

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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

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

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”), hereby respond in opposition to the Florida Retail Federation’s (“FRF’s”) Motion for Protective Order From, or, in the Alternative, Motion to Quash Certain Interrogatories (Nos. 1-5) from FEL’s First Set of Interrogatories to FRF (hereinafter, “FRF’s Motion for Protective Order”). The discovery in question was attached to FRF’s Motion for Protective Order. FRF makes several crucial misrepresentations in its motion, including the nature of the discovery requested and regarding the Commission’s prior orders in these cases. The interests FRF represents are plainly relevant to the issue of whether the Special Interest Parties’ (“SIP”) purported Agreement that was filed in this docket on August 20, 2025, is in fact supported by a diverse coalition of interests, as the SIPs claim. Instead, FRF’s Motion for Protective Order takes a black box settlement and says, “That’s not secret enough.” The Motion reflects what appears to be the emerging consensus among the SIP signatories that it’s insufficient for the black box to contain only the settlement negotiation process—instead, the signatories themselves must also be allowed to hide in the box in order to evade legitimate

discovery on their actual identities and interests. The Commission should reject FRF's lawless proposal and deny the Motion for Protective Order.

In evaluating a motion for protective order, as with any contested discovery, “the baseline test . . . is always relevance to the disputed issues of the underlying action.” *Owners Insurance Co. v. Armour*, 303 So. 3d 263, 267 (Fla. 2d DCA 2020) (internal quotations omitted). Pursuant to Florida Rule of Civil Procedure 1.280(d), a protective order may be granted solely “for good cause shown,” in order to “protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense that justice requires.” Here, the requested discovery is wholly relevant to the disputed issues of the underlying action—the SIP's contested settlement agreement—and FRF has failed to establish any cause to excuse it from providing the otherwise discoverable information responsive to FEL's requests.

First, FRF is wrong when it represents that no parties, including FEL, “challenged . . . FRF's standing to participate as an intervenor.” As reflected in the Prehearing Order, Order No. PSC-2025-0298-PHO-EI at page 44, FEL disagreed, and still disagrees, that FRF has standing in this proceeding. Second, FRF grossly misrepresents Order No. PSC-2025-0130-PCO-EI, when FRF says “the Commission determined that FRF had satisfied three prong criteria for establishing associational standing.” FRF's Motion for Protective Order at 2. The order in question specifically said that “*Taken as true*, FRF's *allegations* are sufficient to support all elements of associational standing under *Florida Home Builders*. Therefore, FRF's petition to intervene shall be granted, *subject to proof of standing* or stipulations that there are sufficient facts to support all elements of standing.” Order No. PSC-2025-0130-PCO-EI at 2 (emphasis added) (“FRF's Intervention Order”). The difference between the Commission finding that the “allegations are sufficient” to support the elements of standing, and the Commission having

actually “determined that FRF had satisfied” the criteria for standing is a gulf as wide as an evidentiary hearing, which has not occurred yet. By claiming that the Commission has already “determined that FRF had satisfied [the] three prong criteria,” FRF makes a gross misrepresentation, as no evidence has been submitted into the record yet, and therefore the Commission has made no such determination. More than that, FRF’s Intervention Order specifically found that FRF’s intervention was subject to proof of standing. In no way did FRF’s Intervention Order place a burden on FEL to conduct discovery on FRF’s standing. That burden is, and remains, FRF’s burden.<sup>1</sup> There is still a question of fact and law, as FEL maintains, as to whether FRF has satisfied *FRF*’s burden to demonstrate proof of standing in this case.<sup>2</sup>

However, the discovery in question is not about FRF’s standing, and so FRF’s Motion for Protective Order, somehow, misses the point. Rather, as is—or at least should be—self-evident, the discovery goes to the question of the interests that FRF claims to represent. FEL agrees with FRF that the Revised Order Establishing Procedure, Order No. PSC-2025-0323-PCO-EI (“Revised OEP”) limits the “scope of permissible discovery to issues surrounding the Settlement Agreement.” FRF Motion for Protective Order at 4. However, FEL disagrees that the “new discovery window only authorizes discovery on new issues of fact or law that may have emerged

---

<sup>1</sup> In FRF’s Motion for Protective Order, it states that “Mr. Georgis’ direct testimony recounted FRF’s associational interest in the issues presented in the FPL base filing.” FRF Motion for Protective Order at 2. If this is a reference to page 3, lines 11-16 of Mr. Georgis’ pre-filed testimony, this would seem to miss the mark on fulfilling FRF’s burden to establish standing. The vague reference to FRF being an “established association” and having “members purchase electricity from pursuant to various FPL rate schedules,” is hardly sufficient to prove that “(1) the substantial interests of a substantial number of its members may be substantially affected by the proceeding; (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.” FRF Intervention Order at 2.

<sup>2</sup> FEL will brief this issue, *after* the evidentiary hearing, as to whether FEL believes FRF has met *FRF*’s burden to demonstrate standing in this case, with the ultimate determination being made by the Commission after the evidentiary hearing and opportunity for briefing.

as a direct result of the settlement.” FRF Motion for Protective Order at 4. This language cannot be found in the Revised OEP, and FRF points to no language in the Revised OEP limiting discovery so narrowly. If FRF wanted discovery to be so narrowly constrained, it should have moved to amend or clarify the Revised OEP.

However, simply put, the interests FRF represents, beyond possibly relating to FRF’s standing (Issue 1), were not relevant before the existence of the SIP agreement to the issues the Commission was facing (*see* Issues 2-130 in the Prehearing Order). Those interests have been, newly, put squarely at issue by the SIPs. *See, e.g.*, Joint Motion for Approval of Settlement Agreement at 10 (Aug. 20, 2025) (emphasis added) (“Each of the Signatories agrees that it has entered into the Settlement Agreement voluntarily, that it fairly and reasonably balances the various positions of the parties on issues in this proceeding, and that it serves the best interests of the *customers they represent* and the public interest in general.”); Pre-filed Settlement Testimony of Scott Bores at 23, lines 9-10 (emphasis added) (SIP “Agreement represents a compromise between FPL and a *diverse coalition cf customer groups*”). Moreover, in its Public Interest determination, the Commission often relies on the representation of the settling parties as to the “diverse” interests they represent for a finding that the agreement is in the public interest. *See, e.g.*, Final Order Approving 2021 Stipulation and Settlement Agreement, *In re: Petition for rate increase by Florida Power & Light Company*, Docket No. 20210015-EI, Order No. PSC-2021-0446-S-EI at 20-21 (Fla. P.S.C. Dec. 2, 2021) (“A determination of public interest requires a case-specific analysis based on consideration of the proposed settlement taken as a whole. . . . the signatories to the 2021 Settlement represent a broad section of FPL’s customer classes and a large majority of the parties to this case. . . . In short, the 2021 Settlement is the product of serious bargaining among capable, knowledgeable signatories representing virtually every

customer class.”); Order Approving Settlement Agreement, *In re: Petition for rate increase by Florida Power & Light Company*, Docket No. 160021-EI, Order No. PSC-16-0560-AS-EI at 4 (Fla. P.S.C. Dec. 15, 2016) (“A determination of public interest requires a case-specific analysis based on consideration of the proposed settlement taken as a whole. . . . The signatories to the Settlement Agreement represent a broad segment of FPL’s customer base including both residential and commercial classes.”). In other words, the interests represented by the SIPs, including FRF, are a new issue stemming from the filing of the SIP agreement. FRF, by joining the SIP agreement and affirmatively representing that the SIP agreement is in the “public interest” and “serves the best interests of the customers they represent” squarely teed up the question regarding, what, exactly, customers do they represent? FRF attempts to use the SIP agreement as a sword and a shield—that the SIP agreement is in the public interest because a broad array of customers and customer classes support the agreement—but no inquiry is allowed and FRF is somehow immune from discovery on the interests they represent because it is now in the settlement context. FRF cannot have it both ways. Either the representations being made regarding the SIP agreement need to be withdrawn, or discovery must be allowed. Any other option would deprive FEL of its due process rights.

## CONCLUSION

FRF makes multiple misrepresentations of the Commission’s orders in this docket. But more than that, it somehow misapprehends the nature of the discovery from which FRF seeks a protective order. It is not discovery questioning FRF’s standing—that is FRF’s burden to meet, not FEL’s. Rather, it is discovery regarding FRF’s own representations to the Commission regarding the “settlement” for which FRF seeks approval. That, of course, is squarely at issue

and entirely within the scope of the Revised OEP allowing discovery on issues in the SIP agreement. FRF's Motion for Protective Order must be denied.

RESPECTFULLY SUBMITTED this 8th day of September, 2025.

/s/ Bradley Marshall  
Florida Bar No. 98008  
Email: bmarshall@earthjustice.org  
Jordan Luebke  
Florida Bar No. 1015603  
Email: jluebke@earthjustice.org  
Earthjustice  
111 S. Martin Luther King Jr. Blvd.  
Tallahassee, Florida 32301  
T: (850) 681-0031  
Fax: (850) 681-0020

Danielle McManamon  
Florida Bar No. 1059818  
dmcmanamon@earthjustice.org  
Earthjustice  
4500 Biscayne Blvd., Ste. 201  
Miami, FL 33137  
T: 305.440.5432  
F: 850.681.0020

***Counsel for League of United Latin  
American Citizens of Florida, Florida  
Rising, and Environmental Confederation  
of Southwest Florida***

## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy and correct copy of the foregoing was served on this 8th day of September, 2025, via electronic mail on:

<b>Florida Public Service Commission Office of the General Counsel</b> Shaw Stiller Timothy Sparks 2540 Shumard Oak Boulevard Tallahassee, Florida 32399 sstiller@psc.state.fl.us tsparks@psc.state.fl.us discovery-gcl@psc.state.fl.us	<b>Office of Public Counsel</b> Mary A. Wessling Walt Trierweiler c/o The Florida Legislature 111 West Madison Street, Room 812 Tallahassee, FL 32399 wessling.mary@leg.state.fl.us trierweiler.walt@leg.state.fl.us
<b>Florida Power &amp; Light Company</b> John Burnett Maria Moncada Christopher Wright 700 Universe Boulevard Juno Beach, FL 33408-0420 maria.moncada@fpl.com john.t.burnett@fpl.com christopher.wright@fpl.com  Kenneth A. Hoffman 134 West Jefferson Street Tallahassee, Florida 32301 ken.hoffman@fpl.com	<b>Walmart Inc.</b> Stephanie U. Eaton Spilman Thomas & Battle, PLLC 110 Oakwood Drive, Suite 500 Winston-Salem, NC 27103 seaton@spilmanlaw.com  Steven W. Lee Spilman Thomas & Battle, PLLC 1100 Bent Creek Boulevard, Suite 101 Mechanicsburg, PA 17050 slee@spilmanlaw.com
<b>Southern Alliance for Clean Energy</b> William C. Garner Law Office of William C. Garner, PLLC 3425 Bannerman Road Unit 105, No. 414 Tallahassee, FL 32312 bgarner@wcglawoffice.com	<b>Florida Industrial Power Users Group</b> Jon C. Moyle, Jr. Karen A. Putnal Moyle Law Firm, P.A. 118 North Gadsden Street Tallahassee, Florida 32301 jmoyle@moylelaw.com kputnal@moylelaw.com mqualls@moylelaw.com

<p><b>Florida Retail Federation</b>  James W. Brew  Laura Baker  Joseph R. Briscar  Sarah B. Newman  Stone Mattheis Xenopoulos &amp; Brew, PC  1025 Thomas Jefferson St., N.W.,  Ste. 800 West  Washington, DC 20007  jbrew@smxblaw.com  lwb@smxblaw.com  jrb@smxblaw.com  sbn@smxblaw.com</p>	<p><b>EVgo Services, LLC</b>  Nikhil Vijaykar  Yonatan Moskowitz  Keyes &amp; Fox LLP  580 California St., 12th Floor  San Francisco, CA 94104  nvijaykar@keyesfox.com  ymoskowitz@keyesfox.com</p> <p>Katelyn Lee  Lindsey Stegall  1661 E. Franklin Ave.  El Segundo, CA 90245  katelyn.lee@evgo.com  lindsey.stegall@evgo.com</p>
<p><b>Federal Executive Agencies</b>  Leslie Newton  Ashley George  Michael Rivera  Thomas Jernigan  Ebony M. Payton  James Ely  Matthew R. Vondrasek  AFLOA/JAOE-ULFSC  139 Barnes Drive, Suite 1  Tyndall Air Force Base, FL 32403  leslie.newton.1@us.af.mil  ashley.george.4@us.af.mil  michael.rivera.51@us.af.mil  thomas.jernigan.3@us.af.mil  ebony.payton.ctr@us.af.mil  james.ely@us.af.mil  Matthew.Vondrasek.1@us.af.mil</p>	<p><b>Electrify America, LLC</b>  Stephen Bright  Jigar J. Shah  1950 Opportunity Way, Suite 1500  Reston, Virginia 20190  Phone: (781) 206-7979  steve.bright@electrifyamerica.com  jigar.shah@electrifyamerica.com</p> <p>Robert E. Montejo  Duane Morris LLP  201 S. Biscayne Boulevard, Suite 3400  Miami, Florida 33131-4325  Phone: (202) 776-7827  remontejo@duanemorris.com</p>
<p><b>Florida Energy for Innovation Association</b>  D. Bruce May  Kevin W. Cox  Kathryn Isted  Holland &amp; Knight LLP  315 South Calhoun Street, Suite 600  Tallahassee, Florida 32301  bruce.may@hklaw.com  kevin.cox@hklaw.com  kathryn.isted@hklaw.com</p>	<p><b>Floridians Against Increased Rates (FAIR)</b>  Robert Scheffel Wright  John T. LaVia, III  Gardner, Bist, Bowden, Dee, LaVia, Wright,  Perry &amp; Harper, P.A.  1300 Thomaswood Drive  Tallahassee, Florida 32308  Telephone: (850) 385-0070  Fax: (850) 385-5416  schef@gbwlegal.com  jlavia@gbwlegal.com</p>



<b>Fuel Retailers</b> Floyd R. Self, B.C.S. Ruth Vafek Berger Singerman, LLP 313 North Monroe Street, Suite 301 Tallahassee, Florida 32301 Telephone: (850) 521-6727 fself@bergersingerman.com rvafek@bergersingerman.com	<b>Armstrong World Industries, Inc.</b> Brian A. Ardire Armstrong World Industries, Inc. 2500 Columbia Avenue Lancaster, PA 17603 <a href="mailto:baardire@armstrongceilings.com">baardire@armstrongceilings.com</a>  Robert E. Montejo Duane Morris LLP 201 S. Biscayne Boulevard, Suite 3400 Miami, Florida 33131-4325 Telephone: (202) 776-7827 <a href="mailto:REMontejo@duanemorris.com">REMontejo@duanemorris.com</a>  Alexander W. Judd Duane Morris LLP 100 Pearl Street, 13 <sup>th</sup> Floor Hartford, CT 06103 Telephone: (202) 494-2299 <a href="mailto:AJudd@duanemorris.com">AJudd@duanemorris.com</a>
---	---

DATED this 8th day of September, 2025.

/s/ Bradley Marshall  
Attorney