BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

FLORIDA RISING'S, LEAGUE OF UNITED LATIN AMERICAN CITIZENS', & ENVIRONMENTAL CONFEDERATION OF SOUTHWEST FLORIDA'S RESPONSE IN OPPOSITION TO MOTION TO APPROVE SETTLEMENT AGREEMENT

Florida Rising, Inc., LULAC Florida, Inc., better known as the League of United Latin American Citizens of Florida ("LULAC"), and the Environmental Confederation of Southwest Florida, Inc. ("ECOSWF") (collectively, "FEL"), respond in opposition[1] to the Joint Motion for Approval of Settlement Agreement. Once again, Florida Power & Light Company ("FPL") has made a golden deal for itself and used levers of settlement to grant unjustified concessions to its largest customers, like Walmart,[2] in the form of gratuitous bill credits and unjustified cost shifting, paid for by the residential and small business customers of the State of Florida. In a settlement, there is normally "give and take." In this case, there is no give—just take. FPL takes all that they want, almost $7 billion in this case over the four-year term, and the other intervenors joining the "settlement" take approximately $1 billion in subsidies paid for by the residents and small businesses of Florida. FEL, comprised of mostly residential customers but also some small businesses, objects to this "settlement" and demands their right to cross-examine all witnesses

[1] This Response in Opposition contains a summary of some of the immediately apparent defects with the purported "settlement." FEL plans to conduct discovery on the "settlement," cross-examine any witnesses supporting the "settlement," and then conduct post-hearing briefing on the settlement and FPL's as-filed case. Failure to mention a specific issue with the "settlement" in this Response is in no way a waiver of the issue.

[2] One would think, incorrectly, apparently, that companies like Walmart would be interested in making sure their customers can continue to afford to shop there.

and exhibits as provided under chapter 120, Florida Statutes.[3] The proposed "settlement" is unjustified, and results in unfair and discriminatory rates against the public interest. Without any compromises except to extract more money out of residential customers and small businesses (approximately 99% of FPL's customers) than originally contemplated, small businesses, including Florida Rising, Inc. and certain members of ECOSWF, would have actually had a significantly lower bill impact than if FPL's original rate increase had been approved in full. Instead, some of the most profitable and largest companies in Florida, like Walmart, and very specific niche groups, like electric vehicle charging groups (the "1%" of FPL's customers), decided to let FPL take everything they wanted in exchange for them being able to pass off the rate increase onto residential customers and small businesses. And at least Walmart has not hidden behind the fronts of other "ad-hoc" groups that answer to no one and have no capacity to sue nor be sued.[4] It remains a mystery to FEL how these groups, like FIPUG, can enter into a "settlement" contract given their inability to appear in a court of law in Florida. Yet FPL is all too happy to enter into a "settlement" with the 1% that lets FPL take everything they want (a 10.95% return on equity, the highest in the nation by far by any utility of note, topping the record-shattering 10.5% this Commission gave to Tampa Electric Company last year and currently on appeal, hardly counts as a "give"), while letting these 1% groups take more and more from residential customers and small businesses, actively moving small businesses ever-further away from rate parity. FEL reiterates that it is not a radical demand for its members to

[3] Many of the facts asserted in the response are contained in, thus far, unadmitted pre-filed testimony and exhibits listed on FEL's cross-examination list. FEL plans to establish such facts during the required evidentiary hearings.

[4] Corporations, "[u]nless its articles of incorporation provide otherwise . . . has the same powers as an individual . . ., including power: (1) To sue and be sued, complain and defend in its corporate name." § 607.0302, Fla. Stat.

only pay their fair share of costs – yet that is all FEL asks and why it is treated as a pariah. To allow residential customers and small businesses to pay only their fair share of the costs would require Florida's largest and most profitable businesses to pay their fair share of the costs, and this they most certainly do not want to do.

The "settlement" also allows FPL to take black box rate increases in 2028 and 2029 on the assumption that their over $10 billion in capital expenditures in each of those years are justified, when no justification at all has been provided for those expenditures except for a small piece related to the solar and batteries (the "SoBRA" mechanism). The rest continues to be a black box, paid for by customer money in the form of "TAM" and other forms of customer money. The Commission must not allow effectively billions of dollars in rate increases (paid for, temporarily, with non-cash based rate increases but using other forms of money that customers will have to pay back to FPL, with a large cliff of a rate increase in 2030) for a black box number that the Commission has no insight into the prudence of.

I. COST OF SERVICE IS NOT OPTIONAL, EVEN IF IT MEANS THE 1% WOULD HAVE TO PAY THEIR FAIR SHARE

A. Flat Rate Increase Worsens Disparities

The settling parties choose to ignore cost of service and give a flat rate increase to all customer classes, with a minor break for the residential class. While this may seem fair, it is not. Even the "break" for the residential class does little to move the residential class towards parity (i.e., paying their fair share). Even the most egregious cost of service "study" filed in the rate case, by FIPUG, indicated that residential customers should be getting a lower relative increase than they are getting by the "settlement." And that says nothing about small business (GS) customers, like Florida Rising, Inc. and certain members of ECOSWF, who will be moving further *away* from parity with a flat increase, meaning that not only will they be paying far more

than their fair share, but the proportion they will pay above and beyond their fair share will *increase* under the settlement. Under FPL's as-filed case, GS customers faced a less than $25 million rate increase. Now, under the "settlement," such customers will be experiencing an over $75 million rate increase in 2026, more than *triple* FPL's as-filed case (assuming that FPL's as-filed case was approved in its *entirety* at an 11.90% return on equity). To put that in rate terms, as-filed, GS customers were expected to pay $0.07482 per kWh in 2026. Now, under the "settlement," those customers, including Florida Rising, Inc., are expected to pay $0.08038 per kWh.

"In fixing fair, just, and reasonable rates for each customer class, the commission *shall*, to the extent practicable, consider the cost of providing service to the class . . .; the consumption and load characteristics of the various classes of customers." § 366.06(1), Fla. Stat. (emphasis added). As indicated by the word "shall," this is not an optional requirement under Florida law, waivable because the 1% customers currently paying far less than their fair share wish to pay even less (with a flat increase, the customers paying less than their fair share, mathematically as the "pie" grows, will be even further away from parity and thus paying, proportionally, even less towards their fair share of the costs). Yet, that is exactly what the "settlement" proposes to do. On these grounds alone, the Commission must disapprove the "settlement."

B. Extra, Non-Cost-Effective Bill "Credits" for the 1% at the Expense of the 99% for Nothing in Exchange Are Wrong and Increase the Exploitation of Residential Customers and Small Businesses

Other than making sure they are even further away from paying their fair share of the costs, the industrial and large commercial signatories (the "1%") give away the game with the "settlement" taking even more money from the general body of ratepayers to go well-beyond cost-effective "credits" for being interruptible (even though they are never interrupted), to the tunes of millions of dollars more per year when set at $9.75 per kW, and tens of millions of

dollars per year more than as proposed by FPL in their as-filed case. More than any reason, it is apparent that this taking from the general body of ratepayers is why these large commercial and industrial customers are willing to let FPL take everything they want in this rate case. The losers, of course, are the 99% of customers who are small businesses and residential customers, who are left holding the bag and paying for these credits that are not cost-effective and for which the 1% give up nothing since they are never curtailed, never interrupted, and never expect to be curtailed nor interrupted given how reliable FPL's system is.

C. $15 Million for ALICE Customers is Nice, but Reflects Approximately 1% of the Rate Increase the "Settlement" Foists Onto Those Customers

With, conservatively, over a third of FPL's residential customers meeting the eligibility criteria of ALICE (so, almost two million of FPL's customers), and with about 60% of the rate increase falling on residential customers (of just under $7 billion), rough math shows that approximately $1.5 billion of the proposed rate increase will fall on ALICE households. In other words, the $15 million in the "settlement" represents 1% of the rate *increase* that is falling on those households that the $15 million is meant to help. FPL is already the disconnection king, recently disconnecting over 1 million Florida households in a 1-year period for being unable to pay their FPL bills. This $15 million will make an approximate 1% dent in the additional need for help that this "settlement" creates.

II. THE AGREEMENT SHOWERS FPL WITH UNJUSTIFIABLE FINANCIAL ELEMENTS, BETWEEN ROE, EQUITY STRUCTURE, AND TAM

A. ROE and Capital Structure are Egregiously High

FPL has no need for either the 10.95% return on equity nor the 59.6% equity ratio contemplated by the 1% parties' agreement. Both the ROE and equity ratio would be the second highest approved for any regulated electric utility in the United States, beat only by Alaska Electric Light & Power—a tiny utility serving roughly 17,000 customers in the remote and

unforgiving territory centered on Juneau, Alaska.[5] As the single largest utility in the country, FPL has shown no comparative need for such a high ROE or equity ratio, let alone both. Approving such a high ROE would also be flatly inconsistent with the Commission's recent decision to increase the ROE awarded to Tampa Electric Company above the Staff recommendation on the express basis of TECO's small service territory.[6]

Moreover, the fact that FPL's as-filed petition seeks an ROE 95 basis points above that which is included in the agreement shows that FPL's originally requested value was never actually needed for FPL to continue to provide reliable electric service, despite strenuous testimony to the contrary. The same is true for the ROE announced in this agreement.

B. The RSM Impermissibly Expropriates Customer Funds and Double Charges Customers to Ensure FPL Earns at the Top of its Authorized Range

The agreement introduces a Rate Stabilization Mechanism ("RSM") that will function as a slush fund to allow FPL to earn at the top of its range, as it has previously done with the Reserve Surplus Amortization Mechanism ("RSAM"). This newly minted RSM will be funded by several sources, including the remaining funds in the RSAM that was included in FPL's 2021 Settlement, unprotected deferred tax liabilities, and investment tax credits ("ITCs") associated with the 2025 battery storage project. Use of this mechanism, like the RSAM that preceded it, does not provide any benefit to customers, as it will allow FPL to hang on to excess customer money—particularly overearnings during the summer months during which FPL chronically under-forecasts energy sales—that could otherwise push FPL over the top of its authorized range and subject it to a petition for a rate reduction to return those overearnings to its customers. In

[5] Alaska Electric Power and Light, About Us, https://www.aelp.com/About-Us (accessed August 20, 2025).
[6] *In re: Petition for rate increase by Tampa Electric Company*, Docket No. 20240026-EI, Special Commission Conference Agenda Transcript at 48-52 (Dec. 3, 2024).

other months, FPL will still use the mechanism to boost its earnings to achieve nearly or exactly the top of its authorized range, with the same precision it has demonstrated in virtually every month of earnings since the Commission first signed off on the predecessor RSAM. This benefits shareholders, not FPL's actual customers, who are demonstrably struggling to afford FPL's bills as it is, and who would benefit far more from having that money back in their pockets.

Crucially, the principle source to seed the RSM is $1.115 billion of unprotected deferred tax liabilities—the same pool that FPL proposed to use as the Tax Adjustment Mechanism ("TAM"), in FPL's as-filed petition. Any use of TAM funds for this purpose will double-charge customers, as those are funds that FPL has already collected to pay income taxes, which FPL will expend to stay at the top of its range over the next four years, and then *recollect* from customers for a full generation to come.

The agreement also expropriates the ITCs associated with the 2025 battery storage project—a resource that FPL's customers will be paying for, and for which they should receive the benefit of the associated ITCs, not FPL. As with the ITCs from the 2026 and 2027 additions, as well as the 2028 and 2029 SoBRA battery additions, these ITCs should be normalized over the life of the associated asset and applied to offset some of the revenue requirement to the general body of ratepayers in each year of revenue impact.

III. FPL'S AGREEMENT NOT TO ADD ADDITIONAL LAND TO THEIR PROPERTY HELD FOR FUTURE USE PORTFOLIO IS NOT A MEANINGFUL COMPROMISE

FPL agrees not to purchase any more land for solar projects during the minimum term of their "settlement" agreement (with the exception of the Duda property already controlled under a purchase option), however, this is not much of a concession given that FPL already has enough property to support their planned solar and battery development through 2034. In fact, FPL has

even more land in Property Held for Future Use (PHFU) than is planned to enter service within the next 10 years, with enough land to support 18,625 MW of new solar, and only 17,433 MW of forecasted generation need identified in the 2025 Ten Year Site Plan. FPL has also stated that they do not currently have any specific goals to continue searching for properties to add into their PHFU portfolio. Again, promising not to purchase any more land when they already have over 100,000 acres of land in PHFU and no concrete plans for expanding this number anyway, is not a meaningful concession.

FPL agrees to "commit to best commercial efforts" to sell $200 million worth of property from the PHFU portfolio. This is just a fraction of the amount of property that FPL currently has in PHFU—some of which it has held for nearly half a century without entering into use—and is merely a fig leaf covering up that FPL has become one of the largest land owners in the State, rate-basing that land with the promise that one day, FPL may find a use for it.

IV. FPL'S PROPOSED BATTERY ADDITIONS ARE NOT SUPPORTED

FPL's settlement agreement requires FPL to show a demonstrated reliability need for cost recovery of the 2028-2029 battery additions; however, it does not require this for the proposed 2027 battery additions. FPL proposes to add 819.5 MW of battery additions in 2027 and a total of 1,200 MW of battery additions in 2028 and 2029, relying on their flawed stochastic loss of load probability analysis ("SLOLP") to justify these additions. The SLOLP includes various inputs that are not reflective of FPL's actual system and greatly overestimates FPL's resource needs in the next four years. Because FEL does not believe the SLOLP to be an accurate depiction of FPL's system and reliability needs, and FPL has no other support for the 2027-2029 battery additions, FEL opposes a "settlement" agreement that legitimizes and accepts these proposed battery additions as necessary.

V. FPL ALLOWING SPECIAL INTEREST EV CHARGING COMPANIES TO TAKE MONEY FROM THE GENERAL BODY OF RATEPAYERS IS NOT A "GIVE"

FPL agrees to raise its UEV rates to reflect competitive market prices and thereby make EV users accountable for their fair share of charging costs rather than continue being subsidized by the general body of rate payers. But instead of returning that money to the general body of rate payers, FPL will use it to buy the support of interveners like EVgo and Electrify America under the guise of a completely unnecessary "Make Ready" program. Even though Florida boasts one of, if not the most, robust private electric vehicle markets in the country, the program will help incentivize private investment in Direct Current Fast Charging (DCFC) infrastructure throughout FPL's service area; a $20 million bill paid for, once again, by the general body of rate payers, most of whom do not drive electric vehicles and will never reap the benefits of their forced investment. As a final "give," FPL also commits to no further investment in or construction of its own public fast charging infrastructure. For a company that has already indicated it planned to halt such investment within the next couple of years this can hardly be considered a concession.

VI. THE LLCS TARIFF PRIORITIZES THE INTERESTS OF NON-EXISTENT FUTURE CUSTOMERS AT THE EXPENSE OF THE CURRENT BODY OF RATE PAYERS

Although allegedly created to protect the general body of rate payers from subsidizing the costs caused by future large load customers, like data centers, FPL's LLCS tariff comes up disappointingly short. FPL has made clear that it lacks the generation capacity to serve large load customers, thus under the LLCS such customers would be required to foot the bill for any incremental generation built to serve its needs—that's only fair. Instead of standing firm in its as-filed proposal, FPL caved at the first sign of pressure from large load commercial and industrial interests, like FIPUG, Walmart, and FEIA. By increasing the LLCS tariff threshold to

50MW and 85% Load Factor (from 25MW and 85% Load Factor), the "settlement" agreement leaves the general body of rate payers to cover the incremental generation costs for large load customers falling just under that threshold. Perhaps more concerning, the settlement agreement reduces LLCS customers' "take or pay" requirements from 90% as-filed to 70%. Residential and small business customers oppose such an agreement and yet, if approved, will still be stuck footing somebody else's bill if/when a large load customers' purported demand fails to materialize in time. That is not just and cannot stand.

CONCLUSION

A "settlement" by the 1% interests does nothing to settle the issues in the case, given that the parties to the "settlement" take everything they want from residential and small business customers and give up nothing in return. At the conclusion of a full-hearing and post-hearing briefing encompassing all the issues in the as-filed case and embodied in the "settlement," Florida Rising, LULAC, and ECOSWF will be asking the Commission to reject the "settlement" as contrary to the public interest and resulting in unjust, unfair, and discriminatory rates.

RESPECTFULLY SUBMITTED this 20th day of August, 2025.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy and correct copy of the foregoing was served on this 20th day of August, 2025, via electronic mail on:

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DATED this 20th day of August, 2025.

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