

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In re: DOCKET NO. 20250011-EI
Petition for rate increase by
Florida Power & Light Company.

VOLUME 1
PAGES 1 - 44

PROCEEDINGS: HEARING

COMMISSIONERS
PARTICIPATING: CHAIRMAN MIKE LA ROSA
COMMISSIONER ART GRAHAM
COMMISSIONER GARY F. CLARK
COMMISSIONER ANDREW GILES FAY
COMMISSIONER GABRIELLA PASSIDOMO SMITH
PROCEEDINGS: PREHEARING CONFERENCE

DATE: Monday, August 11, 2025

TIME: Commenced: 1:00 p.m.
Concluded: 1:57 p.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: DEBRA R. KRICK
Court Reporter

PREMIER REPORTING
TALLAHASSEE, FLORIDA
(850) 894-0828

1 APPEARANCES:

2 JOHN BURNETT, MARIA MONCADA, CHRISTOPHER T.
3 WRIGHT, WILLIAM COX and JOEL BAKER, ESQUIRES, 700
4 Universe Boulevard, Juno Beach, FL 33408-0420; appearing
5 on behalf of Florida Power & Light Company (FPL).

6 JON C. MOYLE, JR. and KAREN A. PUTNAL,
7 ESQUIRES, Moyle Law Firm, 118 North Gadsden Street,
8 Tallahassee, FL 32301; appearing on behalf of Florida
9 Industrial Users Group (FIPUG).

10 WALT TRIERWEILER, PUBLIC COUNSEL; PATRICIA A.
11 CHRISTENSEN, MARY A. WESSLING, OCTAVIO SIMOES-PONCE and
12 AUSTIN WATROUS, ESQUIRES, OFFICE OF PUBLIC COUNSEL, c/o
13 The Florida Legislature, 111 West Madison Street, Room
14 812, Tallahassee, FL 32399-1400, appearing on behalf of
15 the Citizens of the State of Florida (OPC).

16 JAMES W. BREW, LAURA W. BAKER and JOSEPH R.
17 BRISCAR, ESQUIRES, Stone Law Firm, 1025 Thomas Jefferson
18 Street NW, Suite 800 West Washington, DC 20007;
19 appearing on behalf of Florida Retail Federation (FRF).

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1 APPEARANCES CONTINUED:

2 BRADLEY MARSHALL and JORDAN LUEBKEMANN,
3 ESQUIRES, Earthjustice, 111 S. Martin Luther King Jr.
4 Boulevard, Tallahassee, FL 32301; DANIELLE McMANAMO and
5 BIANCA BLANSHINE, ESQUIRE, Earthjustice, 4500 Biscayne
6 Boulevard, Suite 201, Miami, FL 33137; appearing on
7 behalf of Florida Rising, Inc. (Florida Rising), League
8 of United Latin American Citizens of Florida (LULAC),
9 and Environmental Confederation of Southwest Florida,
10 Inc. (ECOSWF).

11 STEPHANIE U. EATON, ESQUIRE, Spilman Thomas &
12 Battle, 110 Oakwood Drive, Suite 500, Winston-Salem, NC
13 27103; STEVEN W. LEE, ESQUIRE, Spilman Thomas & Battle,
14 1100 Bent Creek Boulevard, Suite 101, Mechanicsburg, PA
15 17050; appearing on behalf of Walmart (Walmart).

16 ROBERT SCHEFFEL WRIGHT and JOHN T. LAVIA, III,
17 ESQUIRES, Gardner, Bist, Bowden, Dee, LaVia, Wright,
18 Perry & Harper, P.A., 1300 Thomaswood Drive,
19 Tallahassee, Florida 32308; appearing on behalf of
20 Floridians Against Increased Rates, Inc. (FAIR).

21 FLOYD R. SELF, ESQUIRE, Berger Singerman, LLP,
22 313 North Monroe Street, Suite 301, Tallahassee, Florida
23 32301; appearing On behalf of Americans for Affordable
24 Clean Energy, Inc. (AACE), Circle K Stores, Inc. (Circle
25 K), RaceTrac, Inc. (RaceTrac), and Wawa, Inc. (Wawa),

1 (Fuel Retailers).

2 APPEARANCES CONTINUED:

3 ROBERT E. MONTEJO, ESQUIRE, Duane Morris, LLP,
4 201 South Biscayne Blvd., Suite 3400, Miami, Florida
5 33131-4325; appearing on behalf of Armstrong World
6 Industries (AWI).

7 WILLIAM C. GARNER ESQUIRE, Law Office of
8 William C. Garner, 3425 Bannerman Road, Unit 105, No.
9 414, Tallahassee, FL 32312; appearing on behalf of
10 Southern Alliance for Clean Energy (SACE).

11 ROBERT E. MONTEJO, ESQUIRE, Duane Morris, LLP,
12 201 South Biscayne Blvd., Suite 3400, Miami, Florida
13 33131-4325; appearing on behalf of Electrify America,
14 LLC (Electrify America).

15 NIKHIL VIJAYKAR and YONATAN MOSKOWITZ,
16 ESQUIRES, Keyes & Fox, LLP, 580 California Street, 12th
17 Floor, San Francisco, California 94104; appearing on
18 behalf of EVgo Services, LLC (EVgo.).

19 MAJOR LESLIE R. NEWTON and CAPTAIN MICHAEL A.
20 RIVERA, 139 Barnes Drive, Suite 1, Tyndall Air Force
21 Base, FL 32403; appearing on behalf of Federal Executive
22 Agencies (FEA).

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1 APPEARANCES CONTINUED:

2 D. BRUCE MAY, KEVIN W. COX and KATHRYN ISTED,
3 ESQUIRES, Holland & Knight, LLP, 315 South Calhoun
4 Street, Suite 600, Tallahassee, Florida 32301; appearing
5 on behalf of Florida Energy for Innovation Association
6 (FEIA).

7 SHAW STILLER and TIMOTHY SPARKS, ESQUIRE, FPSC
8 General Counsel's Office, 2540 Shumard Oak Boulevard,
9 Tallahassee, FL 32399-0850, appearing on behalf of the
10 Florida Public Service Commission (Staff).

11 ADRIA HARPER, GENERAL COUNSEL; MARY ANNE
12 HELTON, DEPUTY GENERAL COUNSEL, Florida Public Service
13 Commission, 2540 Shumard Oak Boulevard, Tallahassee,
14 Florida 32399-0850, Advisor to the Florida Public
15 Service Commission.

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1 P R O C E E D I N G S

2 CHAIRMAN LA ROSA: All right. Well, good
3 afternoon, everybody. Today is August 11th, 2025.
4 It is about 1:00 p.m., and this hearing is now
5 called to order.

6 Staff, will you go ahead and start us off by
7 reading the notice?

8 MR. STILLER: By notice published on July
9 16th, 2025, this time and place has been set for a
10 hearing in Docket No. 20250011-EI. The purpose of
11 the hearing is set forth more fully in the notice.

12 CHAIRMAN LA ROSA: Excellent. Thank you.

13 Let's move to appearances. I would first like
14 to note that Mr. Alexander Judd, representing
15 Armstrong World Industries, has been excused from
16 appearing today.

17 Let's go ahead and start with FPL. I know
18 everyone is kind of placed accordingly, so I will
19 just call out your names, if that's okay, as we
20 take appearances. Let's start with FPL.

21 MR. BURNETT: Good afternoon, Mr. Chairman and
22 Commissioners. John Burnett on behalf of FPL. And
23 I would like to enter an appearance for Maria
24 Moncada, Chris Wright, Will Cox and Joel Baker.

25 CHAIRMAN LA ROSA: Great. Thank you.

1 Office of Public Counsel.

2 MS. WESSLING: Good afternoon, Mr. Chair and
3 Commissioners. This is Ali Wessling with the
4 Florida Office of Public Counsel. I would also
5 like to enter an appearance for Walt Trierweiler,
6 the Public Counsel, Patricia Christensen, Octavio
7 Ponce and Austin Watrous. Thank you.

8 CHAIRMAN LA ROSA: Great. Thank you.

9 Let's move to LULAC, Environmental
10 Confederation of Southwest Florida and Florida
11 Rising.

12 MR. MARSHALL: Good afternoon, Commissioners.
13 Bradley Marshall on behalf of Florida Rising, the
14 League of United Latin American Citizens of
15 Florida, better known as LULAC, and the
16 Environmental Confederation of Southwest Florida,
17 better known as ECOSWF. I also have with me today
18 Jordan Luebkekmann, Danielle McManamon and Bianca
19 Blanshine. Thank you.

20 CHAIRMAN LA ROSA: Great. Thank you.

21 Florida Industrial Power Users Group.

22 MR. MOYLE: Good afternoon, Mr. Chairman. Jon
23 Moyle with the Moyle Law Firm on behalf of the
24 Florida Industrial Power Users Group, commonly
25 known as FIPUG. I would also like to enter an

1 appearance for Karen Putnal with our firm.

2 CHAIRMAN LA ROSA: Great. Thank you.

3 Florida Retail Federation.

4 MR. BREW: Good afternoon, Chairman and
5 Commissioners. For the Florida Retail Federation
6 from the firm of Stone Mattheis Xenopoulos & Brew,
7 I am James Brew. I would also like to note an
8 appearance for Laura Baker.

9 CHAIRMAN LA ROSA: Great. Thank you.

10 Southern Alliance for Clean Energy.

11 MR. GARNER: Good afternoon, Mr. Chairman and
12 Commissioners. This is William Garner on behalf of
13 the Southern Alliance for Clean Energy.

14 CHAIRMAN LA ROSA: Thank you.

15 Electrify America.

16 MR. MONTEJO: Good afternoon, Chairman and
17 Commissioners. I am Robert Montejo from Duane
18 Morris, LLP, on behalf of Electrify America.

19 CHAIRMAN LA ROSA: Thank you.

20 EVgo Services.

21 MR. VIJAYKAR: Good afternoon, Chairman,
22 Commissioners. My name is Nakhil Vijaykar from the
23 law firm of Keyes & Fox. I am here on behalf of
24 EVgo Services, LLC.

25 CHAIRMAN LA ROSA: Thank you.

1 Federal Executive Agencies.

2 CAPTAIN RIVERA: Good afternoon,
3 Commissioners. Captain Michael A. Rivera. I would
4 also like to enter the appearance of Major Leslie
5 Newton on behalf of the Federal Executive Agencies.
6 Thank you.

7 CHAIRMAN LA ROSA: Great. Thank you.
8 Florida Energy for Innovation Association.

9 MR. MAY: Good afternoon, Mr. Chairman and
10 Commissioners. I am Bruce May with the law firm of
11 Holland & Knight. We represent FEIA. And I would
12 like to make an appearance also for my colleague
13 Kathryn Isted and Kevin Cox.

14 CHAIRMAN LA ROSA: Great. Thank you.
15 Walmart.

16 MS. EATON: Good afternoon, Mr. Chairman.
17 Stephanie Eaton here from the law firm of Spilman,
18 Thomas & Battle on behalf of Walmart, Inc. And
19 also like to make an appearance for Stephen Lee.
20 Thank you.

21 CHAIRMAN LA ROSA: Great. Thank you.
22 Florida Against Increased Rates.

23 MR. WRIGHT: Thank you, Mr. Chairman and
24 Commissioners. Robert Scheffel Wright on behalf of
25 Floridians Against Increased Rates, Incorporated,

1 commonly known as FAIR. I would like to also enter
2 an appearance for my law partner, John T. LaVia,
3 III. Thank you.

4 CHAIRMAN LA ROSA: Great. Thank you.

5 Americans for Affordable Clean Energy, Wawa
6 RaceTrac and Circle K.

7 MR. SELF: Good morning, Mr. Chairman. Floyd
8 Self of the Berger Singerman law firm on behalf of
9 Americans for Affordable Clean Energy, Circle K,
10 Wawa and RaceTrac.

11 CHAIRMAN LA ROSA: Thank you.

12 Let's move to PSC staff.

13 MR. STILLER: Good morning, Mr. Chair -- good
14 afternoon. Shaw Stiller for PSC staff. I would
15 also like to enter an appearance for Tim Sparks.

16 CHAIRMAN LA ROSA: Great.

17 MS. HELTON: And finally, Mary Anne Helton is
18 here as your Advisor, along with your General
19 Counsel, Adria Harper.

20 CHAIRMAN LA ROSA: Great. Well, thank you
21 all.

22 Staff, are there any preliminary matters that
23 we need to address before we get to exhibits?

24 MR. STILLER: Yes, Mr. Chair.

25 On August 8th, 2025, Florida Power & Light

1 filed a Settlement in Principle and Joint Motion to
2 Suspend Schedule and Amend Procedural Order. FPL
3 represents that it has reached a settlement in
4 principle with multiple intervenors that will
5 resolve all of the issues in this proceeding.

6 FPL requests that the Commission suspend the
7 procedural schedule in this docket to allow time
8 for the parties to memorialize the terms to which
9 they have agreed.

10 FPL also requests that the Commission issue a
11 supplemental procedural order that allows
12 approximately six weeks for review of the
13 forthcoming settlement.

14 The Florida Industrial Power Users Group,
15 Florida Retail Federation, Florida Energy for
16 Innovation Association, Walmart, EVgo, Americans
17 for Affordable Clean Energy, Circle K, RaceTrac,
18 Wawa, Electrify America, the Federal Agencies,
19 Armstrong World Industries and the Southern
20 Alliance for Clean Energy all support this motion
21 to suspend the schedule, and they join in the
22 motion.

23 The Office of Public Counsel, Florida Rising,
24 the Environmental Coalition of Southwest Florida,
25 the League of United Latin American Citizens of

1 Florida and Floridians Against Increased Rates
2 oppose the Motion.

3 The opposing motions filed a written response
4 to the Florida Power & Light motion a short time
5 ago. A copy of that response has been provided to
6 each Commission's office.

7 Staff recommends that FPL be allowed 20
8 minutes to present its Notice and Motion, and that
9 the three parties who oppose the motion also be
10 allowed 20 minutes to present their joint position,
11 and that's position of staff.

12 Thank you.

13 CHAIRMAN LA ROSA: Okay. Thank you.

14 So I am going to go ahead and recognize FPL,
15 but then I am going to come back to the parties,
16 the non-signatory parties, and offer them 20
17 minutes I think that staff just has recommended.
18 So maybe if there is -- if you guys want to share
19 time or whatever, but I am just allocating 20
20 minutes, so you guys can figure that out amongst
21 yourselves as we get there.

22 But let's start with FPL. You are recognized.

23 MR. BURNETT: Thank you, Mr. Chairman. And I
24 would like to take you up on that and share some
25 time with my colleagues down the table, so I will

1 certainly try to be brief and allow for that.

2 CHAIRMAN LA ROSA: Sure.

3 MR. BURNETT: So Mr. Stiller did an excellent
4 job laying out the foundation of the motion. I
5 won't repeat any of that here. I would love to
6 focus on two major points, and then briefly address
7 some of the issues raised in the response in
8 opposition to the joint motion.

9 The first issue, and I think probably the most
10 important issue, is what the joint movants are
11 asking you for here, is exactly what the Commission
12 did in 2021 with FPL's rate case there. That is,
13 there was a contiguous hearing with all the
14 evidence before the Commission, the direct, the
15 rebuttal, the intervenor testimony, as well as
16 settlement testimony in one place with a filed
17 settlement, so the Commission had the benefit of a
18 holistic story.

19 I will note that on page three of the response
20 in opposition filed early -- a couple hours ago.
21 It seems that the non-signatories think that the
22 joint movants are asking for the Commission to only
23 hear a hearing on the settlement. That is not at
24 all what we are asking for. Again, we are ask --
25 and I hope that clears up perhaps some of the

1 opposition here.

2 We know that everyone who is not a party is
3 entitled to full due process. That's exactly what
4 the Commission did in the 2021 proceeding, and it's
5 notable that that order in 2021 went up to the
6 Supreme Court twice, and we heard the first time
7 that it's important for the parties who are not
8 signatories to have the due process of law on all
9 material disputed facts. That's what we did. It
10 went up again, and the order, the amended order was
11 blessed. So we recently just heard from the
12 Supreme Court that the process the Commission
13 followed afforded due process and was the right
14 one.

15 The second thing I would like to note is the
16 difficult position if we proceed today that our
17 witnesses would be in, and there is a few points
18 there.

19 First of all -- and I am speaking only
20 hypothetically -- imagine that a number or an
21 amount changes in the settlement, or even more
22 poignant I believe, if something is removed in the
23 settlement that is part of our as-filed case. We
24 would put our witnesses in a position now of
25 saying, well, I know I said that when I filed

1 direct testimony, but that has changed. They are
2 under oath. What do they do?

3 So each question our witnesses will have to
4 think, am I saying the truth here? If I am not
5 saying something accurate, what do I do because
6 there is a nondisclosure agreement, this is
7 confidential information.

8 And I think that's my second point, that's
9 very important, is the proper way for FPL to
10 proceed as a publicly traded company is when we
11 have a final signed settlement agreement, we file a
12 Form 8-K with the Securities and Exchange
13 Commission along with that settlement telling the
14 world this is what we have done.

15 I worry that as my witnesses are on the stand
16 today, if asked the right question and they don't
17 perceive that there is a problem, there could be a
18 violation of SEC Rule FD today, to where they
19 disclose material non-public information, to where
20 I have to go back then and make a 8-K filing
21 afterwards.

22 So you can see the kind of -- the paradox that
23 our witnesses would be in. Am I telling the truth?
24 Is this confidential? Am I going to do an 8-K
25 vio -- or a SEC violation on the stand today?

1 And the last thing is it just seems kind of
2 absurd that the interven -- that the
3 non-signatories would want a process by which they
4 couldn't have for some cross-examination. I mean,
5 think about -- let's say if something is X in the
6 as-filed case, it's Y in the settlement, I would
7 think those parties would like to say, hey, it was
8 X there, it's Y now. Why the change? What
9 convinced you that Y was okay? We won't be able to
10 do that today, and it just doesn't make any sense
11 to do this in a disjointed way to where you can't
12 hear the full story before you and, frankly, for
13 our witnesses to be able to give commensurate and
14 timely context to that full story.

15 So those two alone, following the Supreme
16 Court's precedent that we just got, and the
17 problems that it would cause for our witnesses, at
18 least in my mind, says there is really not a
19 rational way to handle this but continue until we
20 can get the settlement filed in a week-and-a-half,
21 less than a week-and-a-half, maybe even sooner.

22 As to the opposition that was filed today, one
23 of the -- the first argument is that this is
24 untimely, and that this is a continuance and that
25 it should have been filed at least five days before

1 the hearing. I would note that while this is not
2 an emergency as the non-signatories say, it is
3 certainly an emergent situation.

4 Settlements, as I am sure we all know, are
5 dynamic. They are fluid. As much as FPL would
6 like to, we can't control when counter-parties come
7 to the realization that they want to sign on. And
8 I will tell the Commission that as soon as we had
9 confidence that we had something real, we notified
10 the Commission. And I really wouldn't want to
11 think of not doing that, showing up and saying
12 nothing today, and then perhaps trying to file a
13 settlement in the middle of the hearing after you
14 have wasted multiple days.

15 So it just makes sense that this commission
16 must have a degree of reasonableness and discretion
17 to say, this is akin to an emergent situation that
18 there is really no rational choice, again, back to
19 my prior arguments, but to do a continuance.

20 Administrative efficiency was argued in the
21 response in opposition. I think it's the dead
22 opposite, Commissioners. This is not efficient to
23 go forward today. It's a jumbled record. It's
24 going to be a convoluted record, and the disjointed
25 issues and the problems that I noted show it's not

1 efficient. And, you know what, even if we proceed
2 today, we are going to be back, we are going to be
3 back for a settlement hearing eventually if the
4 settlement is filed. So it seems to make good
5 efficient sense to come back one time and hear it
6 all together.

7 And then finally, the Panda Energy case was
8 cited, and I will just say in passing, Panda Energy
9 was an intervenor in a need proceeding that
10 intervened, I believe it was two days before the
11 hearing, and asked for more discovery, ignored the
12 take the case as you find it directive that the
13 Commission gives. So that's not controlling on the
14 Commission's decision today at all, or persuasive.

15 I thank you for your time and the opportunity
16 to address you, and I will yield to the -- my
17 colleagues.

18 CHAIRMAN LA ROSA: Sure.

19 FIPUG.

20 MR. MOYLE: Thank you, Mr. Chair, and I
21 appreciate the time. We did file a joint motion
22 with all of the settling parties, and I just would
23 like to spend a moment on the due process points.

24 Absolutely, the folks who do not agree with
25 where we are today in terms of the vast majority of

1 the parties reaching a settlement have the right to
2 due process. We are not -- I don't think that is
3 any kind of argument to the contrary on that. What
4 they do not have is the right to say when that due
5 process is provided. That's the province of this
6 commission.

7 This commission has, I would argue, inherent
8 abilities to manage the business before it, the
9 cases before it, as they see best, and you have had
10 something come up at the last minute. It's very
11 material. It affects things. And I would suggest
12 that the more efficient way to handle things
13 consistent with due process is to say you will have
14 due process. You will have the ability to
15 cross-examine on the as-filed case. You will have
16 ability to cross-examine on the settlement case.

17 So I don't think there is any material breach
18 or imposition of rights to due process here. It's
19 simply a situation where facts have emerged
20 quickly, and we think it's in the best interest of
21 all involved if we do not proceed today,
22 particularly witnesses, lawyers, it makes for an
23 awkward situation when you are asking a witness a
24 question and they are aware of a settlement
25 agreement, and how do they answer, it's really

1 cumbersome and would not recommend that that be the
2 way that we proceed.

3 So thank you for the chance to provide just a
4 few insights and comments from FIPUG.

5 CHAIRMAN LA ROSA: You have about 10 minutes
6 left. Any other parties? Florida Retail.

7 MR. BREW: Yeah, just to sort of make the same
8 point by slightly differently.

9 I would expect that from an efficiency
10 standpoint, and we totally defer to your judgment
11 as to what's the most efficient way to proceed, but
12 to the extent that a non-signatory, which is going
13 to have a full chance to fully vet all aspects of
14 the testimony and whatever settlement is filed,
15 once you have seen the settlement, it may very well
16 change how -- you may have more cross for a
17 witness. You may have less cross for a witness.
18 You may want to cross a witness you previously said
19 you would waive. There may be things in there that
20 weren't in other testimony that's new, all of which
21 would affect your approach to the hearing. So I
22 would think, even from a non-signatory perspective,
23 it would be more efficient to be able to
24 cross-examine all of the witnesses based on what's
25 actually going to be asked for you to decide on.

1 Thank you.

2 CHAIRMAN LA ROSA: Any other party? Go ahead,
3 you are recognized.

4 MR. MAY: Mr. Chairman, good afternoon. I am
5 Bruce May with Holland & Knight. We represent the
6 Florida Energy for Innovation Association, also
7 known as the FEIA.

8 Our client is comprised of companies that are
9 developing data centers that will become FPL
10 customers, as well as their affiliates who are
11 customers of FPL. These data center customers have
12 agreed in principle with FPL and the other settling
13 parties on a comprehensive settlement, and we fully
14 support the joint motion that Mr. Burnett just
15 explained for the reasons that he explained.

16 I don't want to be redundant or repetitive,
17 but we believe that the process will facilitate
18 your longstanding principles with respect to
19 settlement discussions, encouraging settlement. We
20 think it will promote judicial economy and
21 efficiency, as Mr. Moyle has laid out, and also
22 will give the three groups who are not agreeing to
23 settle at this point in time ample due process.
24 They will have their own opportunity to put their
25 cases on in full on the case that's filed, as well

1 as the settlement agreement.

2 Again, the FEA and the data center members
3 would respectfully ask that you grant the joint
4 motion, and we look forward to the opportunity at
5 the appropriate time to explain the benefits of
6 this very good settlement agreement.

7 CHAIRMAN LA ROSA: Any other signatory party?
8 Okay. Thank you.

9 Let's now move to OPC.

10 MS. WESSLING: Thank you. And again, on
11 behalf of the citizens of the state of Florida, my
12 name is Ali Wessling, and I intend to share my time
13 with the other two parties who are also not in
14 agreement with what has been proposed.

15 We vehemently object to a continuance, or a
16 suspension, or an amendment, whatever -- however
17 they want to phrase it, because this has been
18 planned for months. There has been tremendous
19 amount of effort and taxpayer money spent on this
20 hearing, and we vehemently object to this being
21 continued.

22 To the extent that it has now been clarified
23 that there is no objection to both a hearing on the
24 petition, as well as a hearing on the settlement
25 agreement itself, that does alleviate some concern,

1 however, we just really want to make sure that we
2 have every opportunity provided to us -- guaranteed
3 to us by Florida Statutes in Chapter 120 to be able
4 to cross-examine and exercise every other right on
5 behalf of the overwhelming majority of Florida
6 Power & Light's customers.

7 We believe that's all of the issues that have
8 been cited by Mr. Burnett are issues and problems
9 of FPL and the signatories own creation. All the
10 issues about everything, and with the formal
11 filings and whatnot, that is -- that is -- we are
12 here because they filed a request for \$10 billion.
13 We are here because they filed this filing on
14 Friday. And we -- although, we had technically
15 seven days under the rule, we expedited our efforts
16 in the midst of preparing for hearing to provide a
17 response to inform both the Commission and all the
18 other parties of our position on this. We filed
19 that response less than one business day after they
20 filed this notice on Friday. So I also want to
21 make that clear, that to the extent that there is
22 any complaint that we just filed this hours ago,
23 that was because it was still within one business
24 day of this notice being filed on Friday at 4:00
25 p.m.

1 I also want to point out that emergent is not
2 the same as emergency. And, again, that is another
3 issue of their own creation. We insist and demand
4 our hearing on both the petition and this motion
5 for this purported settlement agreement, and I will
6 defer to my other parties here for any other
7 comments they have.

8 CHAIRMAN LA ROSA: LULAC.

9 MR. MARSHALL: Thank you, Mr. Chairman. I
10 would echo Ms. Wessling's comments, and add that
11 Florida Power & Light and some of the, you know,
12 parties have indicated they are moving towards
13 settlement are correct, our largest concern is our
14 due process rights and ensuring that we have the
15 right to cross-examine on the as-filed case.

16 And our concern is that even if there is a
17 settlement, as was noted in the response,
18 95 percent of the cross exhibits that have been
19 filed in this case have been filed by the three
20 parties that have not indicated that they have
21 settled. I think that's a good proxy for how much
22 cross time you could expect in the as-filed case as
23 well, that 95 percent of the cross time would be
24 from the three groups of parties that have not
25 indicated that they are going to settle.

1 And so our largest concern is that we still
2 believe that even if there is a settlement, that we
3 need two weeks on the as-filed case, plus whatever
4 additional time is necessary to hear testimony on
5 the settlement itself. And so our primary concern
6 is making sure that we have time to do the
7 cross-examinations that we need, that the
8 Commission has time to hear those
9 cross-examinations. And so I just want to
10 reiterate that we really do believe that we need
11 the two weeks to do so.

12 Thank you.

13 CHAIRMAN LA ROSA: Thank you.

14 FAIR.

15 MR. WRIGHT: Thank you, Mr. Chairman and
16 Commissioners. Good afternoon. Thanks for the
17 opportunity to address you here.

18 The folks down at the other end of the table
19 have made some good points regarding the procedure
20 here. You have heard me say this before. You make
21 the procedural decisions. I strongly agree with
22 the points made by Mr. Marshall just now.

23 The critical issue here is that parties who do
24 not join the settlement, who oppose the settlement,
25 whatever it turns out to be -- we haven't seen it

1 -- will have a full opportunity to litigate not
2 only the settlement, but litigate all issues
3 presented in FPL's base case. FPL's base case is
4 the necessary evidence upon which any evaluation of
5 the justness and reasonableness of rates coming out
6 of a settlement might be. We have to have a full
7 opportunity.

8 I concur, based on everything I know from
9 talking to everybody in this case, that Mr.
10 Marshall is right, that we need something like the
11 two weeks scheduled on the base case, plus a
12 reasonable amount of time in addition to that. I
13 mean, it's not an additional two weeks, but it's an
14 additional two, three, four days, something like
15 that maybe. That's all.

16 Our due process rights pursuant to 120, and
17 fundamental due process rights -- and I think
18 everybody down there agrees, we are entitled to our
19 full due process rights to litigate every issue in
20 the case that we want to litigate, and that's our
21 point, and that's our request.

22 Thank you.

23 CHAIRMAN LA ROSA: Great. Thank you.

24 All right. Commissioners, are there any
25 questions of the parties? Commissioners, any

1 questions? Sure.

2 COMMISSIONER PASSIDOMO SMITH: Okay. I really
3 appreciate hearing each of the parties'
4 perspectives here, when -- just wanting -- you
5 know, we -- when we got this settlement on Friday,
6 I didn't know what I was -- you know, I just -- I
7 needed to hear what all of you were going to say.

8 I appreciate, and I absolutely agree with, it
9 seems like all of you, that each party in this
10 docket is afforded their full due process rights.
11 And I don't -- and, you know, I think I can
12 probably speak on behalf of all five of us, that we
13 want to ensure that that is accomplished.

14 My question I guess is for mostly the
15 intervenor -- the signatories to the settlement,
16 those witnesses. If we were -- if we were to deny
17 this motion and go ahead with the original case,
18 how will that affect your witnesses? Will they
19 still appear and put on the case as their original
20 testimony? Are they going to -- I mean, I think
21 that Mr. Burnett alluded to that a bit about the
22 confusion that they would have by, you know,
23 amending some of their testimony from the
24 settlement, but that's one side of it. And I think
25 encompassing that is if we approve this motion and

1 we do, you know, and then say we -- this is all
2 hypothetical because we haven't voted on anything,
3 but I just mean if we were to approve it and we
4 would have a consolidated case on both things, will
5 those -- will your witnesses, intervenor witnesses,
6 still appear for, you know, to potentially have
7 cross-examination by the non-signatory parties, by
8 Commissioners, how is that -- are you -- how is
9 that going to work?

10 MR. BURNETT: Thank you, Commissioner. I will
11 take the first part and then defer to my colleagues
12 on the second part of their witnesses. But I could
13 certainly say it would put our FPL witnesses in the
14 very bad position that I talked about, perhaps
15 having them sit in awkward silence if one question
16 was asked, just the right question, to is this
17 still accurate? Again, am I disclosing any
18 material non-public information? Am I violating
19 the NDA? But certainly, we would have no choice
20 but to proceed with the case as filed, to your
21 ultimate question, it would just be very awkward.

22 And by example, I had an opening statement
23 that I was going to give today. If we proceed, I
24 have no opening statement. I have nothing to say
25 about the case as filed now because, naturally, I

1 am going to be going to the next phase of this, but
2 it would be very awkward.

3 And then I will yield to them to talk about
4 their witnesses.

5 MR. MOYLE: So in my mind, that, you know, as
6 I have said, I think it's better to consolidate it
7 because as a trier of fact, the point was made, you
8 got somebody you can talk to them about both
9 things, and that just would be, in my mind, better
10 than taking, you know, a month or two-month
11 separation between a hearing now and a hearing
12 later.

13 I mean, I think the way it would work would be
14 it would be the same rules in, you know, two months
15 from now, or whenever the hearing is set, with
16 respect to FIPUG's witnesses, or anybody else. You
17 know, we have put witnesses forward. We would have
18 to get that in. We would have to either stipulate
19 to the admission of the testimony or bring them
20 down.

21 The decision with respect to testimony on the
22 settlement is one that I know FPL will be
23 supporting it. We still have to make judgments
24 about, well, will we be filing testimony or not?
25 But with respect to the primary case, I don't see

1 that really changing anyone's obligation with
2 respect to putting on the evidence.

3 So to try to -- I think to try to address the
4 question you are answering, I see the witnesses
5 being here just like they would in a few weeks, or
6 whenever the hearing is held, as they would today.
7 So I don't necessarily see that you are, you know,
8 losing anything, unless, you know, some party says,
9 you know what, I am going to withdraw Mr. So and
10 So's testimony, then that would be gone from the
11 record. But that's my response and thoughts with
12 respect to the question you asked.

13 MR. BREW: There are kind of three pieces to
14 your question.

15 The first is there is an immediate benefit of
16 the joint motion in that I am no longer going to
17 deliver the opening statement that I drafted last
18 weekend.

19 And the second is that, in all likelihood, the
20 cross-examination that we will need to do is
21 dramatically diminished by virtue of addressing a
22 lot of our concerns in the forthcoming agreement.

23 The third is that we will make our witness
24 available, to the extent that there were questions
25 from any of the other parties, that witness we will

1 make them available subject to guidance on
2 questions that may go to a settlement agreement
3 that hasn't been filed yet, the same dilemma that
4 everybody else faces.

5 COMMISSIONER PASSIDOMO SMITH: Mr. Chair, do
6 you mind -- and after we hear from, I think,
7 Walmart too, if I -- if we were to also hear, if
8 the non-signatory parties have a --

9 CHAIRMAN LA ROSA: Sure.

10 COMMISSIONER PASSIDOMO SMITH: -- response,
11 because I am making sure that in case they have
12 questions, they will have -- in the original case,
13 they were going to have questions for the other
14 intervening parties witnesses, I want to make
15 sure --

16 CHAIRMAN LA ROSA: Yeah, that's fair.

17 Let's hear from Walmart.

18 MS. EATON: Sure. I would say that we also
19 would make our witnesses available to the extent
20 once a filed settlement agreement was submitted to
21 the Commission and the other parties have an
22 opportunity to review that, the terms, they may or
23 may not change what they were going to do. They
24 can certainly question them about their filed
25 testimony, but then they may not want to, so it's

1 -- if we proceeded with intervenors being
2 questioned now, I think the intervenor witnesses
3 would perhaps also run into that same question --
4 or the same problem Mr. Burnett was speaking of for
5 the FPL witnesses, where if things are subject to
6 an NDA, they can't really explain their testimony
7 like they would otherwise. So I think there is
8 those two dilemmas and two issues going on at the
9 same time.

10 CHAIRMAN LA ROSA: OPC.

11 MS. WESSLING: I think to answer your
12 question, I would just reiterate one thing I said
13 earlier. Our main goal is preserving our due
14 process rights, so as long as we have an
15 opportunity to cross-examine the witnesses on both
16 the testimony that they filed in the case in chief
17 to support the requested petition, as well as an
18 opportunity to question those same witnesses to the
19 extent they have information relevant to the
20 settlement agreement, that's our main objective.
21 And so I think I will leave it at that and defer to
22 the others if they have a difference of opinion.

23 MR. MARSHALL: We agree with that. We just do
24 have -- I will just represent to you that we do
25 have cross-examination questions for the intervenor

1 witnesses that we haven't stipulated to yet and
2 that are not subject to the two joint motions for
3 approval of stipulations that are in front of you
4 regarding -- from the stipulations seeking to enter
5 into the record to waive those witnesses. Those
6 would be waived if those joint motions are
7 approved.

8 But otherwise, we do have questions for the
9 other intervenor witnesses and our -- you know, our
10 concern is just making sure that we have the
11 opportunity to ask those cross-examination
12 questions and that we have the time to do so.

13 Thank you.

14 MR. WRIGHT: Thank you again, Mr. Chairman.
15 Very briefly.

16 I agree with Ms. Wessling and Mr. Marshall,
17 that the important thing is to ensure that we have
18 a full due process opportunity to litigate every
19 issue in the case. Frankly, I am very comforted by
20 the remarks made by my colleagues down at the other
21 side of the table, and also comments from the
22 bench, that our due process rights will be
23 preserved.

24 Thanks very much.

25 COMMISSIONER PASSIDOMO SMITH: Thank you,

1 Mr. Chair.

2 I appreciate hearing all of that. Again, I
3 think we still have some deliberation about what we
4 are going to do here, but I am comforted by -- I
5 mean, I initiate -- I guess as a background, you
6 know, I was appreciating that some of the parties
7 got -- and negotiated, but it did give me pause
8 that the residential customers are not in this
9 settlement, the proposed settlement that was
10 brought forward.

11 So I -- my perspective is whatever we choose
12 to do, as long as both cases are able to be fully
13 litigated, both the settlement and the original
14 case, that those -- your clients have the
15 opportunity to have those questions be -- and to be
16 able to ask cross-examination by both the company's
17 witnesses and intervening witnesses that might have
18 a different perspective, so I feel much more
19 comfortable now.

20 CHAIRMAN LA ROSA: Commissioners, any further
21 questions?

22 Commissioner Fay.

23 COMMISSIONER FAY: Thank you, Mr. Chairman.

24 I just maybe wanted to get some quick clarity
25 from OPC, Ms. Wessling.

1 So in your response, Ms. Wessling, you
2 mentioned Rule 28-106.210, and that's the,
3 essentially the timeframe before the hearing. It
4 sounds like what you are saying based on that
5 response -- or based on what you are saying today
6 and that response, if the parties and the
7 Commission allow the non-signatories the
8 opportunity to have their due process, like, go
9 through that litigation process, which it sounds
10 like may entail some cross being waived by the
11 folks who are parties to the agreement, and maybe
12 even some on your end too, there could be
13 efficiencies created, but you still want the
14 ability to do that both on the case as filed and
15 the settlement components that are built into that.
16 If that component is satisfied, does that sort of
17 address the issue that you mentioned in your
18 response?

19 MS. WESSLING: Well, only speaking on behalf
20 of OPC, I haven't conferred with the other parties
21 to the response, but again, the main thing that we
22 need to protect is the opportunity. Now, whether
23 that's today, which we are prepared and ready to go
24 forward today, or whether that's some time in the
25 future, as long as we have that period of time,

1 then we are less concerned, I would say, about the
2 timeliness of the motion as we are with the overall
3 due process rights, the greater due process rights
4 protected by Chapter 120, rather than the rule.

5 COMMISSIONER FAY: Okay. One follow-up, Mr.
6 Chairman.

7 CHAIRMAN LA ROSA: Sure.

8 COMMISSIONER FAY: And so then if you had, for
9 example, a witness that, within the settlement,
10 some component of what was agreed to deviates from
11 what was filed in the initial proceeding, would you
12 be better off given the opportunity to know that
13 original filing information and the information in
14 the settlement to be able to question that witness,
15 to potentially cross that witness?

16 MS. WESSLING: That's a big hypothetical, but
17 I think there is a possibility, and I would
18 generally agree that more information is usually
19 better than less. But, you know, speaking
20 hypothetically, I hope that answers your question.

21 COMMISSIONER FAY: Yeah, it does.

22 Mr. Chairman, I mean, I do think it does sound
23 everybody agrees on something is this due process
24 component, making sure we are following that. And,
25 you know, I have concerns of the complexities of

1 how we move forward and make that work. I mean, if
2 there is a new issue in the settlement that maybe
3 the non-signatories are not given the opportunity
4 to question, that concerns me. If there is a
5 witness that's been waived and maybe the party
6 would not waive of that witness, that concerns me.
7 I mean, there is a lot of due process components
8 that, you know, I think we all prioritize, but I
9 take really seriously, and I am concerned how we do
10 those in a way that protects that component for,
11 especially the non-signatories, but also the
12 signatories to the process.

13 So it sounds like there is a way to do it
14 going forward, Mr. Chairman. I know that might
15 mean impacting peoples schedules and the logistics
16 as to how that would work, but I will just say that
17 you absolutely have my commitment to make whatever
18 we are able to do as a commission to be here and
19 give everyone that opportunity knowing that, you
20 know, this is our largest utility provider. There
21 is a lot of customers, and as Ms. Wessling said,
22 the more information the better. I want to get
23 this right.

24 And so, you know, I would support trying to
25 move forward in a way that allows them to do that,

1 and it sounds like, really, the challenge will be
2 both probably from the Chair's seat, but also from
3 our Commission staff, everybody to try to make
4 those components work so everyone is given that
5 opportunity and we don't end up in this sort of
6 awkward situation with witnesses, where we are not
7 sure what should be asked. We will have
8 objections. You will have to make these
9 determinations on the fly as to what could be asked
10 about or not. I just think it seems like it
11 wouldn't get the end result that everyone is
12 arguing that we need here today.

13 So, you know, I support moving forward in a
14 way that allows the non-signatories an opportunity
15 to do that, and would be committed to whatever
16 timeline the Commission feels is appropriate to
17 commit to being here and making sure they are
18 heard.

19 Thank you.

20 CHAIRMAN LA ROSA: Thank you.

21 I will just say in quick response, is that you
22 would have my commitment that, one, due process is,
23 of course, protected. And, yeah, agreed, that
24 there are some complexities to the situation that
25 we are in. And I do not have all the answers

1 today, but I am super confident of our staff that
2 we can work something to make it make sense for all
3 the parties. And I am also confidential about some
4 of the things that I have heard today. But
5 certainly, as both the Chair and the Prehearing
6 Officer, you certainly have my commitment to button
7 up whatever may come of our decision and to make it
8 as right as possible.

9 Commissioners, is there any deliberation?
10 Although, that sounds a lot like deliberation.

11 Okay. And do -- Commissioners, I will ask
12 this question. Is it necessary for us to take a
13 break, or are we ready to make a motion on what's
14 being presented?

15 COMMISSIONER FAY: Mr. Chairman, if we could,
16 I would like a few minutes to confirm with our
17 staff to make sure -- I know we have the motion, we
18 have the response. We have a number of things on
19 our desk, and I think depending on how the motion
20 is presented to the Commission could sort of impact
21 how we take it up and how it's voted on, and so I
22 would like just to confirm with them that we are in
23 the right posture for taking it up and providing
24 clarity going forward, and maybe some specifics as
25 to what that future looks like.

1 I think all parties, parties signed on or not,
2 will need some direction from the Commission on
3 timelines, and maybe how those things would work
4 out, and so maybe we can't resolve all of that in a
5 motion today. But to your point, I know our staff
6 will be committed to trying to figure out maybe how
7 that would work if this body decides it wants to go
8 forward, allowing opportunity for both the original
9 filing and settlement testimony and exhibits to be
10 provided and heard.

11 So with that, maybe a few minutes would be
12 appropriate.

13 CHAIRMAN LA ROSA: Okay. Yeah, and agreed.
14 Let's take a few minutes to confer, and let's say
15 10 minutes, so 10 minutes until two o'clock, and we
16 will reconvene then.

17 Thanks.

18 (Brief recess.)

19 CHAIRMAN LA ROSA: All right. Well, I
20 appreciate it. Sorry a few extra minutes were
21 needed.

22 After conferring, I am going to go to our
23 General Counsel, if that's okay, for a
24 recommendation based on what we have heard and some
25 of the things that have been said.

1 MS. HARPER: Yes, Chair.

2 It sounds like we need a motion, and you would
3 be, it sounds like, recommending to, based on the
4 conversation, grant the suspension portion of the
5 motion. I would recommend that we not commit to
6 any timelines on the procedural -- procedure moving
7 forward at this point until we get the settlement
8 in hand. And that it sounds like there might be
9 some agreement on to how to move forward as far as
10 due process and what will be addressed in a
11 settlement hearing, so I would recommend that the
12 motion address that.

13 CHAIRMAN LA ROSA: Okay. Excellent.

14 Commissioners, any questions of that or any
15 deliberation?

16 Commissioner Fay.

17 COMMISSIONER FAY: Thank you, Mr. Chairman. I
18 am ready to move, unless my colleagues have
19 anything. Okay. Great. Thanks.

20 So with that, Mr. Chairman, I would move to
21 approve to suspend the schedule with allowing the
22 Commission the discretion to set the timeline for
23 the hearing process, which would include the
24 ability for the parties to present both the
25 information on the filed settlement, but also the

1 information as filed in the docket.

2 COMMISSIONER GRAHAM: Second.

3 CHAIRMAN LA ROSA: All right. Hearing a
4 motion, and hearing a second.

5 All those in favor signify by saying yay.

6 (Chorus of yays.)

7 CHAIRMAN LA ROSA: Yay.

8 Opposed no?

9 (No response.)

10 CHAIRMAN LA ROSA: All right. Then show that
11 that motion passes.

12 You certainly have my commitment to continue
13 to work to make sure that we button everything up,
14 as I was suggesting earlier.

15 I am going to be to our Commission staff. In
16 this position, what's kind of the next best move?

17 MR. STILLER: Mr. Chair, I think you are set.
18 We will draft an order granting the motion to
19 suspend schedule. From what I heard from the
20 motion, an amended OEP will not be issued until
21 after the settlement has been received and
22 reviewed. And I believe that's all for today.

23 CHAIRMAN LA ROSA: Okay. Commissioners, any
24 other thoughts?

25 Then let's go ahead and let's call today

1 adjourned, and then, of course, I will -- then we
2 will get back to you as soon as possible, as soon
3 as we have more to discuss.

4 Great. Thank you all.

5 MR. WRIGHT: Thank you.

6 (Transcript continues in sequence in Volume 2
7 to be taken up at a later date.)

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1 CERTIFICATE OF REPORTER

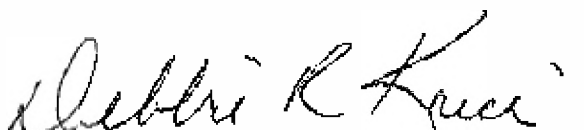
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45 I, DEBRA KRICK, Court Reporter, do hereby
6 certify that the foregoing proceeding was heard at the
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9 stenographically reported the said proceedings; that the
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12 transcription of my notes of said proceedings.13 I FURTHER CERTIFY that I am not a relative,
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