay.  
16 So, Ms. Watkins, you are a witness in this  
17 proceeding for Floridians Against Increased Rates, Inc.;  
18 is that right?  
19 A. Yes.  
20 Q. And am I right that your counsel submitted your  
21 direct testimony to the Public Service Commission on or  
22 around June 21st of this year?  
23 A. Yes.  
24 Q. So what I'd like to do is I want to mark some  
25 things as exhibits, and what I do is I put them up on the

Page 9

1 screen. So what I'd like to do is start out by showing  
2 what I've marked as Exhibit Number 1.  
3 So I've just put on the screen -- at least I  
4 tried to put up on the screen what I marked as FPL  
5 Exhibit Number 1. Are you able to see that, ma'am, on  
6 the screen?  
7 A. Yes. I can't read it, but I see that it is on  
8 the screen.  
9 Q. All right. Does it appear to be a letter dated  
10 June 21st, 2021, from the law firm of Gardner, Bist, et  
11 cetera?  
12 A. Yes.  
13 Q. And you see as I'm scrolling down here, does  
14 this appear to be the cover letter indicating that this  
15 is the direct testimony and exhibits of yourself in this  
16 proceeding?  
17 A. Yes.  
18 Q. Okay. So -- and I won't scroll through all of  
19 it now, but I'll just represent that this is the copy of  
20 your direct testimony. So I just want to mark this  
21 Exhibit number 1 for today so we have it for reference.  
22 (The document referred to was subsequently  
23 marked as FPL Exhibit 1 for I.D.)  
24 BY MR. MCALILEY:  
25 Q. Let me -- I'll stop sharing that, and I'd like

Page 10

1 to show the next document. So, Ms. Watkins, you're  
2 testifying in this deposition here today pursuant to a  
3 notice of deposition; isn't that right?  
4 A. Yes.  
5 Q. Okay. So what I'd like to do now is show you  
6 what I've marked as Exhibit 2 for the deposition.  
7 (The document referred to was subsequently  
8 marked as FPL Exhibit 2 for I.D.)  
9 BY MR. MCALILEY:  
10 Q. Can you see the amended notice of taking  
11 deposition duces tecum for you --  
12 A. Yes.  
13 Q. -- on the screen?  
14 A. Yes.  
15 Q. Okay. Thank you.  
16 Now, and you understand that this amended  
17 notice of deposition asked you to bring to the deposition  
18 certain documents; right?  
19 A. Yes.  
20 Q. And your counsel -- are you aware that your  
21 counsel provided to me yesterday two documents pursuant  
22 to this amended notice of deposition?  
23 A. Yes.  
24 Q. Okay. So what I'd like to do is I'd like to  
25 show those documents and mark them as exhibits. So I'm

Page 11

1 going to exit out of this, out of Exhibit 2, and show you  
2 what I've marked as Exhibit 3 -- I'm sorry. Are you able  
3 to see that on the screen?  
4 A. Yes.  
5 Q. A document that Floridians Against Increased  
6 Rates, Inc., minutes of board of directors meeting?  
7 A. Yes.  
8 (The document referred to was subsequently  
9 marked as FPL Exhibit 3 for I.D.)  
10 BY MR. MCALILEY:  
11 Q. Am I right that these are the minutes of the  
12 board of directors meeting for Floridians Against  
13 Increased Rates that was held on March 25th of 2021?  
14 A. Yes.  
15 Q. I'll just represent that this is a copy of what  
16 I was provided by your counsel yesterday.  
17 And, Ms. Watkins, you were present personally,  
18 at least -- well, let me back up.  
19 This meeting was held over a virtual platform,  
20 sort of like we're doing the deposition today; right?  
21 A. Yes.  
22 Q. And you attended this board of directors  
23 meeting, didn't you?  
24 A. Yes.  
25 Q. Okay. And does this appear to you, what I've

Page 12

1 marked as Exhibit 3, to be a true and correct copy of the  
2 minutes of that board meeting?  
3 A. Yes.  
4 Q. Okay. Thank you.  
5 I'm going to exit out of this document and --  
6 and show the next document here.  
7 Ms. Watkins, I've just -- I've now put up on  
8 the screen what I've marked as FPL Exhibit Number 4.  
9 (The document referred to was subsequently  
10 marked as FPL Exhibit 4 for I.D.)  
11 BY MR. MCALILEY:  
12 Q. Do you see a document that's entitled  
13 "Resolution of the Board of Directors of the Floridians  
14 Against Increased Rates, Inc., in Lieu of Meeting"?  
15 A. Yes.  
16 Q. I'm going to scroll down. Do you see that  
17 there's a memorandum dated July 26th, 2021, to various  
18 people including yourself from a Janine Callovi at  
19 Consensus Communication?  
20 A. Yes.  
21 Q. Okay. So can you tell me what this document  
22 is? Let's start with the resolution.  
23 A. It adopts the motion to admit individuals who  
24 have requested to be members of Floridians Against  
25 Increased Rates, Inc.

Page 13

1 Q. Okay. Does that appear to be a true and  
2 correct copy of that resolution, Ms. Watkins?  
3 A. Yes.  
4 Q. And can you tell me what this attached  
5 memorandum is from Ms. Callovi?  
6 A. It's the background explanation of the adopted  
7 resolution.  
8 Q. And does this appear to be a true and correct  
9 copy of the memorandum that was sent to you on -- looks  
10 like on Monday?  
11 A. Yes.  
12 Q. Thank you.  
13 Okay. I'm going to exit out of these  
14 documents -- this document as well.  
15 Okay. So, Ms. Watkins, what is your address?  
16 A. 610 South Boulevard, Tampa, Florida 33606.  
17 Q. So you live outside of FPL's service territory;  
18 right?  
19 A. I do, yes.  
20 Q. You're not an FPL rate payer, are you?  
21 A. No.  
22 Q. In your direct testimony, which I marked as  
23 Exhibit 1, you indicated that you're an accountant with  
24 Robert Watkins & Company, P.A.; is that right?  
25 A. Yes.

Page 14

1 Q. So am I right that you are not an employee of  
2 Floridians Against Increased Rates?  
3 A. Correct. Yes, I'm not an employee.  
4 Q. And, by the way, just for clarity, I'm probably  
5 going to start referring to Floridians Against Increased  
6 Rates as FAIR, by the acronym. It just makes -- it's  
7 just easier to say.  
8 A. Sure.  
9 Q. Okay. So, Ms. Watkins, am I right that Robert  
10 Watkins & Company has been hired by FAIR to perform  
11 accounting services for it?  
12 A. Yes.  
13 Q. So, essentially, you work for a contractor for  
14 FAIR?  
15 A. Yes.  
16 Q. Do you personally hold any titles or positions  
17 with FAIR?  
18 A. Yes. I'm the treasurer.  
19 Q. Are you a member of the board of directors?  
20 A. No.  
21 Q. Now, what I just marked as Exhibit 3 was the  
22 minutes of the board of directors meeting on March 25th,  
23 2021. You attended that board meeting; right?  
24 A. Yes.  
25 Q. But you're not a member of the board of

Page 15

1 directors; right?  
2 A. Correct. I am not a member of the board of  
3 directors.  
4 Q. Am I correct that the FAIR board of directors  
5 has not had any other meetings other than that March  
6 25th, 2021, meeting that we have the minutes for as  
7 Exhibit 3?  
8 A. In the capacity as the board of FAIR, that is  
9 true, to the best of my knowledge.  
10 Q. Okay. Thank you.  
11 So, Ms. Watkins, could you tell me what your  
12 duties are as treasurer of the organization?  
13 A. As treasurer, my duty is to execute financial  
14 transactions at the direction of the board and the  
15 president of the entity. Also deal with compliance  
16 matters that may arise, particularly with respect to tax  
17 filings.  
18 Q. Okay. Anything else?  
19 A. I handle all the financial transactions.  
20 Q. Okay. Anything else?  
21 A. As of this date, that's been the extent of my  
22 activity.  
23 Q. Thank you.  
24 So FAIR has a bank account; right?  
25 A. Yes.

Page 16

1 Q. And when was that bank account opened?  
2 A. Approximately at inception of the entity. This  
3 past spring, March, I believe.  
4 Q. Okay. Thank you.  
5 And did you -- were you the person responsible  
6 for opening up the bank account?  
7 A. Yes.  
8 Q. Okay. So what -- you indicated that you  
9 execute financial transactions on behalf of FAIR. What  
10 type of bills does FAIR pay?  
11 A. It pays professional consulting fees,  
12 administrative fees, other fees and costs in pursuit of  
13 its purpose.  
14 Q. Does FAIR have a payroll?  
15 A. No.  
16 Q. FAIR doesn't have any employees; right?  
17 A. Correct.  
18 Q. And does FAIR pay rent to any entity for office  
19 space?  
20 A. No.  
21 Q. So at FAIR who authorizes the payment of  
22 invoices?  
23 A. The president.  
24 Q. Am I right that FAIR's bylaws provide that the  
25 board of directors have to approve contracts with other

Page 17

1 parties?  
2 A. Yes.  
3 Q. So before you pay an invoice or a bill, what  
4 steps do you take to make sure that the vendor can  
5 properly be paid?  
6 A. Make sure it's properly invoiced as necessary,  
7 obtain Internal Revenue Service Form W-9. If it's  
8 pursuant to a contract, make sure we have a fully  
9 executed contract on file and additionally get the  
10 authorization of the president where the amount might not  
11 be a flat fee in accordance with the contract. If it's a  
12 varying fee or a reimbursement, that will get the  
13 expressed permission of the president to issue payment.  
14 Q. Do you take steps to confirm that the vendor  
15 has an approved contract with FAIR?  
16 A. Where appropriate, I request approved  
17 contracts.  
18 Q. Okay. But do you check to make sure that the  
19 board of directors has approved a contract before you pay  
20 an invoice from a vendor?  
21 A. I would check to make sure that if there is an  
22 approved contract and the amount is pursuant, a flat  
23 amount pursuant to that contract, then we'll operate  
24 under that. In the absence of that, either amount or  
25 contract, it would be approved by the president. To the

Page 18

1 best of my knowledge right here (indicating), I do  
2 believe we have contracts for all vendors.  
3 Q. Has the board of directors approved the  
4 contracts for all of the vendors --  
5 A. Yes.  
6 Q. -- of FAIR?  
7 A. Yes.  
8 Q. Okay. Okay. Does FAIR pay anything to  
9 Consensus Communications?  
10 A. Yes.  
11 Q. Have you as treasurer made payments to  
12 Consensus Communications on behalf of FAIR?  
13 A. I would have to -- on specific transactions --  
14 I have a lot of clients. I would like the opportunity to  
15 consult with my accounting records on specific payments.  
16 Q. Okay. But can you -- do you just -- so -- but  
17 as you sit here today, do you recall ever approving a  
18 payment to Consensus Communications on behalf of FAIR?  
19 A. I would need to consult my records, which I'm  
20 happy to do.  
21 Q. That's okay. I'm just asking whether you  
22 remember now. It sounds like you don't remember now, and  
23 before you commit to anything, you'd want to look at your  
24 records?  
25 A. I mean, I can print a vendor listing. I can go

Page 19

1 print a vendor listing for this client that will show  
2 every payment I've made for every vendor. I was not  
3 prepared to have that document, but I could produce that  
4 document very quickly.  
5 Q. Okay. Thank you.  
6 Could you tell me what is Consensus  
7 Communications?  
8 A. It's a public relations firm.  
9 Q. And what services does Consensus Communications  
10 provide to FAIR?  
11 A. Public relations.  
12 Q. Anything else?  
13 A. Well, communications, public communications,  
14 which I consider all under the umbrella of public  
15 relations. Messaging.  
16 Q. Messaging. Anything else?  
17 A. Not that I know of.  
18 Q. And why did FAIR hire Consensus Communications?  
19 A. That's not -- I don't have knowledge.  
20 Q. You don't know why FAIR hired Consensus  
21 Communications?  
22 A. I do not, other than the obvious, for public  
23 relations. Why they chose Consensus Communications over  
24 another firm, I do not have knowledge of, but they hired  
25 Consensus Communications to ask -- work in public

Page 20

1 relations, communications, and messaging. Why that one  
2 was chosen, if that's the question, I don't have personal  
3 knowledge.  
4 Q. Who is the one who made the decision to hire  
5 Consensus Communications?  
6 A. The board of directors.  
7 Q. Okay. Was Consensus Communications involved  
8 with FAIR's -- the individuals who make up FAIR's control  
9 group prior to the date that FAIR was incorporated in  
10 March of this year?  
11 A. Who -- can you give me some -- when you say  
12 control group, do you mean the three members of the  
13 board?  
14 Q. Yes. And any other individual that's sort of  
15 part of the group that sort of runs FAIR?  
16 A. I believe so. It's been a -- but I don't have  
17 personal knowledge of it, but I do believe that members  
18 of the control group and members of Consensus  
19 Communication have known each other in the past. I don't  
20 know specifically how and why, but all of the parties  
21 you're referring to have worked in the same arena for a  
22 while.  
23 Q. So, Ms. Watkins, you work with the people who  
24 are the members of the board of FAIR in the context of  
25 other organizations, don't you?

Page 21

1 THE WITNESS: Do I need to reveal anything  
2 about my other clients?  
3 BY MR. MCALILEY:  
4 Q. Ma'am, if you -- if you need to have an  
5 attorney-client communication with your counsel, I  
6 suggest that you say that because we're hearing  
7 everything you're saying to your lawyer?  
8 A. Well, I understand. I didn't have a problem  
9 with you hearing that question.  
10 Q. Right. So, ma'am, your counsel can object if  
11 he wants or you should answer the question, but let's do  
12 this because we're creating a record here with the court  
13 reporter, so just so we have this all clear. I  
14 understand that your counsel is sitting there with you.  
15 A. Okay.  
16 MR. WRIGHT: Please ask your question again,  
17 Neal.  
18 MR. MCALILEY: Sure. Yes.  
19 BY MR. MCALILEY:  
20 Q. So, Ms. Watkins, you were involved with the  
21 three members of the board of directors of FAIR in the  
22 context of other organizations, aren't you?  
23 MR. WRIGHT: You can answer that question.  
24 THE WITNESS: Not all of them, but I do have  
25 prior relations with one or more.

Page 22

1 BY MR. MCALILEY:  
2 Q. Are you familiar with an organization or a  
3 corporation called Citizens for Lower Electric Rates,  
4 Inc.?  
5 A. Yes.  
6 Q. Are you on the board of that?  
7 THE WITNESS: Am I in the board of that? Yes.  
8 BY MR. MCALILEY:  
9 Q. Ma'am, your counsel can't help you.  
10 MR. WRIGHT: You're not supposed to ask me  
11 questions, Nancy.  
12 MR. MCALILEY: Yes.  
13 MR. WRIGHT: If you don't know, you can say, "I  
14 have to check." If you know, you can answer the  
15 question.  
16 THE WITNESS: I believe I'm on the board of  
17 that entity. I would have to check my records on  
18 that.  
19 BY MR. MCALILEY:  
20 Q. And, Ms. Watkins, that's substantially the same  
21 group of people who are officers and directors of FAIR;  
22 right?  
23 A. There are -- there is overlap, yes.  
24 Q. Okay. I'm just curious. The purpose of  
25 Citizens for Lower Electric Rates and FAIR are

Page 23

1 substantially the same, aren't they?  
2 A. Yes.  
3 Q. Why is it that FAIR intervened in this case and  
4 not Citizens for Lower Electric Rates?  
5 A. One of them is a membership organization.  
6 Q. And that's FAIR?  
7 A. Yes.  
8 Q. Okay. Thank you.  
9 What role did Consensus Communication have in  
10 recruiting the board members for FAIR?  
11 A. I do not know.  
12 Q. Does Consensus Communications also work for  
13 Citizens for Lower Electric Rates?  
14 A. I will have to check my records. I wasn't  
15 prepared -- I wasn't prepared with information on that  
16 entity.  
17 Q. That's fine. I'm just asking whether you  
18 recall as you sit here today.  
19 A. I don't recall.  
20 Q. Okay. What I'd like to do is let's go back to  
21 Exhibit 3, which I had shown you earlier. So this is the  
22 minutes of the board of directors meeting on March the  
23 25th. Are you able to see that, ma'am, again, on the  
24 screen?  
25 A. Yes.

Page 24

1 Q. So you see there on the first page of the  
2 minutes of that board of directors meeting on March 25th,  
3 2021, it indicates that you attended the meeting; is that  
4 right?  
5 A. That's correct, yes.  
6 Q. And see right below your name on the minutes it  
7 says John Sowinski, President, Consensus Communications,  
8 Inc., also attended. You see that?  
9 A. Yes.  
10 Q. Do you remember him being there at the meeting?  
11 A. Yes.  
12 Q. Why was he there?  
13 A. To give advice in his capacity of public  
14 relations.  
15 Q. Am I right, Ms. Watkins, that at that board  
16 meeting, the FAIR board of directors approved four  
17 proposed agreements for services --  
18 A. Yes.  
19 Q. -- to FAIR?  
20 Okay. And am I right that that is shown on the  
21 last paragraph of the first page?  
22 A. Yes.  
23 Q. And I'll zoom it in a little bit to see if it  
24 helps to read this. I just put it up there on the  
25 screen. The last paragraph on the first page and the --

Page 25

1 the top of the second page. So am I right that at that  
2 board meeting the board of directors of FAIR approved the  
3 contracts for two law firms; is that right?  
4 A. Yes.  
5 Q. And the law firms are Gardner, Bist and also  
6 Gray Robinson; is that right?  
7 A. Yes. Yes.  
8 Q. And the board also approved agreements with two  
9 other consultants to provide expert witness services,  
10 specifically, GDS Associates and Timothy J. Devlin, CPA;  
11 is that right?  
12 A. Yes.  
13 Q. Am I right, Ms. Watkins, that nowhere in the  
14 minutes it indicates that the board of directors approved  
15 any contract with Consensus Communications?  
16 A. Correct.  
17 Q. Is there a contract between Consensus  
18 Communications and FAIR?  
19 A. I do not know.  
20 Q. If there was, it was never approved at that  
21 board meeting on March 25th, 2021; right?  
22 A. Not at this meeting. That would be correct,  
23 yes.  
24 Q. And this is the only board meeting that's  
25 occurred for FAIR; right?

Page 26

1 A. As -- yes.  
2 Q. And you have been paying Consensus  
3 Communications with FAIR funds in your capacity as  
4 treasurer; right?  
5 A. I will need to look at the records. I have  
6 hundreds of clients, and I don't want to say something  
7 incorrect.  
8 Q. Okay. That's fine. So let's go back to  
9 Exhibit 3 here. I'm scrolling down to the second page,  
10 and you can see there is a lot of blacked-out text.  
11 These were redactions that were put in the document by  
12 FAIR's counsel.  
13 You see, though, in the middle of the second  
14 page, it says, "Mr. Sowinski is in the process of seeking  
15 quotes for Directors & Officers Insurance"?  
16 A. Yes.  
17 Q. You see that?  
18 A. Uh-huh.  
19 Q. Do you recall him talking about Directors &  
20 Officers Insurance?  
21 A. I recall the discussion on D&O insurance being  
22 advised.  
23 Q. Okay. Do you consider getting insurance for  
24 board members of a new corporation to be a typical  
25 service of a public relations firm?

Page 27

1 A. In the context of the meeting that occurred, he  
2 had a contact at a firm when it came up with the board.  
3 While it was not directed to him to assign that duty to  
4 him, he offered. He had a contact that might be able to  
5 help with that so he could work on it.  
6 Q. Okay. Thank you.  
7 I'm going to scroll down here. I'm now down on  
8 Page 3. You see the bottom half of the page, it says,  
9 "Mr. Sowinski presented a draft mission statement, and  
10 after discussion, the Board agreed on the following"?  
11 You see that?  
12 A. Yes.  
13 Q. Why was Mr. Sowinski in charge of drafting the  
14 mission statement?  
15 A. It's part of public relations and mission and  
16 vision are often done by -- my experience, by people who  
17 have marketing and public relations expertise.  
18 Q. And I see it also says on Page 3 of the board  
19 minutes that he set up the website; is that right?  
20 A. Yes.  
21 Q. And do you see where it indicates that it  
22 states that "the website should go 'live' soon, no later  
23 than Friday, April 9th"?  
24 A. Yes.  
25 Q. Do you know when the FAIR website went live

Page 28

1 with the content from your organization?  
2 A. No, I don't.  
3 Q. So you don't have any independent knowledge, as  
4 you -- as you sit here today, when somebody could first  
5 go on the Internet and type in fairfl.org.com and see the  
6 information about your organization; right?  
7 A. No, I do not.  
8 Q. Thank you.  
9 I'm going to scroll down here. Now I'm on the  
10 fourth page and -- let me see if I can -- you see here on  
11 the fourth page on the second paragraph right below the  
12 redaction, it indicates that "Consensus will handle both  
13 the electronic membership application through the website  
14 and any hard copy applications that are received"? Do  
15 you see that?  
16 A. Yes.  
17 Q. So am I right that Consensus Communications  
18 handles the recruitment of members?  
19 A. Well, recruitment, they handle the website form  
20 and distribution of it, and some of that was  
21 administrative clerical.  
22 Q. Okay. Am I right, though, that Consensus  
23 Communications is in charge of recruiting members of  
24 FAIR?  
25 MR. WRIGHT: Object to the form. Vague.

Page 29

1 But you can answer.  
2 THE WITNESS: I don't believe that they  
3 recruited. I believe they were in charge of giving  
4 people the ability to join FAIR.  
5 BY MR. MCALILEY:  
6 Q. Is there -- is there anybody at FAIR, to your  
7 knowledge, that recruits members?  
8 A. No.  
9 Q. How does FAIR get its member?  
10 A. Say again.  
11 Q. How does FAIR get its members?  
12 A. By advertising on the website and promotions at  
13 that website for people who are in agreement with the  
14 purpose to join.  
15 Q. Okay. What does FAIR do to promote the  
16 website?  
17 A. I believe it does search engine optimization,  
18 but I'm not -- I'm not an expert on that.  
19 Q. Okay. Who is in charge of running that process  
20 of doing the search engine optimization or drawing people  
21 to the website?  
22 A. Consensus.  
23 Q. Consensus Communications; right?  
24 A. Yes.  
25 Q. Okay. Now, FAIR is paying Robert Watkins &

Page 30

1 Company for your time; right?  
2 A. Yes.  
3 Q. And when does the board of directors approve  
4 the contract with Robert Watkins & Company?  
5 A. I'm -- month to month. I don't believe they  
6 have.  
7 Q. So am I right in understanding that there's no  
8 contract between your company and FAIR?  
9 A. Correct.  
10 Q. Has there ever been a board resolution  
11 approving payment of sums to Robert Watkins & Company?  
12 A. Not a board resolution, just the president.  
13 Q. But the FAIR board is in charge of approving  
14 contracts; right?  
15 A. Contracts, yes.  
16 Q. Okay. Let me take down Exhibit 3 here. And I  
17 want to turn to your direct testimony, ma'am. There you  
18 indicated in your direct testimony that the purpose of  
19 your testimony before the commission is to provide the  
20 commission with a description of FAIR's membership  
21 composition and to provide your findings regarding FAIR's  
22 membership numbers, composition, and the utilities that  
23 serve FAIR's members.  
24 Did I characterize that correctly, your direct  
25 testimony?

Page 31

1 A. Yes.  
2 Q. Is that the only testimony you're going to be  
3 providing at the hearing?  
4 A. Yes.  
5 Q. So you're not going to be providing testimony  
6 on any other topic when it gets before the commission;  
7 right?  
8 A. Not -- not that I've been made aware of.  
9 Q. You would be the one who is testifying so  
10 presumably you would know; right?  
11 A. I mean, it's something if I -- as of today  
12 that's my understanding, that that's all I would be  
13 testifying to.  
14 Q. Okay. Thank you.  
15 So what I'd like to do is go through the steps  
16 that you took to review FAIR's membership. So am I right  
17 that in your direct testimony you state that you started  
18 by reviewing FAIR's membership roster; is that right?  
19 A. Yes.  
20 Q. And when you say membership roster, what do you  
21 mean?  
22 A. People who have indicated, through the web  
23 portal, that they desire to become members of FAIR.  
24 Q. And so -- and by the roster, what do you refer  
25 to?

Page 32

1 A. The list of those people.  
2 Q. And did you -- and is that -- so who put the  
3 roster, the list together?  
4 A. It came in through Consensus Communication, and  
5 the information was compiled by an employee at Consensus  
6 and provided to my office.  
7 Q. And who is that employee at Consensus who  
8 compiled the information?  
9 A. Janine Callovi -- Callovi. Janine.  
10 Q. And where is that membership roster kept or  
11 maintained?  
12 A. A copy is maintained in Consensus  
13 Communication, updated daily, and a copy at the time of  
14 my verification work is maintained in my office.  
15 Q. I see. So in your direct testimony, you  
16 indicated that you looked at the roster as of a certain  
17 date. Am I right?  
18 A. Yes.  
19 Q. And what was that date?  
20 A. June 15th, I think.  
21 Q. And why did you look at the roster as of that  
22 date?  
23 A. In -- it had a very short window of time when  
24 testimony was due to the Public Service Commission.  
25 Q. Your testimony was submitted to the Commission

Page 33

1 on June 21st; right?  
2 A. Yes.  
3 Q. And am I right that you also reviewed the  
4 roster as of June 17th, 2021?  
5 A. Yes.  
6 Q. But just so I make sure I know the date and  
7 time of the roster that -- the basis of your -- the  
8 statistics you have in your direct testimony, it was the  
9 June 15th roster which was the basis of your calculations  
10 in your direct testimony; is that right?  
11 A. Yes.  
12 Q. Okay. Thank you.  
13 So why did you start by reviewing the  
14 membership roster?  
15 A. Because I was tasked with verifying that the  
16 membership roster was accurate.  
17 Q. And what information is provided in the  
18 membership roster?  
19 A. Name, address, if they are a user of a public  
20 utility in the state of Florida and, if so, the service  
21 address.  
22 Q. Anything else?  
23 A. Let me see. E-mail address and phone numbers,  
24 although they were not mandatory.  
25 Yes. So we have e-mail addresses for -- and we

Page 34

1 have some phone numbers.  
2 Q. Okay. Anything else?  
3 A. Name, address, e-mail address, phone number,  
4 service utility, and we kept a record of whether they  
5 joined through the portal or sent in a PDF by mail.  
6 Q. Am I right that all of the information on that  
7 membership roster came from the applications for  
8 membership that these individuals submitted to FAIR?  
9 A. Yes.  
10 Q. And there is no other source of additional  
11 information of the members other than those applications;  
12 is that right?  
13 A. Correct.  
14 Q. Am I right that that membership roster contains  
15 all of the information that FAIR has about its members?  
16 A. To the best of my knowledge, yes.  
17 Q. And you're the person that had to go through  
18 the whole list, right, and verify it; right?  
19 A. Yes.  
20 Q. Thank you.  
21 Okay. So after you looked at the membership  
22 roster, am I right that you also then reviewed samples of  
23 the membership applications that were submitted to FAIR?  
24 A. Yes.  
25 Q. And why did you do that?

Page 35

1 A. To test statistic -- to get a statistically  
2 significant reliable sample representation of the  
3 accuracy of the list.  
4 Q. Why would you have to look at individual  
5 applications?  
6 A. To confirm -- well, we -- I did a contact. I  
7 contacted to confirm that the information we had on this  
8 list was accurate and that the member intended to join  
9 FAIR.  
10 Q. Okay. Am I right, based on your direct  
11 testimony, that you reviewed samples of the paper  
12 applications as well as the electronic membership  
13 applications?  
14 A. Yes.  
15 Q. So I just want to break down to make sure I  
16 understand what each of those categories are. Let's  
17 start with the electronic membership applications.  
18 A. Uh-huh.  
19 Q. What do you mean when you refer to electronic  
20 membership applications?  
21 A. It's where the member filled in fields, spaces  
22 online and submitted it online.  
23 Q. Okay. So those are the applications generated  
24 by people filling in that form on the FAIR website;  
25 right?

Page 36

1 A. Yes.  
2 Q. And am I right that a copy of that online  
3 application form is attached to your direct testimony as  
4 Exhibit NHW-5?  
5 A. Yes.  
6 Q. All right. What percentage of FAIR's  
7 membership applications have been submitted  
8 electronically through the website?  
9 A. I don't have that percentage calculated. The  
10 vast majority of them were online.  
11 Q. Okay. When you say "vast majority," it's more  
12 than 50 percent; right?  
13 A. Oh, way more. Yes, more than 50 percent.  
14 Q. Could it be more than 80 percent?  
15 A. It appears to be.  
16 Q. Thank you. Okay.  
17 So then let's turn to the other type of  
18 application, the paper application. What do you mean by  
19 that?  
20 A. It's where an image, a PDF was called up and  
21 they filled it out and mailed it in.  
22 Q. Okay. Am I right that a copy of one of  
23 those -- that the form for paper application is attached  
24 to your direct testimony as Exhibit NHW-4?  
25 A. Yes.

Page 37

1 Q. So can I ask, how would somebody -- how would  
2 somebody get a PDF of the application?  
3 A. It was available on the website.  
4 Q. So there's a place in there where you could,  
5 like, download a PDF --  
6 A. Yes.  
7 Q. -- for an application?  
8 A. Yes.  
9 Q. Okay. I don't remember seeing that. Maybe  
10 after a break I'll take a look at the website so I can  
11 make sure I understand how that works.  
12 Okay. Is there any other way that prospective  
13 members were given hard copies of the membership  
14 application other than somebody going to the website and  
15 downloading a PDF?  
16 A. I don't know.  
17 Q. Are you aware of whether anybody associated  
18 with FAIR has handed out applications to people, you  
19 know, physical copies of applications to people?  
20 A. I don't know.  
21 Q. How would somebody submit a PDF of their  
22 membership application to FAIR?  
23 A. It's my understanding it was mailed into Janine  
24 at Consensus.  
25 Q. Okay. So it wouldn't have been e-mailed, it

Page 38

1 would have been put in the old-fashioned U.S. mail;  
2 right?  
3 A. I don't know. I was not -- they were not  
4 submitted directly to me.  
5 Q. And you say it was sent to Janine at Consensus.  
6 Is there any place on the FAIR website where it tells  
7 people to send things to Consensus Communication?  
8 A. I could only presume, yes, with the address. I  
9 don't know.  
10 Q. Okay. Are you aware that the address for FAIR  
11 on the website is the office of the Gray Robinson law  
12 firm in Orlando?  
13 A. Yes.  
14 Q. Okay. I assume that Consensus Communication  
15 does not work out of the Gray Robinson offices in  
16 Orlando; is that right?  
17 A. Right.  
18 Q. But you don't know exactly how people would  
19 have known to send in a hard copy of the membership  
20 application to Consensus Communication; is that fair?  
21 A. I do not.  
22 Q. Okay. Thank you.  
23 Okay. So then it says after -- so the first  
24 thing you did is you looked at the roster?  
25 A. Uh-huh.

Page 39

1 Q. The second thing is you looked at a sample of  
2 the actual applications, and then in your direct  
3 testimony on Page 5, you indicated that you "contacted a  
4 large sample of the members listed on FAIR's membership  
5 roster by e-mail to determine whether their membership  
6 information was accurate that: (1) they are customers of  
7 an investor-owned Florida utility, (2) if so, what  
8 utility they are a customer, and (3) that they intended  
9 to join FAIR."  
10 Have I fairly summarized that part of your  
11 testimony?  
12 A. Yes.  
13 Q. So is that an accurate description of how you  
14 went out to contact the people who had applied for  
15 membership?  
16 A. Yes.  
17 Q. So am I right that the sample that you reached  
18 out to was every person on the roster who gave an e-mail?  
19 A. Yes.  
20 Q. Am I right that you contacted those people by  
21 sending them an e-mail?  
22 A. Yes.  
23 Q. When did you send those e-mails to the people  
24 who had submitted applications for membership?  
25 A. Around the 17th or 18th of June.

Page 40

1 Q. Okay. And were you the person who sent the  
2 e-mails or did somebody else send the e-mails?  
3 A. I sent them.  
4 Q. It was a lot of time typing out e-mails, I  
5 assume, if you have 200 people; right?  
6 A. No. We use technology to create a distribution  
7 list of the e-mails out of the column on the Excel sheet  
8 which did the distribution.  
9 Q. Okay. What e-mail account did you use when you  
10 sent e-mails to the people who had submitted  
11 applications?  
12 A. My own professional e-mail,  
13 nwatkins@robertwatkins.com.  
14 Q. And what did you say in the e-mail that you  
15 sent to the people who submitted membership applications?  
16 A. I identified myself as an officer of FAIR; told  
17 them that I was contacting them for the purpose of  
18 verifying their desire to be a member of FAIR and to  
19 confirm the information they had provided. Each e-mail  
20 was personalized with the information provided. Again, I  
21 did not have to type all that in. It came out of  
22 technology and asked for a negative confirmation, that if  
23 the information was incorrect, to please respond or if  
24 they did not intend to be a member of FAIR, to likewise  
25 respond to that.

Page 41

1 Q. And how many people responded to the e-mails  
2 that you sent?  
3 A. Of the negative -- I got three negative  
4 responses that the members -- that the people did not  
5 intend to be a member of FAIR. One of them happened to  
6 be the web developer who said he was only testing it. He  
7 doesn't live in the state, so he was not a user of  
8 utilities. So the information he provided was just not  
9 correct intentionally. So I got two negative responses.  
10 I got a few handfuls where they corrected a street number  
11 or some spelling of their name. Again, this had been  
12 information they provided.  
13 And while we only ask for negative responses, I  
14 received fourteen responses that said yes, they did  
15 intend to join FAIR.  
16 Q. So how many people just didn't respond at all,  
17 never sent you a responsive e-mail?  
18 A. All but 17. I think we sampled -- yes, all but  
19 17. So almost 400 -- almost 500, 490, 480 did not  
20 respond.  
21 Q. Okay. So the membership roster has on it, at  
22 least as of June 15th, some number of greater than 500  
23 people who have submitted applications for membership;  
24 right?  
25 A. Yes.

Page 42

1 Q. And you sent an e-mail to every single one of  
2 those people who had provided an e-mail; is that right?  
3 A. Right. I think that was 507, yes.  
4 Q. And you only got response e-mails from  
5 approximately 17 people?  
6 A. Yes, we requested -- because it was a negative  
7 confirmation sample test.  
8 Q. And so you had approximately 490 people, more  
9 or less, just never responded in any way to your e-mail  
10 to them; right?  
11 A. Correct, because they were -- the instructions  
12 were if the information provided was correct or if  
13 they -- and they intended to join FAIR, no response was  
14 required.  
15 Q. Is it possible that some of those people never  
16 got the e-mail?  
17 A. Absolutely.  
18 Q. And you never actually had communication with  
19 those people, because they never wrote back; right?  
20 A. Well, they never wrote back. I did get half a  
21 dozen or so e-mail bounce-backs. Majority of them I  
22 could correct because they were obvious extraneous  
23 characters, com. -- comx or something like that, and I  
24 could resend it. But, no, to say -- yes, I had  
25 communication, but my communication was sent to them

Page 43

1 saying if this is not correct, let me know; otherwise,  
2 you need not do anything.  
3 Q. Okay. But, Ms. Watkins, am I right that for  
4 approximately 490 members of FAIR you never got them to  
5 confirm the information was correct?  
6 A. Because they were specifically instructed that  
7 they did not need to confirm it was correct. They were  
8 specifically instructed they only needed to respond back  
9 if the information was not correct.  
10 Q. How do you know that those are real people if  
11 they never responded to your e-mail?  
12 A. Because we -- the test, the sample size  
13 indicates that the list is real people and that the  
14 substantial majority intended to be members of FAIR.  
15 Q. Okay. I want to understand this here,  
16 Ms. Watkins. So what percentage response rate would you  
17 need to conclude statistically that your -- that the  
18 responses you received represent the answers of the  
19 whole? In other words --  
20 A. Remember --  
21 Q. -- give me an example, and then you're  
22 extrapolating this to the whole. So what percent do you  
23 need?  
24 A. On a negative response, something less than  
25 5 percent, and we got 2 out of 507.

Page 44

1 Q. But you would agree -- you don't personally  
2 know these people who submitted these applications to  
3 join FAIR, do you?  
4 A. No.  
5 Q. So you don't actually know whether that's a  
6 real flesh and blood person on the list other than if  
7 they wrote back to you; right?  
8 A. Of course not, but what you're saying is when  
9 banks do negative confirmation on balances, all those  
10 customers don't really exist? A negative confirmation is  
11 a statistically valid method of confirming the entire  
12 population.  
13 Q. Okay. Ma'am, I'm not talking about banks. I'm  
14 just talking about the FAIR membership list. So my point  
15 is you never actually heard back from the great majority  
16 of these people who supposedly submitted membership  
17 applications, and you don't know whether they're real  
18 people?  
19 A. No.  
20 Q. Right?  
21 A. But by not hearing back from them, it's a  
22 higher confidence that they are real people and that the  
23 people on the list intended to join FAIR. I have 14 that  
24 did respond back, even though they were directed not to.  
25 Q. How do you know that those e-mails you sent

Page 45

1 didn't get caught in a spam filter or something on  
2 someone's e-mail account?  
3 A. I do not know that.  
4 Q. So it's possible they could have just missed  
5 it? We all get a bunch of e-mails every day.  
6 A. And that is why --  
7 Q. Is that possible?  
8 A. And that is why we strove and went ahead and  
9 did almost 100 percent tests. Normally 7 to 10 percent  
10 would have been fine. We did almost 100 percent test.  
11 Q. Okay. But, ma'am, am I right, though, that you  
12 actually only got written confirmation from less than 20  
13 people on the FAIR membership list that they, indeed,  
14 wanted to be members of FAIR?  
15 A. I did not request that. It's irrelevant to the  
16 statistical sampling. Those 14 responses are not  
17 relevant because that was not the test.  
18 Q. But you -- but you never heard back from --  
19 okay.  
20 Let me -- I may come back to this later, but --  
21 so -- and so I don't need to belabor the point now. But,  
22 Ms. Watkins, so let me just make sure I got this right.  
23 You sent e-mails to everybody on the FAIR membership  
24 roster as of June 15th, 2021, who gave an e-mail; right?  
25 A. Yes.

Page 46

1 Q. And you only heard back from approximately 17  
2 of them; right?  
3 A. Yes.  
4 Q. And that means that you didn't hear anything  
5 back from approximately 490 of them?  
6 A. Yes.  
7 Q. And you don't personally know these people;  
8 right?  
9 A. No.  
10 Q. And so you don't know whether they're actual  
11 flesh and blood people; right?  
12 A. Technically, no.  
13 Q. Okay. All right. So to make sure that I  
14 understand what is the information that you asked them to  
15 just confirm whether the information was correct or not,  
16 am I right you asked them to confirm the accuracy of the  
17 information that they had provided on the membership  
18 application?  
19 A. Yes.  
20 Q. You didn't ask them for any additional  
21 information other than what was on the application form;  
22 right?  
23 A. Right.  
24 Q. Okay. You didn't ask them, for instance, what  
25 their ages were; right?

Page 47

1 A. Right.  
2 Q. And you didn't ask them for input about what  
3 they thought FAIR should argue at this rate proceeding,  
4 did you?  
5 A. No.  
6 Q. You didn't ask them whether they -- who they  
7 thought would be a good witness to present to the hearing  
8 for FAIR, did you?  
9 A. No.  
10 Q. You didn't ask them how much they pay in  
11 their -- in their -- on average their monthly power  
12 bills, did you?  
13 A. No.  
14 Q. Did you ask them how much their power bills  
15 might go up as a result of FPL's rate proposal?  
16 A. No.  
17 Q. Did you ever have any telephone conversations  
18 with any of these people in the membership list,  
19 Ms. Watkins?  
20 A. No.  
21 Q. So we're getting -- we're at a breaking point.  
22 It's been about an hour. Would you like to take a  
23 five-minute break, Ms. Watkins?  
24 A. Sure. Okay.  
25 Q. Why don't we do that.

Page 48

1 (A short recess was taken, after which the  
2 following proceedings were had:)  
3 BY MR. MCALILEY:  
4 Q. Okay. So I just -- I wanted to ask you a  
5 follow-up question from the questions I just asked about  
6 your e-mails to the people who had submitted membership  
7 applications.  
8 A. Uh-huh.  
9 Q. Am I right that you indicated that  
10 approximately three people indicated that they had not  
11 intended to submit the application?  
12 A. No. That they did not intend to become members  
13 of FAIR.  
14 Q. What's the difference? Can you explain to me  
15 the difference?  
16 A. Well, somebody could -- I cannot go in to their  
17 minds, but maybe they meant they don't want to pay dues,  
18 and there is no dues, but when they say they did not --  
19 they meant to sign up. Whatever they meant by it, they  
20 meant to sign up, but they did not intend to become a  
21 member of the organization.  
22 Q. Okay. I see. So these are people who went to  
23 the website, filled in the form, the fields on it and hit  
24 "submit" but somehow didn't intend to become a member by  
25 doing that?

Page 49

1 A. Right.  
2 Q. Am I saying that correct?  
3 A. Yeah. The indication was they agreed with the  
4 mission and purpose, they didn't intend to be a member of  
5 FAIR, though.  
6 Q. I see. And did -- and I understand one of  
7 those people was the person who set up the website and  
8 they were just testing the system; right?  
9 A. Correct.  
10 Q. So the other two people, did they explain why  
11 they didn't want to be a member if they filled out the  
12 form on the website?  
13 A. No.  
14 Q. Okay. Okay. So, Ms. Watkins, are you aware  
15 that Florida Power & Light submitted written  
16 interrogatories to FAIR in this case?  
17 A. No.  
18 Q. Okay. Have you -- well, let me show you what  
19 I've marked here as -- I'd like to mark as Exhibit Number  
20 5.  
21 (The document referred to was subsequently  
22 marked as FPL Exhibit 5 for I.D.)  
23 BY MR. MCALILEY:  
24 Q. And this is a copy of FAIR's responses to  
25 Florida Power & Light's first set of interrogatories.

Page 50

1 Can you see that on the screen?  
2 A. Yes.  
3 Q. Okay. Have you ever seen this before?  
4 A. No.  
5 Q. Okay. Did you play any role in preparing  
6 answers to FPL's written questions?  
7 A. Not in response to this document.  
8 Q. Okay. And just in general, did you play any  
9 role in developing FAIR's responses to FPL's questions in  
10 discovery?  
11 A. No.  
12 Q. Okay. All right. Well, I just -- I want --  
13 let me show this to you and let me ask you some questions  
14 about it. You see here I have up on the screen here  
15 FAIR's response to FPL's Interrogatory Number 12? Can  
16 you see that? It's on the top right of the page.  
17 A. Yes.  
18 Q. And do you see that the question from FPL was  
19 "Please provide the following information related to  
20 FAIR," and there is a list of subparagraphs, lettered A  
21 through I?  
22 A. Yes.  
23 Q. And you see it asked for FAIR to provide, among  
24 others things, the current number of active members, the  
25 names of active members, the date each person became a

Page 51

1 member, et cetera?  
2 A. Yes.  
3 Q. And you see the responses? It gives answers,  
4 and then it references here a roster. So, for instance,  
5 on the response on B, "The names of active members -  
6 CONFIDENTIAL, provided on roster in response to FPL's  
7 request to produce," do you see that?  
8 A. Yes.  
9 Q. Do you also see the response to C, the date  
10 that each person became a member, "see roster"?  
11 A. Yes.  
12 Q. Okay. Am I -- am I right in understanding,  
13 Ms. Watkins, that all of the information that FAIR has  
14 about the people who submitted membership applications is  
15 contained on that roster?  
16 A. To the best of my knowledge, yes.  
17 Q. And the roster, have you -- does the roster  
18 that you looked at have all the information that FAIR has  
19 about the people who submitted membership applications?  
20 MR. WRIGHT: I'm going to object to the form as  
21 being vague. If you'd ask the question with respect  
22 to any -- an effective date, Neal, that would be  
23 okay.  
24 MR. MCALILEY: No problem.  
25 BY MR. MCALILEY:

Page 52

1 Q. So, Ms. Watkins, I'm going back to June 15th.  
2 That was the date of the roster that you looked at when  
3 you did your sampling; right?  
4 A. Yes.  
5 Q. Okay. So the roster that you looked at on  
6 June 15th, did that contain all of the information that  
7 FAIR had about the people who had applied for membership  
8 at that point?  
9 A. Yes.  
10 Q. Is there any other roster that has more  
11 information on it that you're aware of?  
12 A. No.  
13 Q. So there's not like the double-secret roster  
14 that has even more information about people, is there?  
15 A. Not that I know of.  
16 Q. Okay. Okay. I'm going to exit this document.  
17 The interrogatory responses.  
18 So am I right, Ms. Watkins, that you attached a  
19 redacted version of the roster to your direct testimony?  
20 A. Yes. Correct.  
21 Q. Okay. So what I'd like to do is go back to  
22 your direct testimony. I had marked that as Exhibit 1.  
23 You see that up on the screen there, Ms. Watkins?  
24 A. Yes.  
25 Q. Okay. So I'm going to scroll down here until I

Page 53

1 get to the roster. Okay. So I'm here now at -- I'm on  
2 Page 25 of your direct testimony and exhibits. On the  
3 left side it says "Exhibit NHW-3, Page 1 of 12."  
4 Do you see that?  
5 A. Yes.  
6 Q. Okay. Does this appear to be a redacted  
7 version of the roster that you looked at when you  
8 prepared your direct testimony?  
9 A. Yes.  
10 Q. Do you have a copy of the unredacted roster  
11 there with you today?  
12 A. Yes.  
13 Q. So I may ask the questions about material  
14 that's blacked out, but I'm going to try to ask them in a  
15 way that doesn't bring out any sort of personally  
16 identifiable information, but I'm just -- for the  
17 exhibit, we have this redacted version of the roster.  
18 So what I'd like to do also, I'd like to exit  
19 out of this document here and show you another document  
20 that I'd like to mark as Exhibit Number 6.  
21 (The document referred to was subsequently  
22 marked as FPL Exhibit 6 for I.D.)  
23 BY MR. MCALILEY:  
24 Q. Now, I previously shared this with your counsel  
25 yesterday, just to make sure we were literally working

Page 54

1 off the same piece of paper.  
2 Can you see up on the screen there another  
3 version of the roster that has material blacked out in  
4 it?  
5 A. Yes.  
6 Q. Does this look like, to you, the membership  
7 roster again that was provided by FAIR just with  
8 different fields blacked out?  
9 A. I don't know. That could have been a later --  
10 Q. Pardon?  
11 A. I don't know what date this is as of.  
12 Q. Okay. So am I right, Ms. Watkins, though, that  
13 the roster that you provided with your direct testimony,  
14 which is attached to Exhibit Number 1, was a complete  
15 list of all the people who had applied to become FAIR  
16 members as of June 15th?  
17 A. Yes.  
18 Q. And I also want to confirm that that roster  
19 that was attached to the direct testimony contains all of  
20 the information available to FAIR about those people who  
21 applied to become members of the organization?  
22 A. Yes.  
23 Q. Does that roster also indicate when somebody  
24 applied to become a member?  
25 A. On some of them.

Page 55

1 Q. Okay. So I still have up on the screen here  
2 what I've marked as Exhibit 6, and I'm going to leave  
3 this one up. This is the redacted roster because it  
4 shows some of these columns on the right side a little  
5 bit more clearly. So I want to ask you some questions  
6 about it.  
7 A. Okay.  
8 Q. So -- so I see -- am I right that the roster  
9 has a series of columns of information on it?  
10 A. Yes.  
11 Q. And the first column is the person's first  
12 name?  
13 A. Yes.  
14 Q. And the second column is the person's last  
15 name?  
16 A. Yes.  
17 Q. The third column is the address of that  
18 person --  
19 A. Yes.  
20 Q. -- right?  
21 The next is the city that the person lives in;  
22 is that right?  
23 A. Yes.  
24 Q. Then am I right the next column is the state  
25 that they live in?

Page 56

1 A. Yes.  
2 Q. Those all say Florida, I assume; right?  
3 A. Yes.  
4 Q. And the next column provides a ZIP code of the  
5 person who applied; is that right?  
6 A. Yes.  
7 Q. And the next column is their e-mail; right?  
8 A. Yes.  
9 Q. And most but not all of the people who  
10 submitted applications provided the e-mail address;  
11 right?  
12 A. Yes.  
13 Q. And the next column says "Phone." Would that  
14 be the person's telephone number who had submitted the  
15 application?  
16 A. Yes.  
17 Q. Okay. So then -- so all of those columns are  
18 blacked out to protect the privacy of those individuals.  
19 Now we get to the columns that have text that  
20 you can see. So there is a next column that says  
21 "Utility." What does this column represent?  
22 A. The investor-owned utility that the person  
23 provides -- received service from.  
24 Q. And am I right that FAIR got the information  
25 from the applications, that the people who applied said

Page 57

1 this is my utility?  
2 A. Yes.  
3 Q. Okay. Then it gives --  
4 A. You'll have to excuse me. I've been not well.  
5 So pardon my coughing.  
6 Q. No problem. Do you need another break?  
7 A. No, I'm fine. Ask.  
8 Q. Okay. So then I see the next column is  
9 business name. What is that? What information is in  
10 that column?  
11 A. If the person receiving service received it at  
12 their residence -- if it was not at the residence and it  
13 was at their business instead, they were to provide the  
14 business -- name of the business at that address.  
15 Q. Okay. Am I right that there is only three  
16 businesses that are identified on this roster as of June  
17 15th?  
18 A. I think there's two.  
19 Q. Two. Okay. And I've blacked out the name --  
20 we've blacked out the names of the businesses here just  
21 for confidentiality --  
22 A. Yeah.  
23 Q. -- but there is only a few of these redactions  
24 there. Okay.  
25 A. There is only two.

Page 58

1 Q. Then I see that there is a column that says  
2 "Source." What does that represent?  
3 A. Whether they filled it out online or mailed it  
4 in via -- submitted it, however it was submitted, via  
5 PDF.  
6 Q. I see. So if something was submitted online,  
7 that meant they just filled out the form on the website  
8 and hit "submit"; right?  
9 A. That's my understanding, yes.  
10 Q. And if it says "PDF" that means that somebody  
11 mailed in a hard copy of the application?  
12 A. That is what -- my understanding.  
13 Q. Okay. What does that last column represent?  
14 There is not a heading on that last column?  
15 A. I -- I don't know. I don't know.  
16 Q. I see that there is some -- there is some rows  
17 that don't have anything in that last column on the right  
18 side. And, again, I'm looking at Exhibit 6 here.  
19 A. Yeah.  
20 Q. The same thing in your -- in the attachment to  
21 your direct testimony. So there is some rows that have  
22 nothing. Some just have a bunch of looks like hatch  
23 marks. I'll zoom in a little bit so we can all see it  
24 better here, and some have a date and a time.  
25 A. Yeah. I don't know what that is. My guess was

Page 59

1 that it was the date they joined, but it's not -- they're  
2 not all of them that wasn't relevant to my work. I did  
3 not receive that.  
4 Q. Okay. So I see that there's -- I'm looking  
5 here at Exhibit 6 on the first page. There is a date and  
6 a time. 6-9-2021, 5:28. It's your assumption, as you  
7 sit here, that that would be the date that they submitted  
8 the membership application?  
9 A. That was my guess.  
10 Q. But that's just a guess, huh?  
11 A. Absolutely, just a guess. No idea.  
12 Q. Okay. So can you tell me when the individuals  
13 who are listed in the roster submitted their  
14 applications?  
15 A. Sometime between the start of gathering them  
16 earlier in June through the date the list was provided to  
17 me, I actually had more than one list as it increased and  
18 through the date at which I needed to proceed with the  
19 verification process. Sometime -- mostly sometime in the  
20 preceding ten days, I believe.  
21 Q. Okay. Let me just make sure I understand. So  
22 it's your understanding that the people submitted their  
23 applications to join FAIR in the preceding ten days  
24 before you started your verification process --  
25 A. Yes.

Page 60

1 Q. -- is that right?  
2 A. Yes. Yes.  
3 Q. The people were applying to join FAIR starting  
4 sometime in June of 2021?  
5 A. Yes.  
6 Q. And -- but there's no specific row on the  
7 roster or place on the roster that would give the exact  
8 date for each individual person who submitted an  
9 application; is that fair to say?  
10 A. I don't know. I don't know what those dates  
11 represent.  
12 Q. Right. And there is no -- is there any other  
13 place on the roster that you've looked at that indicates  
14 for each individual person when they submitted their  
15 membership application?  
16 A. No.  
17 Q. Okay. But just as a general matter, you know  
18 that people submitted their applications to join FAIR  
19 starting sometime in June of 2021; right?  
20 A. Yes.  
21 Q. So if I go -- let's go back here. I'm in  
22 Exhibit 6, and if I scroll down, there is ten pages here  
23 and if I get down here to Page 9, the columns start to  
24 look a little different, and so I have that up on the  
25 screen. I'll zoom in a little just so we can see it

Page 61

1 here.  
2 A. Okay.  
3 Q. So looking at this, I see -- I just want to go  
4 through these columns here on Pages 9 and 10. They look  
5 pretty much the same. So on utility, that column, is  
6 that again the utility from which the people -- the  
7 person who submits the membership application say they  
8 receive their electric service?  
9 A. Yes.  
10 Q. And then you see there is a column next to it  
11 that again has dates and times. Do you know what that  
12 is?  
13 A. No.  
14 Q. Am I right that the first date is -- that you  
15 see on the pages here on 9 and 10 is approximately  
16 June 7th, 2021?  
17 A. Yes.  
18 Q. Is it possible that those are the dates when  
19 people submitted their applications to join FAIR?  
20 A. Highly possible.  
21 Q. And then let's go over to the far right side.  
22 Do you see that there is these entries here that have a  
23 web URL, you know, https --  
24 A. Yes.  
25 Q. -- colon.

Page 62

1 A. Yes.  
2 Q. Right?  
3 What is that information?  
4 A. I don't know.  
5 Q. That's nothing that you typed in there; right?  
6 A. No.  
7 Q. And the person who maintains the roster in  
8 their computer is Ms. Janine Callovi at Consensus  
9 Communication; is that right?  
10 A. Yes.  
11 Q. Why is the format any different, I'm curious,  
12 between Pages 9 and 10 versus 1 through 8? Do you know?  
13 A. I don't know.  
14 Q. Okay. So if I go and I look at this roster and  
15 I -- I'm going to zoom out a little bit. Let me just go  
16 up to the first -- first page again. On the very first  
17 page of the roster of Exhibit Number 6 and the first  
18 entry, which is -- the whole thing is blacked out, but  
19 you have a copy of the -- of the unredacted one there.  
20 If I was to ask you in the very first person entry, can  
21 you tell me how old that person is?  
22 A. No.  
23 Q. Can you tell me under what specific rate  
24 schedule that person takes service?  
25 A. No.

Page 63

1 Q. Can you tell me how much that person pays in  
2 monthly average bills for electricity?  
3 A. No.  
4 Q. And I presume you can't tell me how much that  
5 person's bills are going to change based on FPL's  
6 proposal?  
7 A. No.  
8 Q. Okay. And there's no specific entry for that  
9 person or any other person that would indicate for that  
10 person when they submitted their membership application;  
11 right?  
12 A. I don't know that.  
13 Q. Okay. So am I right, then, in understanding,  
14 if I want to -- looking at this roster, that FAIR had no  
15 members when it was first -- when it was first  
16 incorporated on March 25th of 2021?  
17 A. No.  
18 Q. And FAIR had no members on May 4th, 2021, when  
19 it applied to intervene in this proceeding; right?  
20 A. No -- well, its officers and directors were --  
21 could be considered members.  
22 Q. Okay. Ms. Watkins, would you look at the  
23 unredacted version of the membership roster and tell me  
24 if any of the officers and directors are listed as  
25 members of the organization?

Page 64

1 A. I'm going to have to look. I think there is at  
2 least one, but I would have -- it's very tiny print.  
3 Q. Why don't you look. Take your time.  
4 A. Okay. Officers and directors -- some of  
5 that -- there it is. None of the directors are.  
6 Q. You're not a member, are you?  
7 A. No.  
8 Q. Are any of the -- and are you the only -- are  
9 there any other officers of FAIR who are not also  
10 directors?  
11 A. No. So it appears no.  
12 Q. Okay.  
13 A. It appears that the June list that we tested,  
14 that none of the officers or directors were listed.  
15 Q. Okay. So when FAIR filed its petition to  
16 intervene on this proceeding on May 4th, 2021, it had no  
17 members or nobody had even applied to become a member at  
18 that point; right?  
19 A. No outside people. When I tested for  
20 membership, I did not test the officers and directors.  
21 Only the people that had applied online and through  
22 the -- that effort.  
23 Q. Okay. But the officers' and directors' names  
24 are not on the membership roster, are they?  
25 A. Not on this membership roster that was tested,

Page 65

1 correct.  
2 Q. And there's no other membership roster, is  
3 there?  
4 A. No.  
5 Q. So if I -- so --  
6 A. Not at this date. Not at this date.  
7 (Crosstalk.)  
8 Q. Sorry. I don't mean to talk over you. This is  
9 one of the problems of doing this online.  
10 A. Yeah.  
11 Q. It's hard to --  
12 A. There is no other roster as of this date.  
13 There is a greatly expanded roster since this date.  
14 Q. And it's greatly expanded in the sense that  
15 more people have applied to become members after June  
16 15th?  
17 A. Yes.  
18 Q. Okay. But, once again, as of the date that  
19 FAIR applied to intervene in this proceeding, May 4th,  
20 2021, it had no -- nobody had applied to become a member  
21 at that point; right?  
22 A. No.  
23 Q. Okay. Let me exit out of this document here,  
24 and I'd like to go back to what I previously marked as  
25 FPL Exhibit Number 4 to the deposition here.

Page 66

1 Can you see on the screen, Ms. Watkins, the --  
2 let me just zoom up the first page -- the resolution of  
3 the board of directors of FAIR in lieu of meeting?  
4 A. Yes.  
5 Q. Okay. I'm not sure if I asked you this before  
6 when I first put it up, but can you tell me what this  
7 document is? It was provided by your counsel to me  
8 yesterday.  
9 A. It's where the directors did the final work to  
10 admit and confirm all those that had applied for  
11 membership to be members.  
12 Q. So was this the first time the board of  
13 directors of FAIR had acted to admit anybody to the  
14 membership of the organization?  
15 A. Through an official act, yes.  
16 Q. And you've read the bylaws of FAIR, haven't  
17 you?  
18 A. Yes.  
19 Q. You were at the -- you were at the first board  
20 meeting back in March of this year when those bylaws were  
21 adopted; right?  
22 A. Yes.  
23 Q. And you're aware that a person cannot become a  
24 member of FAIR until they're admitted to the membership  
25 by the board of directors; right?

Page 67

1 A. Yes.  
2 Q. So am I right in understanding this document  
3 here that the board of directors of FAIR did not admit  
4 anybody to the membership until the date of this  
5 resolution?  
6 A. Via an official resolution, correct.  
7 Q. Well, there's no other resolution, is there?  
8 A. No, I understand. No, there's no other  
9 resolution, but they were considered -- all these people  
10 were considered members. This technically had not been  
11 done. This formality had not been done.  
12 Q. You say it's a formality, do you view the other  
13 provisions of the bylaws a formality too?  
14 A. Let me change the word to this formal process  
15 had not been done.  
16 Q. Okay. Ms. Watkins, the bylaws say somebody's  
17 not a member until the board of directors admits them  
18 into the membership; right?  
19 A. Right.  
20 Q. So the board of directors of FAIR did not admit  
21 anybody to the membership prior to July 27th, 2021; is  
22 that right?  
23 A. Yes.  
24 Q. Okay. July 27th, 2021, am I right that that  
25 was just this past Tuesday, two days ago?

Page 68

1 A. Yes.  
2 Q. So is it right, then, that FAIR had no members  
3 as of the date that you looked at the membership roster  
4 of applications back in June?  
5 MR. WRIGHT: I'll object to the form to the  
6 extent it calls for a legal conclusion.  
7 You can answer the question.  
8 THE WITNESS: I had a list, whether it's for  
9 application for membership or actual membership, to  
10 verify and confirm those people's desire to be a  
11 member of FAIR.  
12 BY MR. MCALILEY:  
13 Q. Hey, ma'am, that wasn't my question.  
14 My question is this: You agree with me that in  
15 June of 2021 that list of people, the roster, only was a  
16 list of people who had applied for membership. It wasn't  
17 a list of actual members of FAIR, was it?  
18 MR. WRIGHT: Same objection.  
19 You can answer.  
20 THE WITNESS: Based on the requirement of the  
21 bylaws, not at that time.  
22 BY MR. MCALILEY:  
23 Q. But none of those people were members in June  
24 of 2021, were they?  
25 MR. WRIGHT: Same objection.

Page 69

1 You can answer.  
2 THE WITNESS: No.  
3 BY MR. MCALILEY:  
4 Q. Why did the FAIR board of directors just issue  
5 this resolution and actually admit people to membership  
6 just this week?  
7 A. I have no personal knowledge.  
8 Q. Okay. So just to go through the basic facts  
9 again to make sure I have this right, you agree with me  
10 that FAIR had no members as of March -- as of May 4th,  
11 2021, when it applied -- when it petitioned to intervene  
12 in this proceeding; right?  
13 A. Correct.  
14 Q. And FAIR had no members as of June 21st, 2021,  
15 when you submitted your direct testimony; right?  
16 A. Correct.  
17 Q. And FAIR had no members until this past  
18 Tuesday, two days ago; right?  
19 MR. WRIGHT: Same objection.  
20 You can answer.  
21 THE WITNESS: Yes.  
22 BY MR. MCALILEY:  
23 Q. If I go here to Exhibit Number 6 -- I'm sorry,  
24 not Exhibit 6. This is Exhibit Number 4, and there is --  
25 and I see that there is -- it says "Memorandum" dated

Page 70

1 July 26th, 2021, from Janine Callovi at Consensus  
2 Communications. There is several people including  
3 yourself.  
4 A. Uh-huh.  
5 Q. Could you just tell me what this is, this  
6 memorandum?  
7 A. It's explaining that that resolution needs to  
8 be adopted and why.  
9 Q. Okay. So it wasn't even presented to the board  
10 to admit anybody to become a member until this past  
11 Monday, three days ago?  
12 A. Yes.  
13 Q. And, by the way, there is nothing in the roster  
14 that indicates the age of the person who has filled out  
15 the membership form; right?  
16 A. Correct.  
17 Q. And you don't know them personally, do you?  
18 A. No.  
19 Q. And you're aware that the bylaws provide that  
20 the only people who can become members are 18 years and  
21 older of age; right?  
22 A. I would have to refer to them, but I would  
23 accept that that is required.  
24 Q. Okay. So am I right, Ms. Watkins, you're just  
25 assuming that everybody is over 18, but you don't

Page 71

1 actually have information as to their age; right?  
2 A. Correct.  
3 MR. MCALILEY: You know, if we could take a  
4 short break here, I may be done or close to being  
5 done here, but it would help me organize my notes.  
6 Could we get a five-minute break?  
7 MR. WRIGHT: Of course.  
8 MR. MCALILEY: Madam Court Reporter, you good?  
9 Okay. So let's take a five-minute break here.  
10 (A short recess was taken, after which the  
11 following proceedings were had:)  
12 MR. MCALILEY: Okay. Ms. Watkins, I have no  
13 further questions. I want to thank you for your  
14 time, and unless your counsel has questions or other  
15 counsel has questions, I want to wish you a nice day.  
16 THE WITNESS: Thank you.  
17 MR. WRIGHT: Thank you. I do have a few  
18 questions on cross-examination.  
19 CROSS-EXAMINATION  
20 BY MR. WRIGHT:  
21 Q. A short while ago, Mr. McAliley asked you some  
22 questions about a document that he identified as  
23 Exhibit 6. If you know, is that the same as the document  
24 that was included as an exhibit to your testimony?  
25 A. Which was Exhibit 6?

Page 72

1 Q. Exhibit 6 was the --  
2 A. Redacted.  
3 Q. -- the one with more redactions that had the  
4 extra information on the right side?  
5 A. I do not believe that was part of my testimony.  
6 Q. Okay. Throughout the course of your work on  
7 this matter, did you understand that the persons listed  
8 on the roster to be members of FAIR?  
9 A. Yes.  
10 Q. Why?  
11 A. Because the application they had submitted  
12 specifically said they wished to be members of FAIR.  
13 That requirement within the bylaws was overlooked, at  
14 least by me, to check, but it was also outside the scope  
15 of my duties.  
16 Q. Mr. McAliley asked you some questions about  
17 your sampling technique. At one point, I think you  
18 described it as a negative confirmation test --  
19 A. Yes.  
20 Q. -- or something like that.  
21 Is that a good phrase to use to describe the  
22 technique that you used?  
23 A. Yes. Negative confirmation as compared to  
24 positive confirmation.  
25 Q. Is that a recognized technique in sampling?

Page 73

1 A. Negative confirmation is a well-recognized  
2 technique.  
3 Q. Is it widely used?  
4 A. Yes, more -- it's more common than positive  
5 confirmation.  
6 Q. In what -- in what industries might it be used,  
7 or what industries is it used, to the extent you know?  
8 A. It's widely used across all industries. It's  
9 not an industry-specific technique.  
10 Q. A couple of follow-up questions on Exhibit 6,  
11 which Mr. McAliley asked you about. It does have some  
12 dates in the far right-hand column; correct?  
13 A. Yes.  
14 Q. And did it also have some indications as to  
15 whether the members joined online or by PDF?  
16 A. Yes. There is online and PDF on the column to  
17 the left of that.  
18 Q. Do you know when any of the PDF applications  
19 might have been submitted?  
20 A. No. I'm presuming this date is a submission  
21 date, but a substantial number of them were not there, so  
22 I don't know.  
23 Q. Take a look. Do you see any of those indicated  
24 by PDF that have a date associated with them?  
25 A. None of the PDFs have a date.

Page 74

1 Q. Okay. You were -- just to clear up something.  
2 You were asked a question regarding the roster that  
3 was -- that is an exhibit to your direct testimony. At  
4 what point Mr. McAliley asked you do you have more  
5 information than this. You answered no.  
6 Do you have more information about FAIR's  
7 membership than was reflected on the exhibit you  
8 submitted with your testimony?  
9 A. No.  
10 Q. Have you looked at any later roster?  
11 A. Oh, for additional members, but no additional  
12 information than this.  
13 MR. MCALILEY: Objection. Just for the record,  
14 objection, leading.  
15 Counsel, you're on redirect, and you're trying  
16 to get her to undo an answer. So you need to ask  
17 open-ended questions. Her answer to you was no, and  
18 so I just want the record to reflect that you're  
19 leading her to an answer.  
20 Ma'am, you can go ahead and answer the question  
21 at this point for the record, but I want to make my  
22 objection clear.  
23 THE WITNESS: I do not have any additional  
24 information about any specific member. Subsequent to  
25 this list, there have been additional members that

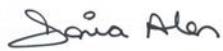
Page 75

1 are now part of a roster that I have seen.  
2 MR. WRIGHT: Thanks. That's all I have.  
3 MR. MCALILEY: I just have a couple of  
4 follow-up questions, ma'am, just some questions from  
5 your counsel.  
6 REDIRECT EXAMINATION  
7 BY MR. MCALILEY:  
8 Q. You just testified a moment ago about the  
9 statistical method that you used to sample the roster; is  
10 that right?  
11 A. Yes.  
12 Q. And you talked about this as a negative  
13 confirmation test that you conduct?  
14 A. Yes.  
15 Q. And is that a form of statistical analysis?  
16 A. It's a form of audit sampling.  
17 Q. Can you explain to me what your background is  
18 in statistics that would give you expertise to opine  
19 about the validity of different statistical tests?  
20 A. It's not a statistical test. It's an auditing  
21 test. Statistics would indicate a -- the confidence  
22 interval and a probability as a result of the audit test,  
23 but I am a CPA. I am trained or required to study  
24 statistics. Prior to this test I conferred with other  
25 CPAs specifically and especially ones that are recently

Page 76

1 in the academic field to confirm the validity of the  
2 approach.  
3 Q. Have you ever testified as an expert witness  
4 before in any kind of proceeding, legal or  
5 administrative?  
6 A. No.  
7 MR. MCALILEY: Okay. I have no further  
8 questions. Thank you very much, ma'am.  
9 THE WITNESS: Thank you.  
10 MR. WRIGHT: I think we're good. We will read  
11 and sign. Thank you.  
12 MR. MCALILEY: And I'm going to send an e-mail  
13 to the court reporter with the exhibits, and I'll  
14 copy you on them so you have them.  
15 MR. WRIGHT: Thanks.  
16 MR. MCALILEY: Thank you.  
17 (The deposition was concluded at 3:20 p.m.)  
18  
19  
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25

Page 77

1 CERTIFICATE OF REPORTER  
2  
3 STATE OF FLORIDA  
4 COUNTY OF MIAMI-DADE  
5  
6 I, DANIA ALEN, FPR, do hereby certify that I  
7 was authorized to and did stenographically report the  
8 foregoing deposition of NANCY WATKINS; that a review of  
9 the transcript was requested; and that the foregoing  
10 transcript, pages 1 through 77 is a true record of my  
11 stenographic notes.  
12 I FURTHER CERTIFY that I am not a relative,  
13 employee, attorney, or counsel of any of the parties'  
14 attorney or counsel connected with the action, nor am I  
15 financially interested in said cause.  
16 Dated this 1st day of August, 2021 at Miami,  
17 Miami-Dade County, Florida.  
18  
19  
20  
21   
22 DANIA ALEN, FPR  
23 NOTARY PUBLIC/STATE OF FLORIDA  
24  
25





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June 21, 2021

**VIA ELECTRONIC FILING**

Adam Teitzman, Commission Clerk  
Division of the Commission Clerk and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399

RE: Docket No. 20210015-EI  
Petition by FPL for Base Rate Increase and Rate Unification

Dear Mr. Teitzman:

Attached for filing on behalf of Floridians Against Increased Rates, Inc. ("FAIR") in the above-referenced docket are the Direct Testimony and Exhibits of FAIR witness Nancy H. Watkins.

Please let me know if you should have any questions regarding this submission.

Cordially yours,

Richard Scheffel Wright

RSW:mae  
Encl.

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition by Florida Power & Light     )  
Company for Rate Unification and for     ) DOCKET NO. 20210015-EI  
Base Rate Increase     ) FILED: JUNE 21, 2021  
\_\_\_\_\_)

**DIRECT TESTIMONY**

**OF NANCY H. WATKINS, C.P.A.**

**On Behalf of**

**Floridians Against Increased Rates, Inc.**

**IN RE: PETITION BY FLORIDA POWER & LIGHT COMPANY FOR  
RATE UNIFICATION AND FOR BASE RATE INCREASE,  
DOCKET NO. 20210015-EI**

**DIRECT TESTIMONY OF NANCY H. WATKINS, C.P.A.  
ON BEHALF OF FLORIDIANS AGAINST INCREASED RATES, INC.**

**I. INTRODUCTION AND QUALIFICATIONS**

1

2 **Q. Please state your name and business address.**

3 A. My name is Nancy H. Watkins, and my address is 610 South Boulevard,  
4 Tampa, Florida 33606.

5

6 **Q. By whom and in what position are you employed?**

7 A. I am employed by Robert Watkins & Company, P.A., as a Certified Public  
8 Accountant. I am also a director and vice president of Robert Watkins &  
9 Company.

10

11 **Q. On whose behalf are you testifying in this proceeding?**

12 A. I am testifying on behalf of Floridians Against Increased Rates, Inc., a  
13 Florida not-for-profit corporation, and its members who are retail customers  
14 of Florida Power & Light Company ("FPL").

15

16 **Q. Please summarize your educational background and professional  
17 experience.**

1 A. I received a Bachelor of Arts in Business Administration degree with a major  
2 in Accounting from the University of South Florida College of Business in  
3 1982. I have worked continuously for Robert Watkins & Company, P.A.  
4 since its founding in January, 1980. I have performed all aspects of public  
5 accounting including tax, auditing, management advisory services, and  
6 accounting and review services. My primary scope of practice at this time is  
7 compliance and control systems for tax exempt entities with a focus on  
8 501(c)(4) public policy organizations and political organizations, which  
9 include candidates, political parties and political action committees. A copy  
10 of my résumé is provided as Exhibit NHW-1 to my testimony.

11

12 **Q. Please describe your responsibilities and activities with respect to FAIR.**

13 A. I am the Treasurer of FAIR. In that capacity, I perform the usual range of  
14 functions and services that the treasurer of a not-for-profit corporation would  
15 normally perform. Robert Watkins & Company has an engagement  
16 agreement to perform accounting services for FAIR, and it is through that  
17 engagement agreement that I am compensated for my services at our usual  
18 and customary rates. FAIR and Robert Watkins & Company have agreed  
19 that my membership verification analysis services and related testimony in  
20 this proceeding will also be provided within the scope of our existing  
21 engagement agreement.

22

1 **Q. Do you hold any professional licenses or certifications that are relevant**  
2 **to your testimony in this proceeding?**

3 A. Yes, I am a Certified Public Accountant in the State of Florida. I received  
4 my certification in 1983. I am also a Professional Registered Parliamentarian  
5 pursuant to the certifications of the National Association of Parliamentarians  
6 and the American Institute of Parliamentarians. I have been a credentialed  
7 parliamentarian since 2007.

8

9 **Q. Have you previously testified in proceedings before utility regulatory**  
10 **commissions or other regulatory authorities?**

11 A. I have not testified before a utility regulatory commission but have testified  
12 before other governmental regulatory bodies.

13

14 **Q. Are you sponsoring any exhibits with your testimony?**

15 A. Yes. I am sponsoring the following exhibits:

16	Exhibit NHW-1	Résumé of Nancy H. Watkins;
17		
18	Exhibit NHW-2	Articles of Incorporations of Floridians Against
19		Increased Rates, Inc.;
20		
21	Exhibit NHW-3	Membership Roster of Floridians Against
22		Increased Rates, Inc. at June 15, 2021;
23		
24	Exhibit NHW-4	Sample Form of FAIR Membership Application
25		(Paper); and
26		
27	Exhibit NHW-5	Sample Form of FAIR Membership Application
28		(Electronic).

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**II. PURPOSE AND SUMMARY OF TESTIMONY**

**Q. What is the purpose of your testimony in this docket?**

A. I was asked and engaged by FAIR to conduct a verification of FAIR’s members as to their existence, their status as to whether they intentionally joined FAIR, and their status as customers of Florida electric utilities whose rates are regulated by the Florida Public Service Commission (“Commission” or “PSC”). Accordingly, the purpose of my testimony in this proceeding is to provide the Commission with a description of FAIR’s membership composition, based on the verification that I performed of the membership, and to provide my findings regarding FAIR’s membership numbers, composition, and the utilities that serve FAIR’s members.

**Q. Please summarize the main points of your testimony.**

A. As stated in its Articles of Incorporation, FAIR is a Florida not-for-profit corporation that exists to inform the public regarding energy issues and to advocate by all lawful means for laws, rules, and government decisions – including decisions to be made by the Florida PSC – that will result in the retail electric rates charged by Florida’s investor-owned electric utilities being as low as possible while ensuring that the utilities are able to provide safe and reliable electric service. Membership in FAIR is open to any customer, including individuals and business customers, of any Florida

1 electric utility whose rates are regulated by the Florida PSC; those utilities  
2 include Florida Power & Light Company (“FPL”), Duke Energy Florida  
3 (“DEF”), Tampa Electric Company, Gulf Power Company, and Florida  
4 Public Utilities Company’s (“FPUC”) electric utility divisions.

5 I reviewed FAIR’s membership roster and a sample of the  
6 membership applications, including samples of the paper or “hard” copies of  
7 membership applications that were submitted by some of FAIR’s members  
8 and also of the electronic membership applications by which members also  
9 joined FAIR. I also contacted a large sample of the members listed on  
10 FAIR’s membership roster by email to determine whether their membership  
11 information in our roster was accurate that: (1) they are customers of an  
12 investor-owned Florida electric utility, (2) if so, of what utility they are a  
13 customer, and (3) that they intended to join FAIR. Effectively, this was a  
14 verification of the accuracy of FAIR’s membership roster to confirm that the  
15 members are real people or businesses, that they intended to join FAIR, and  
16 that each is a customer of the utility indicated on the member’s application.

17 The results of my verification analysis confirm that the members on  
18 FAIR’s roster are real individuals and businesses, that they intended to join  
19 FAIR, and that FAIR’s membership records accurately reflect that the  
20 members are customers of the utilities indicated in the records. The  
21 membership roster shows that the substantial majority, approximately 80  
22 percent, of FAIR’s members are customers of FPL.

1                                    **FLORIDIANS AGAINST INCREASED RATES, INC.**

2    **Q.    Please describe FAIR and its purposes.**

3    A.    FAIR is a Florida not-for-profit corporation that was formed in March of this  
4           year. FAIR’s purposes are set forth in the corporation’s Articles of  
5           Incorporation, which are included as Exhibit NHW-2 to my testimony. In  
6           summary, FAIR’s purposes are to inform the public regarding energy issues  
7           and to advocate by all lawful means for laws, rules, and government  
8           decisions – including decisions to be made by the Florida PSC – that will  
9           result in the retail electric rates charged by Florida’s investor-owned electric  
10           utilities being as low as possible while ensuring that the utilities are able to  
11           provide safe and reliable electric service.

12  
13   **Q.    Please explain your understanding of the term “investor-owned utility”**  
14   **as used in your testimony.**

15   A.    As an initial part of my verification, I looked to the PSC’s website for  
16           relevant information. In that search, I observed, on page 1 of a PSC  
17           publication titled “Facts & Figures of the Florida Utility Industry 2021,”  
18           which I accessed through the PSC’s website at the address  
19           [http://www.psc.state.fl.us/Files/PDF/Publications/Reports/General/Factsand](http://www.psc.state.fl.us/Files/PDF/Publications/Reports/General/Factsandfigures/April%202021.pdf)  
20           [figures/April%202021.pdf](http://www.psc.state.fl.us/Files/PDF/Publications/Reports/General/Factsandfigures/April%202021.pdf), that the PSC describes its regulatory authority  
21           over investor-owned electric companies as encompassing “all aspects of  
22           operations, including rates and safety” while noting that its authority over

1 municipal and cooperative utilities is “limited” to certain aspects that do not  
2 include those utilities’ rates. At pages 3, 4, and 10 of this publication, the  
3 PSC identifies the investor-owned utilities as the five companies that I listed  
4 above as being those whose rates are regulated by the PSC.

5  
6 **Q. Who are FAIR’s members?**

7 A. Membership in FAIR is open to any customer, including both residential and  
8 business customers, of any Florida investor-owned electric utility, i.e.,  
9 Florida Power & Light, Duke Energy Florida, Tampa Electric Company,  
10 Gulf Power Company, and Florida Public Utilities Company.

11  
12 **FAIR’S MEMBERSHIP – VERIFICATION AND CONCLUSIONS**

13 **Q. Please describe the verification process that you employed to evaluate**  
14 **FAIR’s membership.**

15 A. Recognizing that my testimony would be filed in this case on June 21, 2021,  
16 I began by obtaining FAIR’s membership roster as of June 15, 2021. A copy  
17 of this roster is provided as Exhibit NHW-3 to my testimony. I then reviewed  
18 the roster to familiarize myself with the data contained in it and to decide  
19 how to proceed. On June 15, 2021, FAIR’s membership roster included 516  
20 members. Although I chose the June 15 roster for my sampling and  
21 verification analysis, I also reviewed FAIR’s membership roster as of June

1 17, 2021; the June 17 roster included 550 members, and FAIR's membership  
2 continues to grow.

3 I decided that, based on the total reported membership as of June 15  
4 of 516 members, that a sample of 220 members would be sufficient to  
5 provide acceptable accuracy to confirm that the results of my sample would  
6 fairly and accurately represent the underlying characteristics of FAIR's  
7 membership. A sample size of 220 for a population of 516 is calculated to  
8 determine a result with a 95% confidence interval with a 5% margin of error,  
9 which means the statistic will be within 5 percentage points of the real  
10 population value 95% of the time. A sample size of 291 increases the  
11 confidence interval to 99% with a margin of error of 5%.

12 In considering how large a sample to study, given the ease of  
13 technology available, I chose to sample the entire population of FAIR's  
14 members who had given their email address in order to verify the existence  
15 and accuracy of the information on file. Only nine of the 516 members failed  
16 to provide an email address or phone number and time did not permit  
17 confirmation by U.S. Postal Service mail, thus they were excluded from the  
18 sampled population. The resulting sample size of 507 was further reduced  
19 after distribution of emails due to 8 being ultimately not deliverable. The  
20 remaining 499 sample size able to be tested produces a 99% confidence level  
21 that the margin of error in the entire population is approximately 1%. I also  
22 reviewed a sample of the applications that FAIR had received in pdf format

1 and a sample of those submitted electronically (online). A copy of the pdf  
2 format of the application is included as Exhibit NHW-4, and a copy of the  
3 electronic format of the application is included as Exhibit NHW-5 to my  
4 testimony.

5  
6 **Q. Please provide a summary of your verification results.**

7 A. Of the 499 members that I sampled, three replied that they did not intend to  
8 join FAIR; one of those was the website tester, who apparently joined  
9 inadvertently when performing his or her tests. From these data, I conclude  
10 that, as of June 15, 2021, FAIR had 513 members who intended to join FAIR  
11 and that those members are served by the utilities indicated on their  
12 membership applications.

13  
14 **Q. Based on your sampling and verification process, what are your  
15 conclusions regarding FAIR's total membership, its customer  
16 composition, and what proportion or percentage of that total  
17 membership are customers of FPL?**

18 A. Based on my verification findings, it is my opinion that, as of June 15, 2021,  
19 which is the date of the roster that I verified, FAIR's membership roster fairly  
20 and with reasonable accuracy, represents FAIR's membership, with the  
21 following summary characteristics:



1 **Q. Does this conclude your direct testimony?**

2 **A. Yes, it does.**

**Nancy H. Watkins, C.P.A.**  
**610 S. Boulevard**  
**Tampa, FL 33606**  
**813/254-3369**

### **Professional History**

Robert Watkins and Company, P.A.  
610 South Boulevard  
Tampa, FL 33606  
813/254-3369

January, 1980-present

- Public practice of accounting. Professional services rendered to clients engaged in wide variety of businesses.
- Services include:
  - Accounting and review services: all services typically provided by an independent CPA such as preparation of financial statements, including underlying records, ledgers and trials; accounts payable, accounts receivable; payroll processing and reporting; forensic accounting.
  - Management advisory services: design and implementation of internal control systems; selection and implementation of computer systems; staff training in accounting, bookkeeping and systems; other general planning and consulting.
  - Tax services: individual and corporate Federal income tax; state income tax; various additional state and local tax returns.
  - Specialized services for federal, state and local political candidates and committees, specifically compliance and control systems as well as consulting in various aspects of operations and activity.

Prior work experience from 1974-1980 includes commercial bank operations and the non-certified practice of public accounting.

### **Education**

University of South Florida, Tampa, FL	1980-82
• BA in Business Administration, major in accounting	
Hillsborough Community College, Tampa, FL	1979-80
• Associate of Arts degree	

**Professional designations, recognitions and appointments**

- Passed Uniform CPA exam and received certification in 1983
- While in college, member of Beta Alpha Psi, the national honorary accounting fraternity
- Member of the American Institute of Certified Public Accountants
- Member of the Florida Institute of Certified Public Accountants
- Named to *Who's Who in American Junior Colleges* in 1980
- Served for 3 years on Judicial Grievance Committee for the 13<sup>th</sup> District in the State of Florida.
- Appointed to District Board of Trustees of Hillsborough Community College in February 1999, subsequently serving for 14 years until May 2013.
- Appointed to Board of Trustees of University of South Florida in March 2013, serving for 8 years until January 2021, leaving due to term limits.
- Reappointed to District Board of Trustees of Hillsborough Community College in December 2020, presently serving.

**Personal**

- Age 65
- Married since 1980 to Robert I. Watkins, C.P.A.
- Two sons, born 1981 and 1985

**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.

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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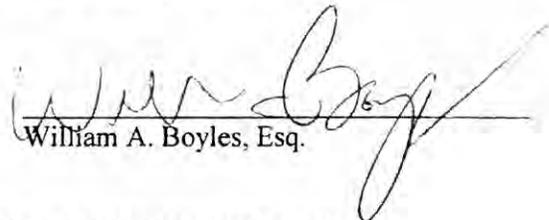
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ARTICLE XIV - INCORPORATOR

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

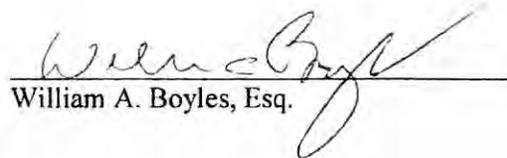
IN WITNESS WHEREOF, I submit these Articles of Incorporation and affirm that the facts stated herein are true. I am aware that any false information submitted in a document to the Florida Department of State constitutes a third degree felony as provided for in Section 817.155 of the Florida Statutes. 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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March 17, 2021

FLORIDA DEPARTMENT OF STATE  
Division of Corporations

FLORIDIANS AGAINST INCREASED RATES, INC.  
GRAYROBINSON, P.A., WILLIAM A. BOYLES, E  
301 E. PINE STREET, SUITE 1400  
ORLANDO, FL 32801

The Articles of Incorporation for FLORIDIANS AGAINST INCREASED RATES, INC. were filed on March 16, 2021, and assigned document number N21000003036. Please refer to this number whenever corresponding with this office.

Enclosed is the certification requested. To be official, the certification for a certified copy must be attached to the original document that was electronically submitted and filed under FAX audit number H21000106133.

To maintain "active" status with the Division of Corporations, an annual report must be filed yearly between January 1st and May 1st beginning in the year following the file date or effective date indicated above. It is your responsibility to remember to file your annual report in a timely manner.

A Federal Employer Identification Number (FEI/EIN) will be required when this report is filed. Apply today with the IRS online at:

<https://sa.www4.irs.gov/modiein/individual/index.jsp>.

Please be aware if the corporate address changes, it is the responsibility of the corporation to notify this office.

Should you have questions regarding corporations, please contact this office at (850) 245-6052.

Tyrone Scott  
Regulatory Specialist II  
New Filings Section  
Division of Corporations

Letter Number: 221A00005639

P.O BOX 6327 - Tallahassee, Florida 32314



Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of FLORIDIANS AGAINST INCREASED RATES, INC., a Florida corporation, filed on March 16, 2021, as shown by the records of this office.

I further certify the document was electronically received under FAX audit number H21000106133. This certificate is issued in accordance with section 15.16, Florida Statutes, and authenticated by the code noted below

The document number of this corporation is N21000003036.

Authentication Code: 221A00005639-031721-N21000003036-1/1

Given under my hand and the  
Great Seal of the State of Florida,  
at Tallahassee, the Capital, this the  
Seventeenth day of March, 2021



*Randy R. Lee*  
Secretary of State

First Name	Last Name	Address	City	State	Zip	email	Phone	Utility
			Punta Horda	Florida	33950			FPL
			Melbourne	Florida	32940			FPL
			Boca Raton	Florida	33434			FPL
			Keystone Hgts	Florida	32656			FPL
			Homestead	Florida	33030-6255			FPL
			Immokalee	Florida	34142			FPL
			Miami	Florida	33193			FPL
			Malabar	Florida	32950			FPL
			Melbourne	Florida	32935			FPL
			Sebastian	Florida	32976			FPL
			Naples	Florida	34114			FPL
			Palm Bay	Florida	32907			FPL
			Fort Myers	Florida	33919			FPL
			Palm Coast	Florida	32137			FPL
			Hialeah	Florida	33016			FPL
			St. Augustine	Florida	32086			FPL
			Ormond Beach fl	Florida	32174			FPL
			Groveland	Florida	34736			FPL
			Lauderhill	Florida	33319			FPL
			Vero Beach	Florida	32967			FPL
			Ormond Beach	Florida	32174			FPL
			Port Charlotte	Florida	33948			FPL
			Lake Worth	Florida	33467			FPL
			Boynton Beach	Florida	33436			FPL
			Cutler Bay	Florida	33189			FPL
			Delray Beach	Florida	33484			FPL
			Ormond Beach	Florida	32174			FPL
			Hollywood	FL	33021			FPL
			Vero Beach	Florida	32963			FPL
			Boca Raton	Florida	33498			FPL
			Jacksonville	Florida	32225			FPL
			Ormond Beach	Florida	32174			FPL
			Fort Lauderdale	Florida	33316			FPL
			Palm Beach Gardens	Florida	33418			FPL
			plantation	Florida	33322			FPL
			Yulee	Florida	32097			FPL
			Melbourne	Florida	32940			FPL
			Indialantic	Florida	32903			FPL
			Port Charlotte	Florida	33953			FPL
			Lehigh Acres	Florida	33936			FPL
			Palm Bay	Florida	32905			FPL
			Titusville	Florida	32780			FPL
			Stuart	Florida	34997			FPL
			Titusville	FL	32780			FPL

Mims	Florida	32754	FPL
Palm Bay	Florida	32907	FPL
Port Saint Lucie	Florida	34952	FPL
Davie	Florida	33328	FPL
Bonita Springs	Florida	34135	FPL
Jensen Beach	Florida	34957	FPL
West Palm beach	Florida	33404	FPL
NORTH PALM BEACH	Florida	334085561	FPL
Port St Lucie	Florida	34986	FPL
Pory St Lucie	Florida	34986	FPL
Port St Lucie	Florida	34986	FPL
Oviedo	FL	32766	FPL
Palm Bay	Florida	32905	FPL
ft.lauderdale	Florida	33315	FPL
Cooper City Fl	Florida	33330	FPL
Tamarac	Florida	33321	FPL
Melbourne	Florida	32935	FPL
St Augustine	Florida	32080	FPL
palm coast	Florida	32164	FPL
Deltona	Florida	32738	FPL
Fort Myers	Florida	33905	FPL
Miami	Florida	33128	FPL
Miami	Florida	33170	FPL
Port Charlotte	Florida	33953	FPL
ft. Mccoy	Florida	32134	FPL
Merritt Island	Florida	32952	FPL
Port Orange	Florida	32128	FPL
Vero Beach	Florida	32967	FPL
Titusville	FL	32796	FPL
St. Augustine	Florida	32095	FPL
Vero Beach	FL	32968	FPL
Miami	Florida	33125	FPL
Daytona Beach	Florida	32124	FPL
Stuart	Florida	34997	FPL
Stuart	Florida	34996	FPL
Port Orange	Florida	32127	FPL
Geneva	FL	32732	FPL
Palm Beach Gardens	Florida	33418	FPL
Rockledge Fl	Florida	32955	FPL
Bonita Springs	Florida	34135	FPL
Port Saint Lucie	Florida	34953	FPL
Fort Pierce	Florida	34951	FPL
Vero Beach	Florida	32960	FPL
Melbourne	Florida	32901	FPL
Fort Myers	Florida	33913	FPL
Pomona Park	Florida	32181	FPL

	Jupiter	Florida	33458		FPL
	LAKE WORTH	Florida	33467		FPL
	Ormond Beach	Florida	32174		FPL
	North Port	Florida	34287		FPL
	Orange Park	Florida	32073		FPL
	Palm Coast	Florida	32137		FPL
	Tamarac	Florida	33321		FPL
	Englewood	Florida	34224		FPL
	Fort Myers	Florida	33919		FPL
	Coral Springs	Florida	33065		FPL
	Tavernier	Florida	33070		FPL
	Port St. Lucie	Florida	34953		FPL
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	Cocoa	Florida	32926		FPL
	Sunrise	Florida	33323		FPL
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	Daytona Beach	Florida	32118		FPL
	Geneva	Florida	32732		FPL
	Naples	Florida	34109		FPL
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	Daytona Beach	Florida	32117		FPL
	Port orange	Florida	32128		FPL
	Pembroke pines	Florida	33027		FPL
	Cocoa Beach	FL	32931		FPL
	Boca Raton	Florida	33487		FPL
	Delray Beah	Florida	33484		FPL
	Boynton Beach	Florida	33473		FPL
	Cocoa	Florida	32923		FPL
	Miami	Florida	33162		FPL
	Palm coast	Florida	32137		FPL
	Wellington	Florida	33414		FPL
	Merritt Island	Florida	32952		FPL
	Palm Coast	Florida	32164		FPL
	Deltlna	Florida	32738		FPL
	Boynton Beach	Florida	33435		FPL
	Ormond Beach	Florida	32174		FPL
	Pembroke Pines	Florida	33029		FPL
	Parrish	Florida	34219		FPL
	Middleburg	Florida	32068		FPL
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	lake city	Florida	32024		FPL
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	Yulee	Florida	32097		FPL
	PEMBROKE PINES	Florida	33028		FPL
	Delray Beach	Florida	33445		FPL
	Fort Pierce	Florida	34982		FPL
	Palatka	Florida	32177		FPL
	Coconut Creek	Florida	33066		FPL
	Stuart	Florida	34997		FPL
	Miami	Florida	33133		FPL
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	The Villages	Florida	32159		FPL
	Port Orange	Florida	32128		FPL
	Tamarac	Florida	33321		FPL
	Fort Pierce	Florida	34982		FPL
	Palm Bay	Florida	32905		FPL
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	Plantation	Florida	33324		FPL
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	Palm Coast	Florida	32137		FPL
	Viera	Florida	32940		FPL
	Fort Myers	Florida	33919		FPL
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	Palm Bay	Florida	32909		FPL

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	West Melbourne	Florida	32904		FPL
	Ormond beach	Florida	32174		FPL
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	Pembroke Pines	Florida	33024		FPL
	Naples	Florida	34114		FPL
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	Vero Beach	FL	32963		FPL
	Boynton Beach	Florida	33437		FPL
	Cocoa	Florida	32926		FPL
	Delray Beach	Florida	33484		FPL

[REDACTED]	Port St. John	Florida	32927	[REDACTED]	FPL
[REDACTED]	West Palm Beach	Florida	33411	[REDACTED]	FPL
[REDACTED]	Mims	Florida	32754	[REDACTED]	FPL
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[REDACTED]	Port St Lucie	Florida	34953	[REDACTED]	FPL
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[REDACTED]	Macclenny	Florida	32063	[REDACTED]	FPL
[REDACTED]	South Daytona	Florida	32119	[REDACTED]	FPL
[REDACTED]	St Augustine	Florida	32095	[REDACTED]	FPL
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[REDACTED]	Melbourne	Florida	32934	[REDACTED]	FPL
[REDACTED]	ESTERO	Florida	33928	[REDACTED]	FPL
[REDACTED]	Miami	Florida	33165	[REDACTED]	FPL
[REDACTED]	Deerfield Beach	Florida	33443	[REDACTED]	FPL
[REDACTED]	Miami	Florida	33186	[REDACTED]	FPL
[REDACTED]	Punta Gorda	Florida	33950	[REDACTED]	FPL
[REDACTED]	Hobe Sound	Florida	33455	[REDACTED]	FPL
[REDACTED]	Miami	FL	33176	[REDACTED]	FPL
[REDACTED]	Melrose	Florida	32666	[REDACTED]	FPL
[REDACTED]	Palm Coast	Florida	32164	[REDACTED]	FPL
[REDACTED]	Cutler Bay	Florida	33190	[REDACTED]	FPL
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[REDACTED]	PaLm bay	Florida	32907	[REDACTED]	FPL
[REDACTED]	Port Saint Lucie	Florida	34952	[REDACTED]	FPL
[REDACTED]	Miami	Florida	36176	[REDACTED]	FPL
[REDACTED]	Palm Bay	Florida	32907	[REDACTED]	FPL
[REDACTED]	Vero Beach	FL	32966	[REDACTED]	FPL
[REDACTED]	Vero Beach	FL	32966	[REDACTED]	FPL
[REDACTED]	Arcadia	Florida	34266	[REDACTED]	FPL
[REDACTED]	Ormond Beach	Florida	32174	[REDACTED]	FPL
[REDACTED]	Melbourne	Florida	32940	[REDACTED]	FPL
[REDACTED]	Jupiter	Florida	33478	[REDACTED]	FPL
[REDACTED]	Boynton Beach	Florida	33437	[REDACTED]	FPL
[REDACTED]	Chuluota	Florida	32766	[REDACTED]	FPL
[REDACTED]	St. augustine	Florida	32092	[REDACTED]	FPL
[REDACTED]	Naples	Florida	34120	[REDACTED]	FPL
[REDACTED]	Palm Coast	Florida	32164	[REDACTED]	FPL
[REDACTED]	Punta Gorda	Florida	33982	[REDACTED]	FPL
[REDACTED]	Port St. Lucie	Florida	34952	[REDACTED]	FPL
[REDACTED]	Naples	Florida	34112-7239	[REDACTED]	FPL
[REDACTED]	Plantation	Florida	33322-4806	[REDACTED]	FPL
[REDACTED]	Port St. Lucie	Florida	34984	[REDACTED]	FPL
[REDACTED]	west palm beach	Florida	33411	[REDACTED]	FPL

	Port St. Lucie	Florida	34983	FPL
	Lake Worth	Florida	33467	FPL
	W.P.B.	Florida	33413	FPL
	Hialeah FL	Florida	33018	FPL
	Miami	Florida	33174-1880	FPL
	Punta GORDA	Florida	33950	FPL
	Cape Coral	Florida	33914	FPL
	North Port	Florida	34288	FPL
	Lehigh Acres	Florida	33936	FPL
	Ormond Beach	Florida	32174	FPL
	Merritt Island	Florida	32953	FPL
	Port Saint Lucie	Florida	34987	FPL
	Vero Beach	Florida	32963	FPL
	Cocoa, Fl	Florida	32926	FPL
	Delray Beach	Florida	33484	FPL
	JUPITER	Florida	33458	FPL
	cocoa	Florida	32926	FPL
	Port Charlotte	Florida	33981	FPL
	Lake Worth	Florida	33467	FPL
	West Palm Beach	Florida	33417	FPL
	Fort Myers, FL	Florida	33901	FPL
	Orlando	Florida	32832	FPL
	Sanford	Florida	32771	FPL
	Rotonda West	Florida	33947	FPL
	Micco	Florida	32976	FPL
	Pompano Beach	Florida	33060	FPL
	Titusville	FL	32796	FPL
	Oakland Park	Florida	33309	FPL
	Davie	Florida	33324	FPL
	Palm Coast	Florida	32137	FPL
	Boca Raton,	Florida	33496	FPL
	Boca Raton, Fl	Florida	33496	FPL
	BUNNELL	Florida	32110	FPL
	Fort Pierce	Florida	34982	FPL
	Miami	Florida	33187	FPL
	Miami, Fl	Florida	33174	FPL
	Hollywood	Florida	33021	FPL
	Naples	Florida	34116	FPL
	Boynton Beach	Florida	33436	FPL
	Fort Lauderdale	Florida	33321	FPL
	Hollywood	Florida	33024	FPL
	Vero Beach	Florida	32968	FPL
	Merritt Island	Florida	32952	FPL
	Pembroke Pines	Florida	33029	FPL
	Boynton Beach	Florida	33437-7541	FPL
	Davie	Florida	33324	FPL

[REDACTED]	Barefoot Bay	Florida	32976	[REDACTED]	FPL
[REDACTED]	Palm bay	Florida	32907	[REDACTED]	FPL
[REDACTED]	Greenacres	Florida	33463	[REDACTED]	FPL
[REDACTED]	Palm coast	Florida	32164	[REDACTED]	FPL
[REDACTED]	Titusville	FL	32780	[REDACTED]	FPL
[REDACTED]	Palm Bay	Florida	32909	[REDACTED]	FPL
[REDACTED]	Port St Lucie	Florida	34987	[REDACTED]	FPL
[REDACTED]	Pembroke Pines	Florida	33029	[REDACTED]	FPL
[REDACTED]	Port Saint Lucie	Florida	34953	[REDACTED]	FPL
[REDACTED]	DAYTONA BEACH	Florida	32114	[REDACTED]	FPL
[REDACTED]	Palm Coast	Florida	32164	[REDACTED]	FPL
[REDACTED]	Crescent city	Florida	32112	[REDACTED]	FPL
[REDACTED]	Fort LauderdaleLauderh	Florida	33313	[REDACTED]	FPL
[REDACTED]	Melbourne fl	Florida	32935	[REDACTED]	FPL
[REDACTED]	Deerfield Beach	Florida	33441	[REDACTED]	FPL
[REDACTED]	Palm Bay	Florida	32909-5576	[REDACTED]	FPL
[REDACTED]	Merritt Island	Florida	32953	[REDACTED]	FPL
[REDACTED]	Jensen Beach	Florida	34957	[REDACTED]	FPL
[REDACTED]	Cooper City	Florida	33328	[REDACTED]	FPL
[REDACTED]	Miami	Florida	33174	[REDACTED]	FPL
[REDACTED]	Ft Myers	Florida	33913	[REDACTED]	FPL
[REDACTED]	Port st Lucie	Florida	34986	[REDACTED]	FPL
[REDACTED]	Ormond Beach	Florida	32176	[REDACTED]	FPL
[REDACTED]	Vero Bech	Florida	32960	[REDACTED]	FPL
[REDACTED]	Melbourne	Florida	32940	[REDACTED]	FPL
[REDACTED]	Fort Lauderdale	Florida	33309	[REDACTED]	FPL
[REDACTED]	Stuart	Florida	34997	[REDACTED]	FPL
[REDACTED]	Ormond Beach	Florida	32176	[REDACTED]	FPL
[REDACTED]	North Miami	Florida	33161	[REDACTED]	FPL
[REDACTED]	Vero Beach	Florida	32963	[REDACTED]	FPL
[REDACTED]	Vero Beach	Florida	32966	[REDACTED]	FPL
[REDACTED]	Miami	FL	33138	[REDACTED]	FPL
[REDACTED]	Ft Myers	Florida	33967	[REDACTED]	FPL
[REDACTED]	Miami	Florida	33175	[REDACTED]	FPL
[REDACTED]	Ormond Beach	Florida	32174	[REDACTED]	FPL
[REDACTED]	Pompano beach	Florida	33064	[REDACTED]	FPL
[REDACTED]	merritt island	Florida	32953	[REDACTED]	FPL
[REDACTED]	Rockledge, FL	Florida	32955	[REDACTED]	FPL
[REDACTED]	Ormond Beach	Florida	32174	[REDACTED]	FPL
[REDACTED]	Sebastian	Florida	32958	[REDACTED]	FPL
[REDACTED]	Edgewater	Florida	32141	[REDACTED]	FPL
[REDACTED]	Melbourne	Florida	32940	[REDACTED]	FPL
[REDACTED]	Vero Beach	Florida	32960	[REDACTED]	FPL
[REDACTED]	arcadia	Florida	34266	[REDACTED]	FPL
[REDACTED]	Vero Beach	Florida	32968	[REDACTED]	FPL
[REDACTED]	Hollywood	Florida	33026	[REDACTED]	FPL

	Lake Worth	Florida	33463		FPL
	Naples	Florida	34114		FPL
	PORT ST. LUCIE	Florida	34983		FPL
	Punta Gorda	Florida	33955		FPL
	FT. MYERS, FL.	Florida	33912		FPL
	Bunnell	Florida	32110		FPL
	Port Charlotte	Florida	33981		FPL
	Melbourne	Florida	32901		FPL
	Tavenier	Florida	33070		FPL
	Port St. Lucie	Florida	34962		FPL
	Fort Myers	Florida	33905		FPL
	Vero Beach	FL	32963		FPL
	Vero Beach	Florida	32963		FPL
	Hobe Sound	Florida	33455		FPL
	Vero Beach	FL	32963		FPL
	Vero Beach	FL	32963		FPL
	Vero Beach	Florida	32960		FPL
	Palm bay	Florida	32907		FPL
	Cape Canaveral	Florida	32920		FPL
	Daytona Beach	Florida	32114		FPL
	Boynton beach	Florida	33426		FPL
	Palm Bay	Florida	32907		FPL
	pompano beach	Florida	33060		FPL
	Edgewater	Florida	32141		FPL
	St. Augustine	Florida	32084		FPL
	Coral Springs	Florida 33065-4506			FPL
	Fernandina Beach	Florida	32034		FPL
	Port saint Lucie	Florida	34983		FPL
	Daytona Beach	Florida	32124		FPL
	Cocoa Beach	FL	32931		FPL
	Fort Myers	Florida	33913		FPL
	LANTANA	Florida	33462		FPL
	Pompano Beach	Florida	33062		FPL
	Vero Beach	Florida	32966		FPL
	Greenacres	Florida	33463		FPL
	Viera	Florida	32940		FPL
	Fort pierce	Florida	34951		FPL
	Palm coast	Florida	32164		FPL
	Fort Lauderdale	Florida	33304		FPL
	Jacksonville	Florida	32258		FPL
	Bonita Springs	Florida	34135		FPL
	Arcadia	Florida	34269		FPL
	Cocoa	Florida	32936		FPL
	South Daytona	Florida			FPL
	Fort pierce	Florida	34951		FPL
	Bonita Springs	Florida	34134		FPL

[REDACTED]	Sebastian Fla	Florida	32976	[REDACTED]	FPL
[REDACTED]	Ft Myers	Florida	33912	[REDACTED]	FPL
[REDACTED]	Port Saint Lucie	Florida	34952	[REDACTED]	
[REDACTED]	Punta Gorda	Florida	33983	[REDACTED]	FPL
[REDACTED]	Elkton	Florida	3.2034E+20	[REDACTED]	FPL
[REDACTED]	cocoa	Florida	32922	[REDACTED]	FPL
[REDACTED]	Ormond Beach	Florida	32174	[REDACTED]	FPL
[REDACTED]	Bonita Springs	Florida	34134	[REDACTED]	FPL

First Name	Last Name	Address	City	State	Zip	Phone	email	Utility	Business Mem.	Source
			Orlando	Florida	32735-9624	32821		Duke Energy Florida (Duke)		ONLINE
			Orlando	Florida		32159		Duke Energy Florida (Duke)		ONLINE
			The Villages	Florida		32179		Duke Energy Florida (Duke)		ONLINE
			Summerfield	Florida		34491		Duke Energy Florida (Duke)		ONLINE
			Fort Pierce	Florida		34982		Florida Public Utilities Compa		ONLINE
			Tampa	Florida	33609-1219			Tampa Electric Company (TEC)		ONLINE
			Meritt Island	Florida		32953		Florida Public Utilities Compa		ONLINE
			Deland	Florida		32720		Duke Energy Florida (Duke)		ONLINE
			Perkin	Florida		32180		Duke Energy Florida (Duke)		ONLINE
			Mount Dora	Florida		32757		Duke Energy Florida (Duke)		ONLINE
			Jacksonville	Florida		32258		Florida Public Utilities Compa		ONLINE
			Bellevue	Florida		34420		Duke Energy Florida (Duke)		ONLINE
			Abopka	Florida		32703		Duke Energy Florida (Duke)		ONLINE
			WINTER GARDEN	Florida		34787		Duke Energy Florida (Duke)		ONLINE
			Umatilla	Florida	32184 7118			Duke Energy Florida (Duke)		ONLINE
			Kissimmee Fl	Florida		32701		Duke Energy Florida (Duke)		ONLINE
			Altamonte Springs, Fl	Florida		34747		Duke Energy Florida (Duke)		ONLINE
			Kissimmee, Fl	Florida		32765		Duke Energy Florida (Duke)		ONLINE
			Oviedo	Florida		32779		Duke Energy Florida (Duke)		ONLINE
			Longwood	Florida		34491		Duke Energy Florida (Duke)		ONLINE
			Summerfield	Florida		33931		Duke Energy Florida (Duke)		ONLINE
			Fort Myers Beach	Florida		32713		Florida Public Utilities Compa		ONLINE
			DeBary	Florida		32713		Duke Energy Florida (Duke)		ONLINE
			Lake Worth Beach	Florida		33460		Florida Public Utilities Compa		ONLINE
			Orlando	Florida		32822		Duke Energy Florida (Duke)		ONLINE
			Casselberry, Fl	Florida		32702		Duke Energy Florida (Duke)		ONLINE
			Tampa	Florida		33610		Tampa Electric Company (TEC)		ONLINE
			Umatilla	Florida		32784		Duke Energy Florida (Duke)		ONLINE
			Mount Dora	Florida		32757		Duke Energy Florida (Duke)		ONLINE
			Cape Coral	Florida		33916		Duke Energy Florida (Duke)		ONLINE
			Germont	Florida		34711		Florida Public Utilities Compa		ONLINE
			Burhill	Florida		33513		Duke Energy Florida (Duke)		ONLINE
			Fernandina Beach	Florida		32094		Duke Energy Florida (Duke)		ONLINE
			Davenport Fl	Florida		31897		Florida Public Utilities Compa		ONLINE
			Davenport Fl	Florida		32817		Duke Energy Florida (Duke)		ONLINE
			Orange City	Florida		32763		Duke Energy Florida (Duke)		ONLINE
			Oakland	Florida		34760		Duke Energy Florida (Duke)		ONLINE
			POINCIANA FLORIDA	Florida		34758		Duke Energy Florida (Duke)		ONLINE
			Mt. Dora	Florida		32757		Duke Energy Florida (Duke)		ONLINE
			Oviedo	Florida		32765		Duke Energy Florida (Duke)		ONLINE
			The Villages	Florida		32162		Tampa Electric Company (TEC)		ONLINE
			Fl	Florida		34472		Duke Energy Florida (Duke)		ONLINE
			Evans	Florida		32736		Duke Energy Florida (Duke)		ONLINE
			Davenport	Florida		33897		Florida Public Utilities Compa		ONLINE
			Orlando	Florida		32822		Duke Energy Florida (Duke)		ONLINE
			Lady Lake	Florida	32 59			Duke Energy Florida (Duke)		ONLINE
			OCCLA	Florida		34481		Duke Energy Florida (Duke)		ONLINE
			Jacksonville	Florida		32754		Florida Public Utilities Compa		ONLINE
			Longwood	Florida		32779		Duke Energy Florida (Duke)		ONLINE
			St. Cloud	Florida		34772		Duke Energy Florida (Duke)		ONLINE
			LEE380MG	Florida		34788		Duke Energy Florida (Duke)		ONLINE
			Longwood	Florida		32779		Duke Energy Florida (Duke)		ONLINE
			Oviedo	Florida		32765		Duke Energy Florida (Duke)		ONLINE
			Orlando	Florida		32820		Duke Energy Florida (Duke)		ONLINE
			Winter Springs	Florida		32708		Florida Public Utilities Compa		ONLINE
			Saint Cloud	Florida		34771		Duke Energy Florida (Duke)		ONLINE
			Dunnellon	Florida		34431		Florida Public Utilities Compa		ONLINE
			Ocala	Florida		34482		Duke Energy Florida (Duke)		ONLINE
			Lady Lake	Florida		32159		Duke Energy Florida (Duke)		ONLINE
			Ocala	Florida		34481		Duke Energy Florida (Duke)		ONLINE
			Orlando	Florida		32821		Duke Energy Florida (Duke)		ONLINE
			Reddick	Florida		32866		Duke Energy Florida (Duke)		ONLINE
			Ocala	Florida		34480		Duke Energy Florida (Duke)		ONLINE
			st. cloud	Florida		32759		Florida Public Utilities Compa		ONLINE
			Pennacola	Florida		32704		Duke Energy Florida (Duke)		ONLINE
			Evans	Florida		32728		Gulf Power Company (Gulf)		ONLINE
			Summerfield	Florida		34451		Duke Energy Florida (Duke)		ONLINE
			Wintergreen	Florida		34785		Duke Energy Florida (Duke)		ONLINE
			Ocala	Florida		34472		Duke Energy Florida (Duke)		ONLINE
			Orlando	Florida		32807		Duke Energy Florida (Duke)		ONLINE
			Fernandina beach	Florida		32094		Florida Public Utilities Compa		ONLINE
			Ocala	Florida		34472		Duke Energy Florida (Duke)		ONLINE





**I hereby request to become a member of Floridians Against Increased Rates, Inc. (FAIR).**

I confirm that I am a customer of the Florida electric utility identified below. I support FAIR's purposes of (a) advocating by all lawful means for the lowest possible electric rates that are consistent with my utility providing safe and reliable electric service, and (b) opposing by all lawful means utility proposals for rates and rate increases that are greater than necessary for my utility to provide safe and reliable service. I request and authorize FAIR to represent my interests in having the lowest possible rates for my electric service that are consistent with my utility providing safe and reliable service. I understand that no payment of dues is required for my membership in FAIR. I consent to FAIR's collection and use of my personal information provided below for the purposes associated with my membership as described in my application.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Business Name: \_\_\_\_\_  
*(Only if joining as a business electric customer)*

Address: \_\_\_\_\_  
*(Location where you receive your utility service)*

Address Line 2: \_\_\_\_\_

City: \_\_\_\_\_

ZIP Code: \_\_\_\_\_

Email: \_\_\_\_\_

Name of Utility: \_\_\_\_\_

Please note: We respect your privacy. We will not send you hard copy mail. We need your address in case FAIR is required to prove that its members are customers of utilities in proceedings before the Florida Public Service Commission (PSC), including cases before the PSC where your utility is seeking to increase your rates. As unlikely as this may sound, we have to recognize that when FAIR challenges a utility's proposed rate increases, the utility may try to keep FAIR from intervening to represent customers' interests. We also represent that FAIR will not share your information with others unless FAIR is required by law, rule, or order to do so, and if we are required to provide such information in legal proceedings before the PSC, FAIR will seek to protect the confidentiality of your information.

**Floridians Against Increased Rates, Inc.**  
**301 East Pine Street, Suite 1400**  
**Orlando, Florida 32801**



**I hereby request to become a member of Floridians Against Increased Rates, Inc. (FAIR).**

I confirm that I am a customer of the Florida electric utility identified below. I support FAIR's purposes of (a) advocating by all lawful means for the lowest possible electric rates that are consistent with my utility providing safe and reliable electric service, and (b) opposing by all lawful means utility proposals for rates and rate increases that are greater than necessary for my utility to provide safe and reliable service. I request and authorize FAIR to represent my interests in having the lowest possible rates for my electric service that are consistent with my utility providing safe and reliable service. I understand that no payment of dues is required for my membership in FAIR. I consent to FAIR's collection and use of my personal information provided below for the purposes associated with my membership as described in my application.

Printed Name: \_\_\_\_\_

Address: : \_\_\_\_\_

Address Line 2: \_\_\_\_\_

City: Miami \_\_\_\_\_

ZIP Code: \_\_\_\_\_

Email: \_\_\_\_\_

Name of Utility: Florida Power & Light Company (FPL) \_\_\_\_\_

Please note: We respect your privacy. We will not send you hard copy mail. We need your address in case FAIR is required to prove that its members are customers of utilities in proceedings before the Florida Public Service Commission (PSC), including cases before the PSC where your utility is seeking to increase your rates. As unlikely as this may sound, we have to recognize that when FAIR challenges a utility's proposed rate increases, the utility may try to keep FAIR from intervening to represent customers' interests. We also represent that FAIR will not share your information with others unless FAIR is required by law, rule, or order to do so, and if we are required to provide such information in legal proceedings before the PSC, FAIR will seek to protect the confidentiality of your information.

**Floridians Against Increased Rates, Inc.  
301 East Pine Street, Suite 1400  
Orlando, Florida 32801**

**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: July 21, 2021

**FLORIDA POWER & LIGHT COMPANY'S  
AMENDED NOTICE OF TAKING DEPOSITION DUCES TECUM**

TO: Robert Scheffel Wright  
John T. LaVia, III  
Gardner, Bist, Bowden, Dee, LaVia, Wright & Perry, P.A.  
1300 Thomaswood Drive  
Tallahassee, Florida 32308  
schef@gbwlegal.com  
jlavia@gbwlegal.com  
Attorneys for Floridians Against Increased Rates, Inc.

Pursuant to Rule 1.310, Florida Rules of Civil Procedure, and Rule 28-106.206, Florida Administrative Code, notice is hereby given that Florida Power & Light Company ("FPL") will take the deposition duces tecum of the following named individual:

<b>NAME</b>	<b>DATE &amp; TIME</b>	<b>LOCATION</b>
Nancy Watkins	Thursday July 29, 2021 1:30 PM	U.S. Legal Support Via WebEx link (Link will be circulated to witness and counsel prior to the deposition.)

The deposition shall be taken upon oral examination before an official court reporter or other officer authorized by law to take depositions.

Please bring with you copies of all the work papers or other materials used by you in the preparation of any testimony filed in this case or used by you in the preparation of any responses to FPL's discovery requests in this docket. Please also bring with you copies of the following documents: (1) all minutes of meetings of the Board of Directors of Floridians Against Increased Rates, Inc. ("FAIR"); and (2) all records of actions taken by the Board of Directors of FAIR.

This deposition is being taken for purposes of discovery, for use at trial, or for any other purpose allowed under the Florida Rules of Civil Procedure, the Uniform Rules of Procedure, and the Rules of the Florida Public Service Commission. Remote video link and call-in information will be provided to all parties prior to the deposition by Premier Reporting.

Please govern yourselves accordingly.

FLORIDA POWER & LIGHT COMPANY

By: /s/ R. Wade Litchfield

R. Wade Litchfield  
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700 Universe Boulevard  
Juno Beach, Florida 33408-0420  
(561) 691-7101  
(561) 691-7135 (fax)

**CERTIFICATE OF SERVICE**  
**20210015-EI**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by Hand Delivery\* and/or electronic mail this 21st day of July, 2021 to the following parties:

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**Attorneys for Floridians Against Increased  
Rates, Inc.**

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

## FLORIDIANS AGAINST INCREASED RATES, INC.

A Non-Profit Corporation

### MINUTES OF BOARD OF DIRECTORS MEETING

First Board Meeting  
Thursday, March 25, 2021  
Time: 11:30AM – 1:36PM

Pursuant to notice distributed by electronic mail on March 24, 2021, the Board of Directors of Floridians Against Increased Rates, Inc. (“FAIR” or the “Corporation”) convened its first meeting on Thursday, March 25, 2021. The meeting was conducted by video conference.

President Michael Hightower called the meeting to order at 11:30 A.M. The following members of the Board were present:

Michael Hightower, President & Director  
John Thomas Herndon, Secretary & Director  
Frederick M. Bryant, Director

Also attending were the following:

Nancy Watkins, Treasurer  
John Sowinski, President, Consensus Communications, Inc.  
Robert Scheffel Wright, Esquire, Gardner Bist Law Firm, counsel to the Board  
John T. LaVia, III, Esquire, Partner, Gardner Bist Law Firm, counsel to the Board

The Board unanimously approved the agenda for the meeting; a copy of the agenda is attached to these minutes.

The Board then discussed and unanimously approved the actions listed in the proposed organizational written plan of action, including approval of the Corporation’s bylaws and Conflict of Interest Policy and the election of the Corporation’s initial officers. Subsequently, on a motion for reconsideration by Mr. Herndon, the Board reconsidered its decision regarding the bylaws and deleted the last sentence of section 4 of Article II of the originally presented bylaws.

The Board then considered four proposed agreements for services to be provided to the Corporation in representing FAIR in the FPL rate case (Florida PSC Docket No. 20210015-EI). Two of the agreements are with law firms (Gardner, Bist, Bowden, Bush, Dee, LaVia, Wright & Perry, P.A. and GrayRobinson, P.A.), and the other two agreements are with consultants who will provide expert witness services to the Corporation in the

case. The consultants are GDS Associates, Inc. and Timothy J. Devlin, CPA, who practices as a sole practitioner. The Board voted to approve all four agreements,

[REDACTED]

[REDACTED]

[REDACTED]

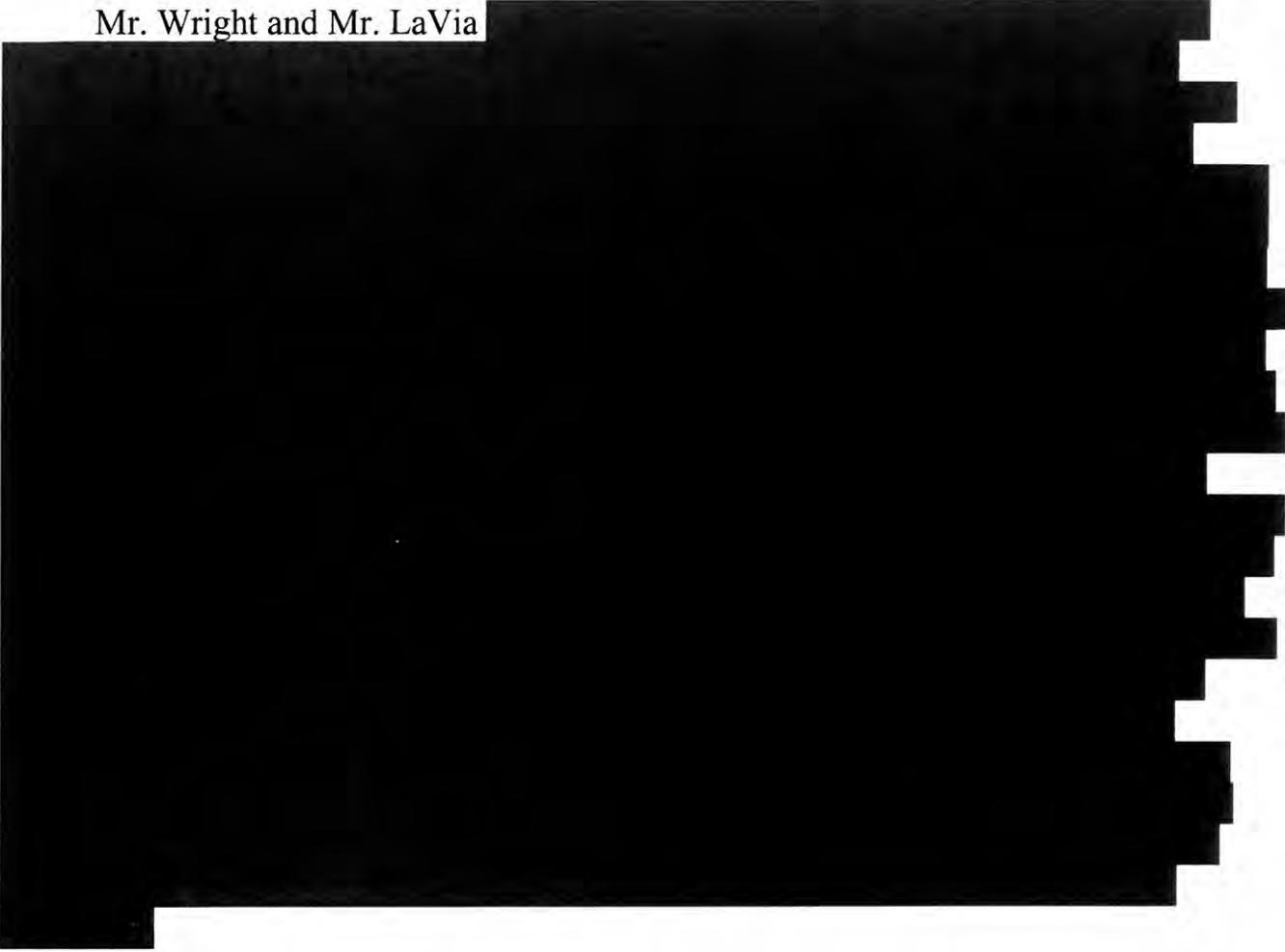
[REDACTED]

Mr. Sowinski is in the process of seeking quotes for Directors & Officers Insurance.

[REDACTED]

[REDACTED]

Mr. Wright and Mr. LaVia



Mr. Sowinski presented a draft mission statement, and after discussion, the Board agreed on the following:

The mission of Floridians Against Increased Rates (FAIR) is to inform the people of Florida and our state's policy makers about energy-related issues, and advocate on behalf of Florida electric customers before governmental decision makers, including the Florida Public Service Commission, for policies and decisions that will lead to retail electric rates that are as low as possible while ensuring safe and reliable service.

Mr. Sowinski explained that the initial FAIR website will be fairly simply, primarily framed to encourage visitors to the site to click on the link to the membership application. He also explained that the Citizens for Lower Electric Rates website will have more content and more links to related material. He further indicated that the website should go "live" soon, no later than Friday, April 9.

The Board also discussed the logo to be used for the website, advertising, and letterhead. The Board reached a consensus to use one of the logos with the word FAIR in dark blue and a yellow electric lightbulb on the left side with stylized people inside the bulb; the Board wants to consider two version of that design, one version with

FLORIDIANS FOR LOWER ELECTRIC RATES in white letters against a red background, and the other version with the organization's name in red letters against a white background. Mr. Sowinski agreed to distribute samples of both designs for Board consideration and approval via email.

The Board discussed the membership agreement and agreed on language. The membership application will go live at the same time that the FAIR website goes live. Mr. Wright

Consensus will handle both the electronic membership applications through the website and any hard copy applications that are received.

Board members expressed interest in having membership be available to all Florida electric customers, rather than just those of investor-owned utilities. No action was taken, but staff will consider and advise what would be necessary to effectuate this change.

Mr. Hightower asked the Board whether there was any new business or other business requiring the Board's attention. The Board agreed that the next meeting would be at the call of the President.

There being no further business, Mr. Hightower adjourned the meeting at 1:36 P.M.

John Thomas Henderson

Secretary

**RESOLUTION OF THE BOARD OF DIRECTORS  
OF FLORIDIANS AGAINST INCREASED RATES, INC.  
IN LIEU OF MEETING**

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The following actions were taken by the Board of Directors of Floridians Against Increased Rates, Inc. (the "Corporation"), by written consent in lieu of a meeting.

RESOLVED, that the persons and businesses who have applied for membership in the Corporation as of July 25, 2021, as listed in the attached memorandum provided to the Directors in advance of their consideration of this matter, are hereby admitted and elected to membership in the Corporation.

FURTHER RESOLVED, that as provided in the Corporation's Bylaws, there shall be an annual meeting of the members of the Corporation, which members shall be entitled to attend by telephone conference or video conference, held on Monday, December 13, 2021, and notice of the annual meeting shall be provided by electronic mail to all members no later than Monday, December 6, 2021.

No further business was addressed.

By their signatures below, the undersigned hereby consent to the foregoing actions being taken without a meeting and approve such actions and the foregoing resolutions this 27th day of July 2021.

  
Michael Hightower

  
John Thomas Herndon

  
Frederick M. Bryant

MEMORANDUM

JULY 26, 2021

TO: MICHAEL R. HIGHTOWER, PRESIDENT & DIRECTOR  
JOHN THOMAS HERNDON, SECRETARY & DIRECTOR  
FREDERICK M. BRYANT, DIRECTOR  
NANCY H. WATKINS, TREASURER  
FLORIDIANS AGAINST INCREASED RATES, INC.

FROM: JANINE CALLOVI  
CONSENSUS COMMUNICATIONS

SUBJECT: MEMBERSHIP ROSTER OF FLORIDIANS FOR LOWER ELECTRIC  
RATES, INC.

This memorandum is provided to the Board of Directors of Floridians Against Increased Rates, Inc. (FAIR) to inform the Directors before their consideration of action to be taken by written resolution in lieu of meeting.

The Bylaws of FAIR provide that the Board has the power to elect or admit members to membership in the Corporation. FAIR has received more than 770 applications since it was formed, some via pdf versions of signed "hard copies" of the FAIR application form and the substantial majority via electronic membership applications received through FAIR's website. In the course of my employment with Consensus Communications, I have and continue to have the responsibility to review the membership applications and to update the membership roster periodically.

Attached to this memorandum is a confidential listing, or roster, of the persons and business entities who have applied for membership in FAIR as of July 25, 2021. (FAIR maintains this roster as confidential so as not to disclose the personally identifiable information of any of its members.) I have reviewed each of the applications, meaning either the pdf version of the hard-copy applications that were received or the electronic membership applications that were received electronically, and I confirm that each of the applications of the listed persons and businesses complies with the eligibility criteria for membership in the Corporation, in that each has represented in the application: (1) that they are a retail customer of a Florida investor-owned utility; (2) that they support the proposition that the electric customers of Florida should enjoy the lowest possible electric rates that are sufficient to support safe and reliable services; and (3) that they agree that FAIR can represent them in actions seeking the lowest possible electric rates that are consistent with their respective utility providing safe and reliable service.

The roster lists the individual's and, as applicable, the business's name, address, email address, the utility that serves them, and other relevant information. A copy of the application form is also attached to the roster for your information and review. By signing this form, each member has asked that FAIR represent them in proceedings for the purpose of advocating for the lowest possible electric rates that are consistent with their utility providing safe and reliable electric service. If any of you wish, I can make available all of the individual applications reflected in the roster for your review and consideration.

Accordingly, these persons and businesses are presented to the Board for the Board's consideration as to whether, having satisfied the eligibility criteria, they should be elected and admitted to membership in FAIR.

I am available to answer any questions.

Janine Callovi

Administrator  
Consensus Communications  
201 S.Orange Ave., Suite 950  
Orlando, FL 32801

407-608-5912

Attachments

**QUESTION:**

Please identify each consultant, expert, witness, or other person, who has provided testimony, documents, exhibits, or other materials and/or support on behalf of FAIR in any Public Utility Commission or Public Service Commission, the Federal Energy Regulatory Commission, or any other state or federal regulatory body with jurisdiction over the provision of electric power in the last seven (7) years.

- a. For each person identified in response to Interrogatory 1 above, please identify:
  - i. The witness's business address;
  - ii. Which regulatory or administrative body or court; and
  - iii. The caption or style of each proceeding or case, and the date of each appearance, where for purposes of this interrogatory the term "appearance" shall include the submittal of pre-filed testimony, oral testimony, documents, exhibits, or other materials and/or support on behalf of FAIR.

**RESPONSE:**

None.

**QUESTION:**

State in detail the subject matter, positions, and opinions on which each person named in answer to Interrogatory No. 1 above has provided pre-filed testimony, oral testimony, documents, exhibits, or other materials and/or support on behalf of FAIR.

**RESPONSE:**

None.

**QUESTION:**

Please identify each consultant, expert, witness, or other person who has been retained or engaged to provide testimony, documents, exhibits, or other materials and/or support on behalf of FAIR in this docket.

- a. For each such person or entity, identify the date initially consulted, the date of formal retention or engagement (if any), and describe the terms of the financial arrangements or agreement pursuant to which that person or entity will be compensated for work and/or services provided in this case.
- b. For each witness testifying on behalf of FAIR, please state the amount paid to date and the total amount contracted for services performed in connection with this docket.

**RESPONSE:**

FAIR's Response to FPL's Interrogatory No. 3

WITNESS/ENTITY	DATE INITIALLY CONSULTED	DATE OF FORMAL RETENTION	SUMMARY OF TERMS OF ENGAGEMENT	AMOUNT PAID TO DATE	TOTAL AMOUNT CONTRACTED
GDS Associates	2/22/2021	3/25/2021	Hourly rates plus out-of-pocket costs	\$20,608.13	Open, no cap or minimum
J.T. Herndon	March 2021	5/17/2021	Hourly rates plus out-of-pocket costs	0	Open, no cap or minimum
T.J. Devlin	2/10/2021	5/10/2021	Hourly rates plus out-of-pocket costs	\$4,200.00	Open, no cap or minimum
N.H. Watkins	March 2021	3/25/2021	Hourly rates plus out-of-pocket costs	0	Open, no cap or minimum

**QUESTION:**

With respect to each witness FAIR intends to have testify or provide pre-filed testimony in this docket of behalf of FAIR, including witnesses who will make public statements at the hearings, and otherwise, please state the following:

- a. The witness's business address;
- b. The witness's qualifications;
- c. The scope of the witness's employment or retention in the pending matter;
- d. The witness's general litigation experience, including the percentage of work performed for regulatory bodies or intervening participants.

**RESPONSE:**

a & b. Please refer to the résumés of the witnesses, included in response to FPL's Request to Produce No. 4.

c. The scope of each witness's engagement in this matter is set forth in each respective witness's testimony, which will be filed with the Commission and served to FPL on Monday, June 21.

d. Each witness's testimony and resume' includes information regarding the witness's litigation experience, including specifically any testimony given before a regulatory body.

This subpart is otherwise vague, in that it is not clear whether FPL wants to know percentages of work done for regulatory bodies or intervenors within the general category of litigation experience, or whether FPL wants to know about the witness's total work experience.

**QUESTION:**

Regarding the answer to Interrogatory No. 4, please identify with specificity the witness's appearances before regulatory or administrative bodies or courts of law, specifying which regulatory or administrative body or court, the caption or style of each proceeding or case, and the date of each appearance, where for purposes of this interrogatory the term "appearance" shall include the submittal of pre-filed testimony.

**RESPONSE:**

This information is provided in each witness's resume' and testimony, which will be filed with the Commission and served to FPL on Monday, June 21, 2021.

**QUESTION:**

Please describe any efforts or activities undertaken by FAIR or their agents and representatives from 2016 to the present to disseminate fliers, handouts, documents, materials, letters, presentation materials, videos, and other written or computer generated documents to members, prospective members, and others that discuss, address, refer to or otherwise mention FPL.

**RESPONSE:**

The only document responsive to this interrogatory is a letter that was emailed to FAIR's members informing them of the customer service hearings planned by the PSC, informing them of how to sign up, and encouraging them to do so. This letter was emailed to FAIR's members on June 9, 2021. A copy is provided in response to FPL's Request to Produce No. 4.

**QUESTION:**

Please describe the electric bill impact calculations FAIR has performed to assess the impact of FPL's proposed base rate increase on its members.

**RESPONSE:**

FAIR has performed no separate bill impact calculations regarding FPL's proposed multi-billion dollar rate increase. For such information, FAIR has referred to FPL's MFR Schedules A-2, which present FPL's estimates of customer bills under present and proposed rates. FPL's MFR Schedules A-2 clearly demonstrate that the rates of all of FAIR's members who are FPL customers (not necessarily all customers who are currently Gulf Power customers) will experience rate increases in 2022.

**QUESTION:**

Please identify all documents provided to FAIR's members, and the date(s) such documents were provided, that discuss or refer to the electric bill impact estimated to result from FPL's proposed base rate increase which is the subject of this docket.

**RESPONSE:**

The only document responsive to this interrogatory is a letter that was emailed to FAIR's members informing them of the customer service hearings planned by the PSC, informing them of how to sign up, and encouraging them to do so. This letter was emailed to FAIR's members on June 9, 2021. A copy was provided in response to FPL's Request to Produce No. 4.

**QUESTION:**

Please identify any materials and documents provided to, or communications with, FAIR members, and the date(s) such documents were provided, or communications occurred, soliciting funds in connection with FAIR's participation in this docket.

**RESPONSE:**

There are no documents that are responsive to this interrogatory.

**QUESTION:**

Please describe the circumstances that led to your decision to file a petition to intervene in this proceeding and identify all individuals who were consulted or who provided input or recommendations in connection with the decision.

**RESPONSE:**

Consistent with FAIR's purposes as set forth in its articles of incorporation, FAIR's board members and its counsel monitor developments that might lead to higher electric rates for the customers of Florida's public utilities. FAIR's organizers became aware of FPL's plans to implement the largest rate increase in Florida history in January and continued to monitor FPL's proposals thereafter. The decision to intervene was made based on FPL's proposing the largest electric rate increase in Florida history. The individuals who were consulted and provided input in connection with the decision to intervene were FAIR's board of directors, Michael Hightower, John Thomas Herndon, and Fred Bryant, and FAIR's counsel, Robert Scheffel Wright.

**QUESTION:**

Please describe the circumstances that led to your decision to file a petition to intervene in this proceeding.

**RESPONSE:**

Please see FAIR's response to FPL's Interrogatory No. 10 above.

**QUESTION:**

Please provide the following information related to FAIR:

- a. The current number of active members
- b. The names of active members
- c. The dates that each person became a member
- d. The current number of active members that are residents of the state of Florida
- e. For the members identified in your response to subpart d, the counties and cities within the state of Florida where those members reside
- f. The current number of active members that are residents of states outside of Florida
- g. For the members identified in your response to subpart f, the states where those members reside
- h. The number of members that are customers of FPL
- i. The names of members that are customers of FPL

**RESPONSE:**

- a. The current number of active members – 536 as of June 17, 2021
- b. The names of active members – CONFIDENTIAL, provided on roster in response to FPL’s Request to Produce No. 4.
- c. The dates that each person became a member – see roster
- d. The current number of active members that are residents of the state of Florida - 536
- e. For the members identified in your response to subpart d, the counties and cities within the state of Florida where those members reside – see roster
- f. The current number of active members that are residents of states outside of Florida - 0
- g. For the members identified in your response to subpart f, the states where those members reside – Not applicable
- h. The number of members that are customers of FPL – 436
- i. The names of members that are customers of FPL – CONFIDENTIAL, provided on roster

**QUESTION:**

Please describe the method by which FAIR solicits new members (e.g. via email, internet, phone solicitation, etc.) and please identify the individuals that are responsible for soliciting new members.

**RESPONSE:**

FAIR attempts to recruit new members primarily through advertising on Facebook and through its website. FAIR's Board authorized FAIR's recruitment activities. The person responsible for this recruitment activity is John Sowinski.

**QUESTION:**

If FAIR operates or maintains a website, please provide the address.

**RESPONSE:**

The address of FAIR's website is [www.fairfl.org](http://www.fairfl.org).

**QUESTION:**

Please identify any publications, trade journals, news outlets, or other publications, whether in written or electronic form, where FAIR has advertised its organization.

**RESPONSE:**

There are no publications, trade journals, news outlets, or other publications in which FAIR has advertised its organization.

**QUESTION:**

What person or persons are the founders of FAIR?

**RESPONSE:**

The incorporator of FAIR is William A. Boyles. The initial directors were Michael Hightower, John Thomas Herndon, and Frederick M. Bryant.

**QUESTION:**

Why did the persons or persons identified in Interrogatory No. 14 above create FAIR?

**RESPONSE:**

Interrogatory No. 14 above requested FAIR's website address, which was provided.

The persons identified in response to Interrogatory No. 16 above formed FAIR for the purposes set forth in FAIR's articles of incorporation.

**QUESTION:**

Was FAIR created, in whole or in part, for the purpose of intervention in this proceeding?

**RESPONSE:**

FAIR reasserts and reiterates its specific objection to this interrogatory as set forth in FAIR's Specific Objections served on June 1, 2021. This interrogatory seeks irrelevant information not reasonably calculated to lead to discovery of relevant admissible information. As set forth in the Order Provisionally Granting Floridians Against Increased Rates, Inc.'s Motion to Intervene (Order No. PSC-2021-0180-PCO-EI) (the "Intervention Order"), "FAIR's associational standing shall be issues in this proceeding and FAIR shall have the burden of proof with regard to this issue."

Intervention Order at 3. The Intervention Order further provides

The test for associational standing was established in Florida Home Builders and Farmworker Rights Organization, Inc. v. Dept. of Health and Rehabilitative Services, 417 So. 2d 753 (Fla. 1<sup>st</sup> DCA 1982), which is also based on the basic standing principles established in Agrico Chemical Company v. Department of Environmental Regulation (Agrico), 406 So. 2d 478, 482 (Fla. 2d DCA 1981). Associational standing may be found where: (1) the association demonstrates that a substantial number of an association's members may be substantially affected by the Commission's decision in a docket; (2) the subject matter of the proceeding is within the association's general scope of interest and activity; and (3) the relief requested is of a type appropriate for the association to receive on behalf of its members.

Intervention Order at 2. The information requested in this interrogatory is not reasonably calculated to lead to the discovery of relevant admissible information concerning any of the specific standing requirements under Agrico or Florida Home Builders. Subject to and without waiving this specific objection, and without waiving any other objections to any effort by FPL to use this response in any way, FAIR responds as follows:

Yes, in part. FAIR was formed for the specific purposes set forth in its articles of incorporation, a copy of which are provided herewith. FAIR's purposes specifically include, among other things, engaging in all lawful actions opposing and advocating against State of

Florida governmental policies and regulatory or administrative actions that have the potential to increase the electric rates charged to the residential, business, institutional, and governmental customers served by Florida investor-owned electric utilities whose rates are set by the Florida Public Service Commission. The general rate case proceeding in this Docket No. 20210015-EI has the potential to increase the rates paid by FPL's customers by more than \$1.1 billion in 2022 alone, and by more than \$6.2 billion over the four years covered by FPL's proposals in this case.

Thus, FAIR was formed, in part, for the specific purpose of participating, by intervention, in proceedings like this rate case, in order to oppose rate increases like those proposed by FPL.

**QUESTION:**

Please identify what member interests FAIR will represent for its members in this proceeding that are not already represented by the Office of Public Counsel and/or other parties. In your response, please identify the rate schedules pursuant to which members of FAIR receive service from FPL.

**RESPONSE:**

FAIR reasserts and reiterates its specific objection to this interrogatory as set forth in FAIR's Specific Objections served on June 1, 2021. FAIR specifically objects to this interrogatory to the extent it seeks irrelevant information not reasonably calculated to lead to discovery of relevant admissible information. As set forth in the Order Provisionally Granting Floridians Against Increased Rates, Inc.'s Motion to Intervene (Order No. PSC-2021-0180-PCO-EI) (the "Intervention Order"), "FAIR's associational standing shall be issues in this proceeding and FAIR shall have the burden of proof with regard to this issue." Intervention Order at 3. The Intervention Order further provides

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Intervention Order at 2. The information requested in this interrogatory is not reasonably calculated to lead to the discovery of relevant admissible information concerning any of the specific standing requirements under Agrico or Florida Home Builders. Subject to and without waiving this specific objection, and without waiving any other objections to any effort by FPL to use this response in any way, FAIR responds as follows:

While the interests of FAIR's members in having the Florida PSC set rates for FPL that are

as low as possible while ensuring that FPL can provide safe and reliable service coincide to some degree with the interests represented by other “consumer parties” in this case, FAIR’s members have specific interests in presenting their evidence and arguments to the PSC in the manner determined to be in the members’ interests by FAIR’s board of directors, including all rights set forth in Section 120.57(1)(b), Florida Statutes. FAIR’s witnesses are likely to take somewhat differing positions on certain issues in this case, and FAIR’s members have specific rights to present their specific evidence and argument on all issues in the case.

Further, as FPL is well aware from past actions and decisions, there is a significant probability that this case will be resolved by a settlement agreement involving some, but not all, of the parties to the docket. FAIR’s members have specific interests in participating in any settlement discussions or negotiations involving any parties to this case, because otherwise, the case is subject to being “settled out from under” FAIR and its members without their even participating in such negotiations.

#### Rate Schedules of FAIR Members

FAIR has not surveyed its members or collected specific information regarding the specific rate schedules under which they take service from FPL. Without waiving its objections, FAIR states that FAIR has members that are both residential and business customers of FPL. On information and belief, FAIR believes that these customers are served under FPL’s residential rate schedules, possibly including time-of-use rates, and under FPL’s general service schedules, possibly including time-of-use rates and possibly including demand-metered rates.

**QUESTION:**

For any interests identified in Interrogatory No. 19 above, please explain whether and, if so, how those interests are not adequately represented by the Office of Public Counsel and/or other parties in this proceeding without FAIR's participation?

**RESPONSE:**

FAIR reasserts and reiterates its specific objection to this interrogatory as set forth in FAIR's Specific Objections served on June 1, 2021. FAIR specifically objects to this interrogatory to the extent it seeks irrelevant information not reasonably calculated to lead to discovery of relevant admissible information. As set forth in the Order Provisionally Granting Floridians Against Increased Rates, Inc.'s Motion to Intervene (Order No. PSC-2021-0180-PCO-EI) (the "Intervention Order"), "FAIR's associational standing shall be issues in this proceeding and FAIR shall have the burden of proof with regard to this issue." Intervention Order at 3. The Intervention Order further provides

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Intervention Order at 2. The information requested in this interrogatory is not reasonably calculated to lead to the discovery of relevant admissible information concerning any of the specific standing requirements under Agrico or Florida Home Builders. Subject to and without waiving this specific objection, and without waiving any other objections to any effort by FPL to use this response in any way, FAIR responds as follows:

This Interrogatory is redundant to FPL's Interrogatory No. 19. Please see FAIR's response to Interrogatory No. 19 above.

**QUESTION:**

How, if at all, does FAIR believe that its members will be harmed if FAIR is not allowed to participate in this proceeding?

**RESPONSE:**

FAIR reasserts and reiterates its specific objection to this interrogatory as set forth in FAIR's Specific Objections served on June 1, 2021. FAIR specifically objects to this interrogatory to the extent it seeks irrelevant information not reasonably calculated to lead to discovery of relevant admissible information. As set forth in the Order Provisionally Granting Floridians Against Increased Rates, Inc.'s Motion to Intervene (Order No. PSC-2021-0180-PCO-EI) (the "Intervention Order"), "FAIR's associational standing shall be issues in this proceeding and FAIR shall have the burden of proof with regard to this issue." Intervention Order at 3. The Intervention Order further provides

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Intervention Order at 2. The information requested in this interrogatory is not reasonably calculated to lead to the discovery of relevant admissible information concerning any of the specific standing requirements under Agrico or Florida Home Builders. Subject to and without waiving this specific objection, and without waiving any other objections to any effort by FPL to use this response in any way, FAIR responds as follows:

If FAIR's members are not allowed to participate through FAIR's intervention as a full party in this proceeding, they would, at a minimum, be harmed in that they would be deprived of their specific rights guaranteed to them by Section 120.57(1)(b), Florida Statutes, to present their specific evidence and argument, to conduct their own specific cross-examination of witnesses, to submit proposed findings of facts, and to file exceptions to any orders as may be appropriate. This would likely rise to the level of a denial of their fundamental procedural due process rights under the Florida and United States Constitutions.

Moreover, FAIR's members would be harmed by being deprived of their statutory rights to have the Commission hear their specific evidence, which in this case will include the expert testimony of Timothy J. Devlin, who served for 35 years on the Florida PSC Staff, including service as Director of Auditing and Finance and as the PSC's Executive Director; of John Thomas Herndon, who served as a member of the Florida PSC, who served two Florida Governors as their Chief of Staff, and who also served as the Executive Director of the Florida State Board of Administration, which administers the State's pension funds and other significant accounts; and of FAIR's chosen witness on cost of capital and capital structure.

Further, as FPL is well aware from past actions and decisions, there is a significant probability that this case will be resolved by a settlement agreement involving some, but not all, of the parties to the docket. FAIR's members have specific interests in participating in any settlement discussions or negotiations involving any parties to this case, because otherwise, the case is subject to being "settled out from under" FAIR and its members without their even participating in such negotiations.

**QUESTION:**

Please identify each issue that FAIR plans to raise in this proceeding that it feels will not be adequately addressed by other parties in this proceeding.

**RESPONSE:**

FAIR reasserts and reiterates its specific objection to this interrogatory as set forth in FAIR's Specific Objections served on June 1, 2021. FAIR specifically objects to this interrogatory to the extent it seeks irrelevant information not reasonably calculated to lead to discovery of relevant admissible information. As set forth in the Order Provisionally Granting Floridians Against Increased Rates, Inc.'s Motion to Intervene (Order No. PSC-2021-0180-PCO-EI) (the "Intervention Order"), "FAIR's associational standing shall be issues in this proceeding and FAIR shall have the burden of proof with regard to this issue." Intervention Order at 3. The Intervention Order further provides

The test for associational standing was established in Florida Home Builders and Farmworker Rights Organization, Inc. v. Dept. of Health and Rehabilitative Services, 417 So. 2d 753 (Fla. 1<sup>st</sup> DCA 1982), which is also based on the basic standing principles established in Agrico Chemical Company v. Department of Environmental Regulation (Agrico), 406 So. 2d 478, 482 (Fla. 2d DCA 1981). Associational standing may be found where: (1) the association demonstrates that a substantial number of an association's members may be substantially affected by the Commission's decision in a docket; (2) the subject matter of the proceeding is within the association's general scope of interest and activity; and (3) the relief requested is of a type appropriate for the association to receive on behalf of its members.

Intervention Order at 2. The information requested in this interrogatory is not reasonably calculated to lead to the discovery of relevant admissible information concerning any of the specific standing requirements under Agrico or Florida Home Builders. Subject to and without waiving this specific objection, and without waiving any other objections to any effort by FPL to use this response in any way, FAIR responds as follows:

The suggestion that FAIR's intervention and standing to intervene depends in any way on

whether other parties might “adequately address” such issues is irrelevant, spurious, and nonsensical in that it asks FAIR to predict what the other parties in the case will do over the next three months, and the interrogatory has no basis in law.

At this time, FAIR has not identified all of the issues that it will raise or litigate in this proceeding, but even as to those issues that FAIR will litigate, including the specific issues that its witnesses will address, it is obviously impossible to state with certainty whether any other party will “adequately address” any issue, from the perspective of FAIR’s members, because FAIR is obviously without knowledge as to what evidence and cross-examination the other parties will advance either in their direct testimony or at the hearings in the case, and also without knowledge as to what legal and policy arguments the other parties will advance.

Further, FAIR’s concerns that it would be excluded from any settlement discussions are exacerbated and compounded by the fact that FAIR does not know what positions any other parties might agree to in such discussions or negotiations.

**QUESTION:**

Regarding the statement in its Motion to Intervene that “FAIR’s membership is growing,” please explain what efforts have led to this growth?

**RESPONSE:**

FAIR reasserts and reiterates its specific objection to this interrogatory as set forth in FAIR’s Specific Objections served on June 1, 2021. FAIR specifically objects to this interrogatory to the extent it seeks irrelevant information not reasonably calculated to lead to discovery of relevant admissible information. As set forth in the Order Provisionally Granting Floridians Against Increased Rates, Inc.’s Motion to Intervene (Order No. PSC-2021-0180-PCO-EI) (the “Intervention Order”), “FAIR’s associational standing shall be issues in this proceeding and FAIR shall have the burden of proof with regard to this issue.” Intervention Order at 3. The Intervention Order further provides

The test for associational standing was established in Florida Home Builders and Farmworker Rights Organization, Inc. v. Dept. of Health and Rehabilitative Services, 417 So. 2d 753 (Fla. 1<sup>st</sup> DCA 1982), which is also based on the basic standing principles established in Agrico Chemical Company v. Department of Environmental Regulation (Agrico), 406 So. 2d 478, 482 (Fla. 2d DCA 1981). Associational standing may be found where: (1) the association demonstrates that a substantial number of an association’s members may be substantially affected by the Commission’s decision in a docket; (2) the subject matter of the proceeding is within the association’s general scope of interest and activity; and (3) the relief requested is of a type appropriate for the association to receive on behalf of its members.

Intervention Order at 2. The information requested in this interrogatory is not reasonably calculated to lead to the discovery of relevant admissible information concerning any of the specific standing requirements under Agrico or Florida Home Builders. Subject to and without waiving this specific objection, and without waiving any other objections to any effort by FPL to use this response in any way, FAIR responds as follows:

FAIR has established a website that invites customers of Florida’s investor-owned utilities

to join FAIR for the purposes of advocating by all lawful means for the lowest possible electric rates that are consistent with their utilities providing safe and reliable service, and of opposing by all lawful means utility proposals for rates and rate increases that are greater than necessary for their utilities to provide safe and reliable service. FAIR has placed advertisements for FAIR on Facebook that provide the opportunity for customers to connect to the FAIR website and consider whether to join.

These efforts have led to growth in FAIR's membership to a total of 536 members, including 436 FPL customers as FAIR members, as of June 17, 2021.

**QUESTION:**

Please provide the following information regarding FAIR's membership:

- a. The current number of active members
- b. The names of active members
- c. The dates that each person became a member
- d. The current number of active members that are residents of the State of Florida
- e. For the members identified in your response to subpart d, the counties and cities within the State of Florida where those members reside
- f. The current number of active members that are residents of states outside of Florida
- g. For the members identified in your response to subpart f, the states where those members reside
- h. The number of members that are customers of FPL
- i. The names of members that are customers of FPL

**RESPONSE:**

See response to Interrogatory No. 12.

**QUESTION:**

Please provide the following information for any FAIR members that are FPL customers:

- a. The dates they became members of FAIR
- b. Their addresses
- c. A list of every issue they would like to have or believe should be addressed in this proceeding that is unique to FAIR members
- d. The reason or reasons why they believe the issues identified in your response to subpart c cannot be adequately addressed by other parties to this proceeding
- e. The reason or reasons why they believe the issues identified in your response to subpart c cannot be adequately addressed through their individual intervention in this proceeding

**RESPONSE:**

FAIR reasserts and reiterates its specific objection to this interrogatory as set forth in FAIR's Specific Objections served on June 1, 2021. FAIR specifically objects to this interrogatory to the extent it seeks irrelevant information not reasonably calculated to lead to discovery of relevant admissible information. As set forth in the Order Provisionally Granting Floridians Against Increased Rates, Inc.'s Motion to Intervene (Order No. PSC-2021-0180-PCO-EI) (the "Intervention Order"), "FAIR's associational standing shall be issues in this proceeding and FAIR shall have the burden of proof with regard to this issue." Intervention Order at 3. The Intervention Order further provides

The test for associational standing was established in Florida Home Builders and Farmworker Rights Organization, Inc. v. Dept. of Health and Rehabilitative Services, 417 So. 2d 753 (Fla. 1<sup>st</sup> DCA 1982), which is also based on the basic standing principles established in Agrico Chemical Company v. Department of Environmental Regulation (Agrico), 406 So. 2d 478, 482 (Fla. 2d DCA 1981). Associational standing may be found where: (1) the association demonstrates that a substantial number of an association's members may be substantially affected by the Commission's decision in a docket; (2) the subject matter of the proceeding is within the association's general scope of interest and activity; and (3) the relief requested is of a type appropriate for the association to receive on behalf of its members.

Intervention Order at 2. The information requested in this interrogatory is not reasonably calculated to lead to the discovery of relevant admissible information concerning any of the specific standing requirements under Agrico or Florida Home Builders. Subject to and without waiving this specific

objection, and without waiving any other objections to any effort by FPL to use this response in any way, FAIR responds as follows:

The information requested in subparts a and b is provided in the membership roster that FAIR is providing in response to Interrogatory No. 12.

Regarding subparts c, d, and e, please see FAIR's responses to Interrogatories Nos. 19, 20, 21, and 22.

**QUESTION:**

Does FAIR receive financial support or funding from any person or persons other than its members? If so, please identify this/these person or persons.

**RESPONSE:**

FAIR reasserts and reiterates its specific objection to this interrogatory as set forth in FAIR's Specific Objections served on June 1, 2021. FAIR specifically objects to this interrogatory to the extent it seeks irrelevant information not reasonably calculated to lead to discovery of relevant admissible information. As set forth in the Order Provisionally Granting Floridians Against Increased Rates, Inc.'s Motion to Intervene (Order No. PSC-2021-0180-PCO-EI) (the "Intervention Order"), "FAIR's associational standing shall be issues in this proceeding and FAIR shall have the burden of proof with regard to this issue." Intervention Order at 3. The Intervention Order further provides

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Intervention Order at 2. The information requested in this interrogatory is not reasonably calculated to lead to the discovery of relevant admissible information concerning any of the specific standing requirements under Agrico or Florida Home Builders. Subject to and without waiving this specific objection, and without waiving any other objections to any effort by FPL to use this response in any way, FAIR responds as follows:

FAIR will not respond to this interrogatory. FAIR's funding is not an issue nor related to

any issue in this case.

**QUESTION:**

Please explain why FAIR selected the Gray Robinson law firm in Orlando to be its organizational headquarters.

**RESPONSE:**

FAIR reasserts and reiterates its specific objection to this interrogatory as set forth in FAIR's Specific Objections served on June 1, 2021. FAIR specifically objects to this interrogatory to the extent it seeks irrelevant information not reasonably calculated to lead to discovery of relevant admissible information. As set forth in the Order Provisionally Granting Floridians Against Increased Rates, Inc.'s Motion to Intervene (Order No. PSC-2021-0180-PCO-EI) (the "Intervention Order"), "FAIR's associational standing shall be issues in this proceeding and FAIR shall have the burden of proof with regard to this issue." Intervention Order at 3. The Intervention Order further provides

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Intervention Order at 2. The information requested in this interrogatory is not reasonably calculated to lead to the discovery of relevant admissible information concerning any of the specific standing requirements under Agrico or Florida Home Builders. Subject to and without waiving this specific objection, and without waiving any other objections to any effort by FPL to use this response in any way, FAIR responds as follows:

FAIR selected the Gray Robinson law firm to be its organizational headquarters because Gray Robinson is FAIR's corporate counsel.

**QUESTION:**

Please provide the following information for all persons that have executed the Confidentiality Agreement and/or acknowledged the Electronic Data Room Procedures on behalf of FAIR in this proceeding:

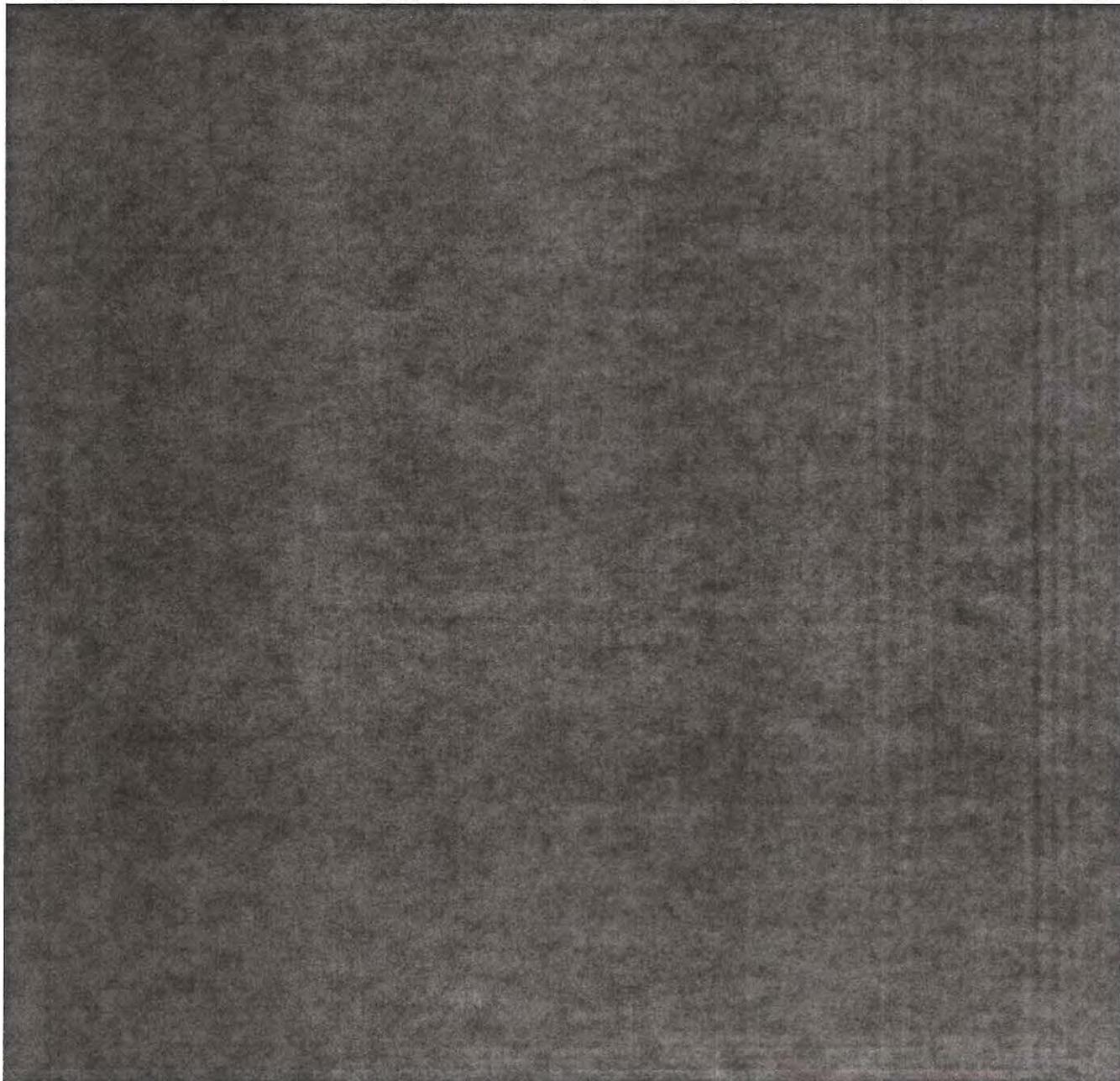
- a. Their names, addresses, occupations, and business addresses
- b. Their relationship to FAIR (e.g. officer, employee, attorney, consultant, etc.)
- c. A summary of their background and qualifications
- d. Whether they will provide fact or expert opinions in this proceeding
- e. If they are expected to provide fact or expert opinions, a list of the issues they plan to address

**RESPONSE:**

- a. FAIR has previously furnished to FPL its roster for access to the electronic data room. The business address for Wright, LaVia, and Hill is 1300 Thomaswood Drive, Tallahassee, Florida 32308. The business address for the GDS Associates personnel is 1850 Parkway Place, Suite 800, Marietta, Georgia 30067. The business address for Herndon is 9062 Eagles Ridge Drive, Tallahassee, Florida 32312. The business address for Devlin is 21 Equine Drive, Crawfordville, Florida 32327.
- b. Wright and LaVia are attorneys, and Hill is their legal assistant. The others are consultants.
- c,d,e. The background and qualifications of the three persons on the data room roster who will testify in the case (Mac Mathuna, Herndon, and Devlin) will be provided in their direct testimony submitted on Monday, June 21, 2021. They will provide expert opinions and some fact testimony in this proceeding. The issues that they will address will be set forth clearly and specifically in their direct testimony that will be filed and served on Monday, June 21, 2021.

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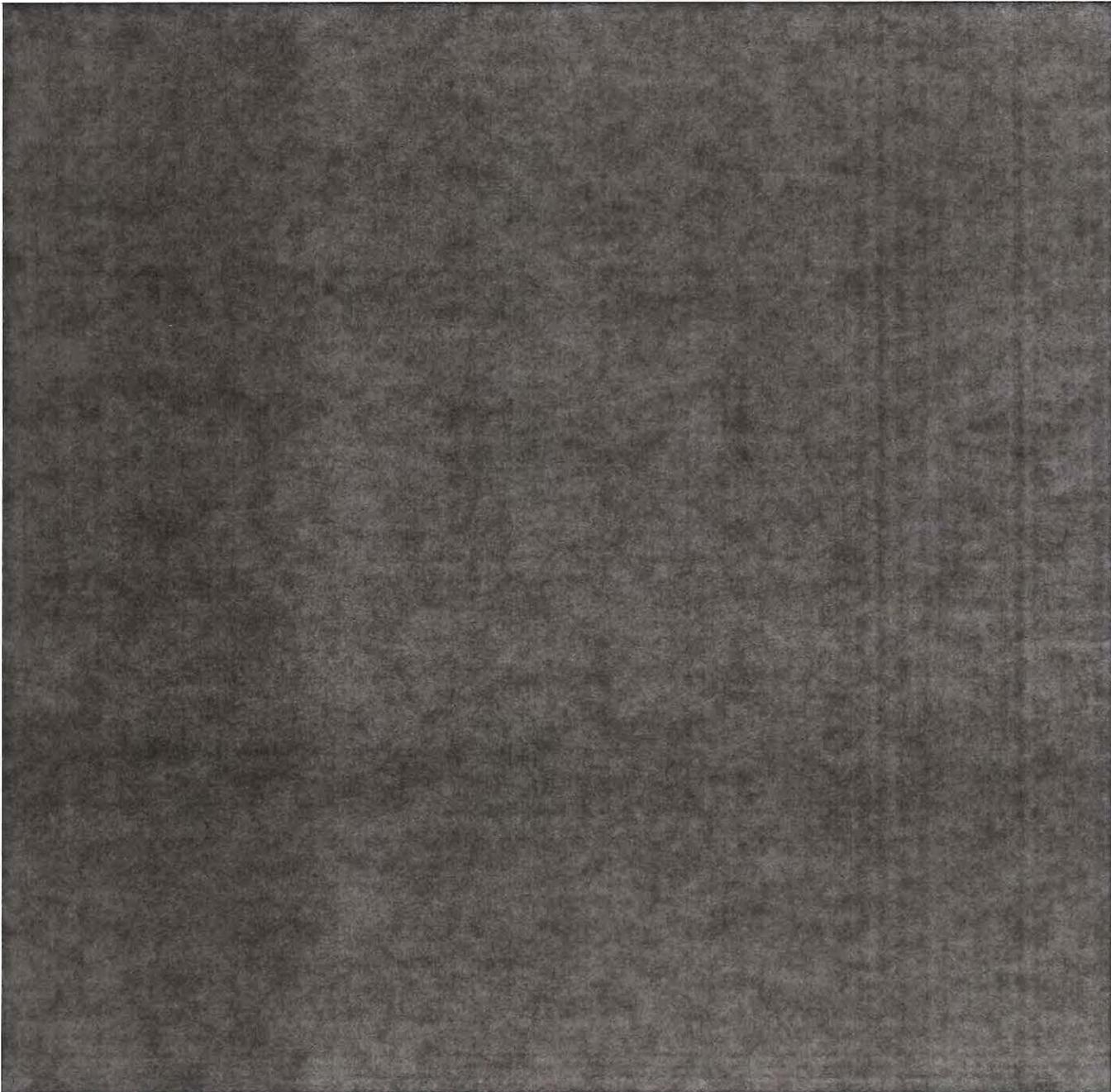
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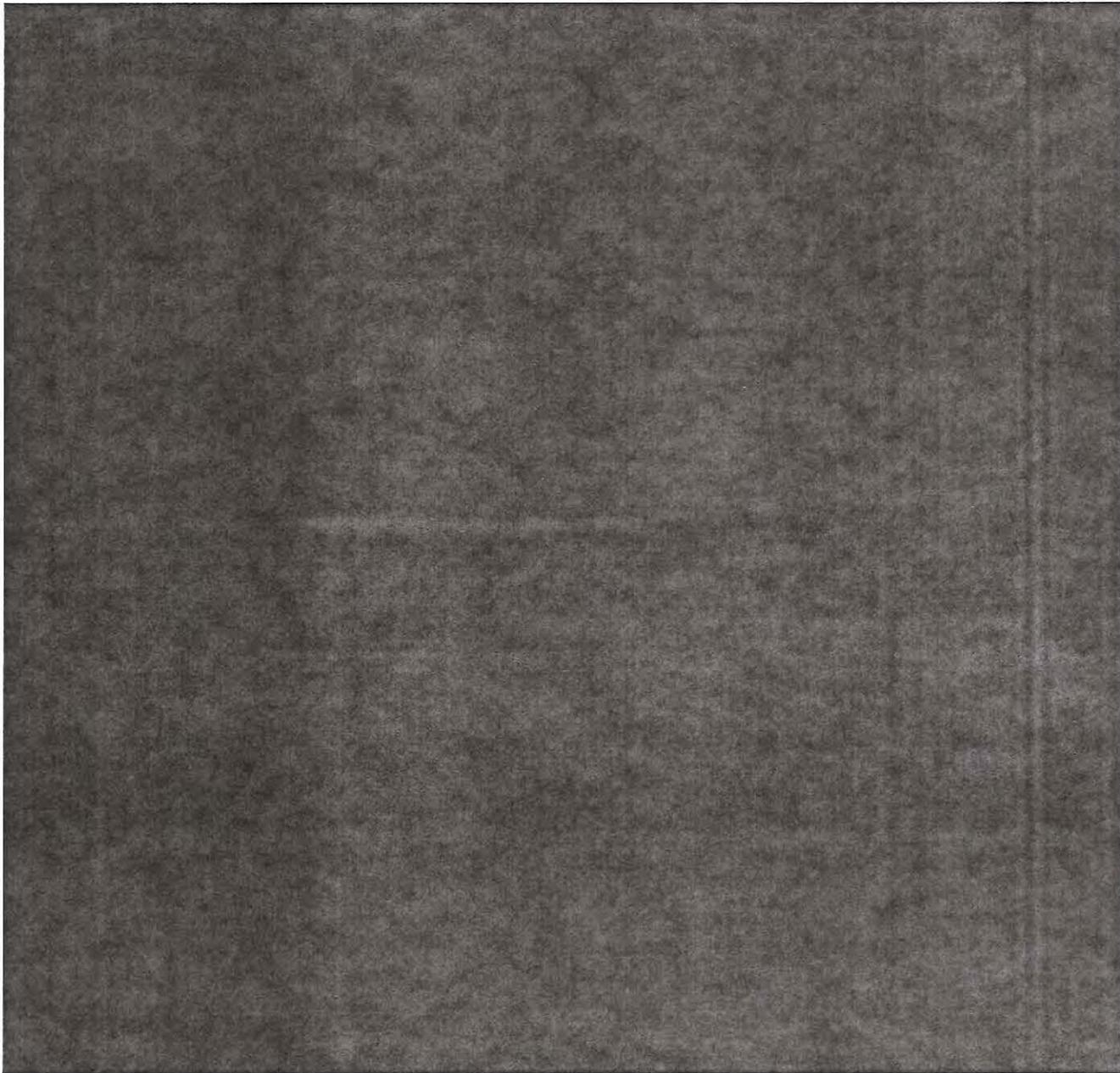
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								Duke Energy Florida (Duke)	6/10/2021 9:16	ONLINE	https://fairfl.org/pdf/60be773b5eb67/451/
								Duke Energy Florida (Duke)	6/9/2021 5:19	ONLINE	https://fairfl.org/pdf/60be773b5eb67/356/
								Duke Energy Florida (Duke)	6/8/2021 6:08	ONLINE	https://fairfl.org/pdf/60be773b5eb67/180/
								Duke Energy Florida (Duke)	6/7/2021 20:06	ONLINE	https://fairfl.org/pdf/60be773b5eb67/105/
								Duke Energy Florida (Duke)	6/8/2021 18:57	ONLINE	https://fairfl.org/pdf/60be773b5eb67/298/
								Florida Public Utilities Compa	6/9/2021 9:21	ONLINE	https://fairfl.org/pdf/60be773b5eb67/379/
								Duke Energy Florida (Duke)	6/7/2021 21:37	ONLINE	https://fairfl.org/pdf/60be773b5eb67/131/
								Florida Public Utilities Compa	6/15/2021 4:12	ONLINE	https://fairfl.org/pdf/60be773b5eb67/555/
								Duke Energy Florida (Duke)	6/7/2021 18:25	ONLINE	https://fairfl.org/pdf/60be773b5eb67/82/
								Duke Energy Florida (Duke)	#####	ONLINE	https://fairfl.org/pdf/60be773b5eb67/542/

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