

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 20250011-EI

FILED: September 29, 2025

**MOTION FOR RECONSIDERATION OF ORDER GRANTING IN PART AND DENYING
IN PART SIGNATORY INTERVENORS' JOINT MOTION FOR PROTECTIVE ORDER
REGARDING CORPORATE REPRESENTATIVE DEPOSITIONS, OR, IN THE
ALTERNATIVE, CLARIFICATION**

Pursuant to Rule 25-22.0376 Florida Administrative Code ("F.A.C."), Citizens, by and through the Office of Public Counsel ("OPC"), hereby file their Motion on Reconsideration of Order No. PSC-2025-0354-EI, issued September 18, 2025, Order Granting In Part And Denying In Part Signatory Intervenor's Joint Motion For Protective Order Regarding Corporate Representative Depositions or, In the Alternative, Clarification, and as grounds for states as follows:

**I. STANDARD OF REVIEW FOR MOTION FOR RECONSIDERATION OF A
NON-FINAL ORDER**

The standard of review for a motion for reconsideration of a Prehearing Officer's non-final order is whether the motion identifies a point of fact or law that the Prehearing Officer overlooked or failed to consider in rendering the order.¹ When alleged legal errors appear for the first time in an order, it is necessary to provide the Commission a fair opportunity to address the alleged errors.²

Additionally, the Public Counsel has the statutory power, "to appear, in the name of the state or its citizens, in any proceeding or action before the commission or the counties and urge therein any position which he or she deems to be in the public interest, whether consistent or inconsistent with

¹ Order No. PSC-2004-0849-PCO-EI, Docket No. 20031033-EI, p. 2, In re: Review of Tampa Electric Company's 2004-2008 waterborne transportation contract with TECO Transport and associated benchmark. See Stewart Bonded Warehouse, Inc. v. Bevis, 294 So. 2d 315 (Fla. 1974); Diamond Cab Co. v. King, 146 So. 2d 889 (Fla. 1962); and Pingree v. Quaintance, 394 So. 2d 162 (Fla. 1st DCA 1981).

² Citizens of State v. Clark, 373 So. 3d 1128, 1132 (Fla. 2023).

positions previously adopted by the commission.” § 350.0611, Fla. Stat. (2025). Accordingly, OPC asserts that the Commission practice of applying the same review standard when the full Commission reviews the decision of a single Commissioner is neither in the public interest nor just. The Non-Final Order was issued by an individual Commissioner sitting as pre-hearing officer in the docket. This means that the majority of the Commission has not reviewed, considered, or ruled upon the specific matters in OPC’s Motion for Reconsideration in any public deliberations. The ordinary standard for reconsideration does not fit this scenario because the matters for which the OPC seeks review have not been previously considered by a majority of the Commission nor have they been the subject of any hearing or public deliberation. For this reason, the OPC asks that the Commission apply a *de novo* standard of review to this motion and the issues raised herein. To the extent that OPC may pursue further review of any other matters in the Non-Final Order, OPC maintains and does not waive any appellate rights regarding the merits of these matters as well as the standards of review that the agency applies, even if this pleading does not expressly address such other matters here.

BACKGROUND

On August 20, 2025, FPL and Special Interest Parties’ (“SIPs”)³ filed their non-unanimous Settlement Agreement (“SIPP”) and their Joint Motion for Approval of Settlement Agreement. Thereafter, the Commission issued its First Order Revising Order Establishing Procedure (2nd OEP) on August 22, 2025, that limited discovery to the issues in Settlement Agreement. In the 2nd OEP, the Commission acknowledged that since the Settlement Agreement was non-unanimous, and further proceedings under Section 120.57(1), Florida Statutes, were necessary to address the disputed issues of material fact.

³ The Florida Industrial Power Users Group (“FIPUG”), the Federal Executive Agencies (“FEA”), Southern Alliance for Clean Energy (“SACE”), Walmart, Inc. (“Walmart”), the Florida Retail Federation (“FRF”), Electrify America, LLC (“Electrify America”), EVgo Services, LLC (“EVgo”), Florida Energy for Innovation Association, Inc. (“FEIA”), Americans for Affordable Clean Energy, Inc. (“AACE”), Circle K Stores, Inc. (“Circle K”), RaceTrac Inc. (“RaceTrac”), WaWa, Inc. (“WaWa”), and Armstrong World Industries, Inc. (“AWI”) hereafter “the Special Interest Parties” or “SIPs.”

After reviewing the SIPs' blanket refusals to provide discovery responses to Commission Staff's First Set of Interrogatories concerning the terms and impact of the terms of the SIPP, by asserting various privileges, including the attorney-client and work product, OPC recognized that it could not secure these responses via Staff. In response, at a Commission-noticed meeting on August 28, 2025, OPC stated its intent to take the depositions of the corporate representatives, in accordance with Rule 1.310(b)(6), Florida Rules of Civil Procedure (F.R.C.P.), of the SIPs regarding their understanding of the terms and impacts of the SIPP. The SIPs immediately requested that OPC provide adequate details to assist counsel in identifying the appropriate corporate representatives.

On Wednesday, September 3, 2025, OPC sent an email to the SIPs to facilitate coordination of a deposition schedule of the SIPs' corporate representatives for September 11-12, 2025. Citizens also propounded its First Set of Interrogatories Nos. (1-3) on each of the SIPs on September 3, 2025.

After waiting 2 days for the SIPs to provide dates and times and receiving no response, OPC served individual deposition notices for the SIPs corporate representatives on September 5, 2025, containing a detailed list of predicate and settlement related areas that might be covered. Citizens also served its Second Set of Interrogatories Nos. 4-8 to each of the SIPs which revised the wording of Commission Staff's First Set of Interrogatories to elicit responsive answers from the SIPP signatories. Additionally, on September 5, 2025, after 5:00 p.m., Florida Rising, Inc., the League of United Latin American Citizens, Inc, and the Environmental Confederation of Southwest Florida (collectively, "FEL") also served a similar notice of depositions for the SIPs corporate representatives, providing six broad areas of noticed subjects and fewer details than OPC's notices which provided 12-14 topics depending on whether the party sought associational or company standing in the docket.

On Sunday night, September 7, 2025, the SIPs emailed their Signatory Intervenor's Joint Motion for Protective Order regarding Corporate Representative Depositions ("Joint Motion for Protective Order") to bar OPC's notice of depositions for the SIPs corporate representatives fourteen

hours prior to the scheduled Prehearing Conference on September 8, 2025, at 9:30 a.m. Notably, the Joint Motion for Protective Order in Paragraphs 111-112 asserted that:

Therefore, Signatory Intervenors contend that the same reasons that should preclude OPC's depositions equally apply to FEL's noticed deposition, which seek privileged information, information protected by NDAs, irrelevant information, are untimely and beyond the scope of the current OEP. In addition, Signatory Intervenors have several further objections to FEL's topics, as explained below.

At the September 8, 2025, Prehearing Conference, the Prehearing Officer required OPC to provide a response to the Joint Motion for Protective Order by Tuesday, September 9, 2025, at 5:00 p.m., and OPC complied. It is noteworthy that OPC received a few of the SIPs' responses to Citizens' First Set of Interrogatories on September 8, 2025 and the remainder of the SIPs responses on September 10, 2025. Therein, the SIPs once again refused to answer based upon blanket assertions of attorney/client, work-product, or other privileges in response to said discovery, further establishing the need for corporate representative depositions. Many of these answers were either non-responsive or inappropriately objected to and are now (or will soon be) the subject of a concurrent motion to compel.

In a September 10, 2025 email, Commission staff, in a single sentence, conveyed the ruling of the Prehearing Officer to grant the Joint Motion for Protective Order as to the OPC's deposition notice of the SIPs corporate representative and denying the Joint Motion for Protective Order for FEL's depositions and to proceed under FEL's deposition notice as follows: "I have been authorized by the Chair to inform the parties that the Joint Motion for Protective Order Regarding Corporate Representative Depositions (Document 09231-2025) has been GRANTED with respect to the Notices of Depositions filed by OPC (Documents 09165-2025, 09167-2025, 09169-2025, 09170-2025, 09172-2025, 09172-2025, 09175-2025, 09176-2025, 09177-2025, 09178-2025, 09179-2025, & 09180-2025) and DENIED with respect to the Notice filed by FEL (Document 09215-2025)."⁴ No

⁴ The subject email is attached hereto as Attachment A.

further explanation was contained in the email setting forth the Prehearing Officer's ruling granting the movants' motion for protective order against OPC's 12-14 topics, but denying FEL's noticed 6 topics.

On September 10, 2025, in response to the one sentence email, OPC filed its cross-notice of FEL's SIPs corporate representative depositions. The first scheduled corporate representative deposition was conducted by FEL and OPC at 4:00 p.m., September 10, 2025. During the deposition, FEA's counsel repeatedly objected on the record and directed the deponent not to answer, admonishing counsel for OPC that such questions were in violation of the email regarding the Protective Order. OPC indicated that if prevented from inquiring into the most basic issues related to the SIPP, OPC would request to re-open these depositions. OPC also asked staff counsel when we could expect guidance in the form of a written order to clear these matters up and the response was uncertain as to a date and contained a caution that the order may not contain any more details than had previously provided (in the single sentence email).

OPC also received the SIPs responses to the Citizens' Second Set of Interrogatories on September 12, 2025, wherein the SIPs again refused to provide discovery responses regarding the terms of the settlement agreement primarily based upon blanket assertions of privilege.

Over the course of the next nine days, OPC attempted to participate in the thirteen cross-noticed corporate representative depositions despite the confusion created by conveyance of the ruling. At each corporate representative deposition, deponents' counsel referenced the single sentence email regarding the Protective Order or implied that there was a basis for their standing objections to inquiries into relevant subject areas concerning the SIPP. During the final scheduled corporate representative deposition, on September 18, 2025, the Commission issued its written order on the

Order Granting In Part And Denying In Part Signatory Intervenors' Joint Motion For Protective Order Regarding Corporate Representative Depositions ("Order").⁵

On September 19, 2025, as a result of both the refusal to respond to written discovery and the refusal to provide responses to corporate representative deposition questions, OPC requested a privilege log for the Citizens' First Set of Interrogatories (Nos. 1-3) to each of the SIPs and Citizens' Second Set of Interrogatories (Nos. 4-8) to each of the SIPs. By the time OPC conducted the final corporate depositions for Americans for Affordable Clean Energy, Circle K, RaceTrac and Wawa, beginning at 9 a.m., September 18, 2025, in the face of standing objections, OPC counsel simply attached the cross notice of deposition and the email conveying the verbal order as exhibits to the depositions and said, "No questions."

On September 23, 2025, the respondents, jointly, provided a letter⁶ to OPC refusing to provide the privilege log under the F.R.C.P. regarding corporate representatives as authority for continuing to refuse to provide discovery regarding the SIPP by citing this language from the Order: "inquiries regarding the substance of the settlement negotiations in this matter are outside the scope of permissible discovery."⁷

ARGUMENT

A. The verbal ruling and written Order's blanket granting of the Joint Motion for

Protective Order as to OPC notices of deposition were overbroad and created confusion

The Commission overlooked the fact that its Order⁸ granting the Joint Motion for Protective Order as to OPC's notices of corporate representative deposition but denying the Joint Motion for Protective Order as to FEL's notices of corporate representative deposition was created by the

⁵ See, Order No. PSC-2025-0354-PCO-EI, issued September 18, 2025, and see Attachment B, the Commission's notice of availability of the Order.

⁶ See Attachment C, the Joint Letter to Mr. Watrous in response to the email by OPC seeking a privilege log.

⁷ See, Order at page 5.

⁸ The written Order was issued 9 days after the email conveying the verbal ruling.

language in the Order that OPC's subject areas might lead into privilege areas. On page 5, the Order in granting the Protective Order as to OPC's notices of deposition states that "[t]he questions in the OPC Notice are more numerous, less specific, and tread closer to privilege than those in the FEL Notice." While the Order makes the distinction that "[t]hey are not specifically related to a cited provision of the 2025 SSA or any of the identified major elements," it also states that OPC's subject area questions would likely draw objections based on privilege. Rather than resolving disagreement through the in-camera process as suggested by OPC, the Order asserts "[t]he better solution is to steer clear of known hazards and have the parties proceed on the clearer path presented by FEL's questions." The Order's conclusion that certain OPC questions 8-10 "tread closer" to privilege and therefore all should be "excluded" lacks specificity, proof, and absent a finding that any noticed topic was prohibited, and not merely ran the risk of tangling with privileged matters, the Commission possessed no evidence upon which to issue a blanket exclusion of OPC's topics 1-14. The Order identifies the required action: examination of the asserted privileged matters in an in-camera review, with the benefit of the accompanying privilege log as required in Florida.

This "non-ruling" created an exploitable inconsistency that has effectively frustrated OPC's attempts to conduct relevant depositions of the SIPs concerning the terms and impacts of the SIPP. Moreover, this conflicting grant and denial of similar motions was certain to result in confusion and prejudice to the parties conducting the noticed depositions of similar subject areas.⁹ While the SIPs raised privilege in the Joint Motion for Protective Order, the Order did not address these claims

⁹ If the SIPs had question about the discovery notice, they had 2 days per the procedural order to raise them or waive them, which states:

[w]hen a discovery request is served and the respondent intends to seek clarification of any portion of the discovery request, the respondent shall request such clarification within seven days of service of the discovery request. For discovery request served after the date for rebuttal testimony, such clarification must be requested within two days. This procedure is intended to reduce delay in resolving discovery disputes. Order No. PSC-2025-0075-PCO-EI (OEP), issued March 14, 2025, at p. 4.

While SIPs counsel could have sought clarification, they chose to move to prohibit the taking of these depositions altogether.

thereby leading to further confusion and exploitation.¹⁰

This confusion has frustrated the discovery of relevant admissible evidence that should be available for the non-signatories use by their experts in preparing their testimony, creating cross-examination questions, conducting cross-examination, and continued discovery. Moreover, the mere possibility that these specialized discovery depositions could have potentially “intruded upon potentially privileged matters” which by their very nature, surround every hearing involving a settlement agreement, is not a legitimate legal basis for a blanket denial of the ability of counsel to conduct corporate representative depositions concerning relevant matters. This error alone is a basis for reconsidering the Order. The blanket grant of the protective order against OPC’s notice stands in stark contrast to Rule 1.280(c), F.R.C.P., which provides for broad discovery. Rule 1.280, F.R.C.P., states:

(1) *In General.* Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Information within this scope of discovery need not be admissible in evidence to be discoverable.”

The Order failed to provide the detail required to issue an order that adversely impacts the right to participate meaningfully in discovery.

Moreover, the only argument that secured a foothold in the Order was SIPs’ assertion of Section 90.408, Florida Rules of Evidence (“F.R.E.”), as additional grounds to shield their corporate representatives from discussing the terms, impacts or rate classes represented in the disputed

¹⁰ The SIPs claimed attorney/client privilege for 5 of FEL’s 6 proposed deposition topics, and claimed beyond the permissible scope due to settlement and NDA and attorney-client privilege 12 times in OPC’s 14 issues and 17 times total.

settlement.¹¹ However, legitimate inquiry into the public document that purports to resolve one of the largest cases of disputed material facts in this State should not be conflated with the misapplication of Section 90.408, F.R.E., which states that “[e]vidence of an offer to compromise a claim which was disputed as to validity or amount, as well as any relevant conduct or statements made in negotiations concerning a compromise, is inadmissible to prove liability or absence of liability for the claim or its value.” OPC discovery sought information regarding the authority of non-FPL signatories to bind FPL’s customer classes to the terms of the SIPP’s agreement, not the standing of individuals to be in the case, any confidential information discussed to reach the terms of the SIPP, or as proof as to the liability of the SIPP’s under the rate case. Moreover, Rule 90.408, F.R.E., is not a bar to such inquiries, contrary to the finding in the Order, but a guide for Commission to conduct a detailed examination of the evidence to separate the inadmissible evidence from the merely relevant. This is a judicial function that must be addressed when privilege has been asserted and the inquiries on their face do not seek privileged information.

B. The Order’s blanket granting of the Joint Motion for Protective as to OPC notices of deposition lead to denial of legitimate discovery inquires

The Order also failed to consider the factual and legal relevance of inquiries into the terms, impacts, and assertions contained in the SIPP including but not limited to the representative nature of the signatories. On page 3 of the Order, the Order states that in the First Revised Order Establishing Procedure (“2nd OEP”)¹² discovery was “limited to the issues in the Settlement Agreement.” The Order draws a factual conclusion that “the universe of relevant testimony that can be offered by the corporate representative can include only negotiation regarding the settlement and the settlement

¹¹ OPC welcomes the acknowledgement that while the Florida Evidence Code need not be strictly applied to Commission proceedings, for example, the sequestration of witnesses, it should otherwise be consistently applied to the Commission’s administrative proceedings, otherwise Chapter 120.57, Fla. Stat., makes little sense.

¹² Order No. PSC-2025-0323-PCO-EI.

itself. With no pre-filed testimony, no other matters are relevant under the discovery limitation currently in effect.” This finding is factually erroneous. The corporate representatives would also be able to provide factual information regarding the subject areas covered in OPC’s notices of deposition 1-12 without delving into potential privileged information. These inquiries include but are not limited to the SIPs’ corporate representatives’ authority to bind the corporate entity, the representative scope of customers and customer classes that the corporation or group of corporations purport to represent, and the other Rule 1.310(b)(6) F.R.C.P. and scope requirements relevant to a corporate representative deposition.

The finding that “the [OPC] questions are broadly worded and seek the corporation’s general purpose and purpose for participating in this docket,” which the Order asserts are not relevant to the Commission’s public interest determination regarding the non-unanimous minority 2025 SIPP internally conflicts with a statement from the Order just a few paragraphs earlier, that the Commission has included findings in the past two FPL rate case orders regarding the broad and diverse nature of the customer classes represented in these settlements. See, Order at page 5. OPC’s questions are relevant to the issue of the “broad” and “diverse” representative nature of the signatories. Since the settlement is being presented as a resolution of all issues raised in the underlying base rate case based on give and take of these signatories, the Commission should make a factual inquiry as to the representative nature of these signatories when compared to the general body of FPL’s ratepayers when determining the public interest. The failure to permit this inquiry requires the granting of this motion.

Moreover, the public interest and fairness requires that the ultimate rates and charges approved by Commission are reasonable and not unduly discriminatory to the general body of ratepayer even when based on a settlement of non-unanimous parties. See, 366.03, Fla. Stat.. Furthermore, the subject areas in OPC’s notices of deposition inquiring as to the Signatories’

authority and representative nature and scope are relevant lines of inquiry for the non-signatories in discovery.

Movants' objections to inquiries that might impact the pending standing determination are not a shield from relevant discovery. The standard for intervention of whether a person interest will be affected by a decision of an agency under Section 120.569, Florida Statutes, is far less stringent than whether the signatories are sufficiently representative of a "broad and diverse" class of customer such that would justify approval of a non-unanimous settlement. While the Order correctly states that discovery was limited to the issues in the Settlement Agreement, "the fact" who signed the Settlement Agreement and inquiry into the meaning and impact of the term are relevant inquiries that probe the substance contained within the four corners of the settlement document.

The legal conclusion that the only relevant testimony a corporate representative of the parties who signed onto the SIPP could provide about the contents and impacts of the settlement terms must violate the protections surrounding settlement communications is unsupported by the record. As discussed earlier, the Order's acknowledges that one of the findings the Commission has made in approving non-unanimous settlements is the is the existence (or absence) of a broad or diverse group of customers to that settlement. Order at p. 5. Thus, the finding on page 3 of the Order that "the universe of relevant testimony that can be offered by the corporate representatives can include only negotiations regarding the settlement and the settlement itself. With no pre-filed testimony, no other matters are relevant under the discovery limitation currently in effect" conflicts with the later finding that the "broadness" and "diversity" is at issue.

The Order also found that "[t]o the extent discoverable information is sought in the OPC's Notice, it is fully covered in the questions in FEL Notice." Order at p. 6. The Order found by implication that the subject areas of OPC's corporate representative deposition notices were subsumed within FEL's corporate deposition notices. This finding appears to conflate movants'

concerns about inquiries into standing and OPC's other noticed subject areas that specifically relate to predicate inquiries for compliance with Florida's corporate representative deposition rule, Rule 1.280(c), F.R.C.P. The Order is silent as to these predicate questions in the blanket granting of movants' motion.

As an example, one of the subject areas approved for discovery was FEL's question "3) [w]hy the party believes that the agreement is supported by a 'diverse coalition' (if the party believes that)" opens the door to questions regarding the make-up of the SIPs and the impacts on customer groups to their knowledge as a factual finding with respect to the public interest. This FEL question inherently contains the subject matters within topics 2, and 4-9 on OPC's list.

Another example of the subject areas approved in the Order for discovery was FEL's question "4) why the party believes that agreement 'serves the best interests of the customers they represent.'" This question also opens the door to relevant questions regarding the identity and nature of the represented customers and who and under what authority they were representing these customers. This FEL question inherently contains the remaining subject matter contained within topics 1-3 and 10-12 on OPC's list.

The Commission has held in disposing of a motion in limine,¹³ in a separate docket, "consideration of the facts and circumstances surrounding the negotiation and approval of this settlement is consistent with sound contract law principles. In interpreting the language of this settlement, it is appropriate to consider the parties' intent when they executed the agreement, as well as their actions at the time of execution and thereafter." This understanding is more vital when considering a nonunanimous settlement in a rate case of this magnitude. The Order should have either granted the discovery covered by the lists of subject areas in OPC's notices of deposition or provided

¹³ Order No. PSC-2003-0850-PCO-EI, issued July 22, 2003, in Docket No. 000824-EI, in re: Review of Florida Power Corporation's Earnings, Including Effects of Proposed Acquisition of Florida Power Corporation by Carolina Power & Light.

clear guidance to counsel as to which topics were prohibited by asserted privilege. The fact is that the record was insufficient to make that determination.

Relevant inquiries concerning the SIPP must be permitted in order to comply with the Florida Supreme Court in *Floridians Against Increased Rates, Inc. v. Clark*, 371 So. 3d 905 (Fla. 2023) (“*FAIR*”), which explained that the Commission does two things when it reviews a settlement agreement. First, the Commission makes factual findings based on the evidence presented by the parties. Second, the Commission decides whether the settlement agreement, in light of its findings of fact, is in the public interest and results in rates that are fair, just, and reasonable. *Id.* at 910.

Notably, the Court in *FAIR* further affirmed that “while the Commission need not ‘resolve every issue independently’ in its final order when it is reviewing a settlement agreement, it must nonetheless ‘discuss[] the major elements of the settlement agreement and explain[] why it [is] in the public interest.’” *Id.* at 912 (citing *Sierra Club v. Brown*, 243 So. 3d 903, 914 (Fla. 2018); *Citizens I*, 146 So. 3d at 1153). “That includes considering the competing arguments made by the parties below in light of the factors relevant to the Commission’s decision, and supplying, given these arguments and factors, an explanation of how the evidence presented led to its decision.” *Id.* (emphasis added). Clearly, the blanket exclusion of relevant inquiries that form the bases for competing arguments runs afoul of the court’s holding in *FAIR*. The erroneous factual finding that the SIPs corporate representatives could only provide information specific to prohibited settlement negotiation discussions lead to blank prohibition of factual inquiries to relevant information regarding the signatories that the corporate representatives had. The Order erroneously limited legitimate lines of discovery in the corporate depositions which is also being used to thwart other legitimate discovery and therefore reason to reconsider the Order.

CONCLUSION

Both the email communication of the verbal order and the written Order itself contain internally inconsistent rulings wherein the Commission grants discovery of the subject area via corporate representative depositions while purporting to disallow the inquiry. This confusion has continued to frustrate the discovery of relevant admissible evidence that should be available for use at hearing. In both versions of the order, all 12-14 of OPC's noticed topics were ruled out of bounds. The Commission overlooked and misapprehended the legitimate scope of OPC's discovery inquiries identified in OPC's listed topics, blanket ruled them out of bounds, which was in error and requires the order be reconsidered.

Further evidence of need to correct the Order is presented by the SIP's citing to and reliance upon the ambiguous Order and the factual and legal errors contained therein, to continue to reject OPC's legitimate attempts to seek standard discovery responses concerning the terms and impacts of the SIPP, designed to lead to admissible evidence at the forthcoming hearing. The majority of customers and their competing arguments have been effectively silenced and their case, prejudiced. This is reflected in the response from the SIPs refusing to provide privilege logs, based upon the unrelated Order that did not even address the attorney/client privilege raised in conjunction with earlier discovery compounds the negative impacts.

Clearly, more guidance is required to afford minimum due process in this docket which is designed to illuminate the terms and impacts of the SIPs proposal. OPC requests the facts and law that were overlooked that lead to the errors be reconsidered and a new Order, with detailed findings as to privilege and the range of relevant inquiry for corporate depositions be issued. OPC additionally asks for a 3-day extension as a reasonable amount of time to conduct these depositions. OPC further respectfully requests clarification of the intended limits and uses of the Order, as it was not intended to thwart OPC's ability to inquire as to the authority and representative scope of the non-signatories

to the SIPP in written discovery. Therefore, OPC seeks the Motion on Reconsideration and Clarification, be granted, and allow OPC to inquire of the SIP corporate representatives into areas covered by OPC notices of deposition.

OPC has contacted the Parties and FPL and the SIPs oppose the Motion. FAIR and FEL take no position on the Motion.

Wherefore, Citizens, by and through the Public Counsel, hereby request that the Commission grant their Motion for Reconsideration, or in the alternative, Clarification, be granted.

Respectfully Submitted,

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ATTACHMENT A

From: Shaw Stiller <SStiller@psc.state.fl.us>

Sent: Wednesday, September 10, 2025 10:47 AM

To: 'Bradley Marshall' <bmarshall@earthjustice.org>; 'Ashley N. George' <Ashley.George.4@us.af.mil>; 'Christopher Wright' <christopher.wright@fpl.com>; 'D. Bruce May' <bruce.may@hkllaw.com>; 'Ebony M. Payton' <Ebony.Payton.ctr@us.af.mil>; 'Emma Rimmer' <erimmer@earthjustice.org>; 'Florida Case Updates' <flcaseupdates@earthjustice.org>; 'Floyd R. Self, B.C.S.' <fsself@bergersingerman.com>; 'James B. Ely' <james.ely@us.af.mil>; 'James W. Brew' <jbrew@smxblaw.com>; 'Jigar J. Shah' <jigar.shah@electrifyamerica.com>; 'John Burnett' <john.t.burnett@fpl.com>; 'John T. LaVia, III' <jlavia@gbwlegal.com>; 'Jon C. Moyle' <jmoyle@moylelaw.com>; 'Jordan Luebkmann' <jluebkmann@earthjustice.org>; 'Joseph R. Briscar' <jrb@smxblaw.com>; 'Karen A. Putnal' <kputnal@moylelaw.com>; 'Katelyn Lee' <Katelyn.Lee@evgo.com>; 'Kathryn Isted' <kathryn.isted@hkllaw.com>; 'Kenneth A. Hoffman (FPL)' <Ken.hoffman@fpl.com>; 'Kevin W. Cox' <kevin.cox@hkllaw.com>; 'Laura Baker' <lwb@smxblaw.com>; 'Leslie R. Newton' <Leslie.Newton.1@us.af.mil>; 'Lindsey Stegall' <Lindsey.Stegall@evgo.com>; 'M. Qualls' <mqualls@moylelaw.com>; 'Maria Moncada' <maria.moncada@fpl.com>; 'Wessling, Mary' <Wessling.Mary@leg.state.fl.us>; 'Michael A. Rivera' <Michael.Rivera.51@us.af.mil>; 'Nikhil Vijaykar' <nvijaykar@keyesfox.com>; 'Robert E. Montejo' <remontejo@duanemorris.com>; 'Robert Scheffel Wright' <schef@gbwlegal.com>; 'Ruth Vafek, Esq.' <rvafek@bergersingerman.com>; 'Sarah B. Newman' <sbn@smxblaw.com>; 'Stephanie U. Eaton' <seaton@spilmanlaw.com>; 'Stephen Bright' <steve.bright@electrifyamerica.com>; 'Steven W. Lee' <slee@spilmanlaw.com>; 'Thomas A. Jernigan' <Thomas.Jernigan.3@us.af.mil>; 'Timothy Sparks' <TSparks@psc.state.fl.us>; 'Trierweiler, Walt' <TRIERWEILER.WALT@leg.state.fl.us>; 'William C. Garner' <bgarner@wcglawoffice.com>; 'baardire@armstrongceilings.com' <baardire@armstrongceilings.com>; 'Judd, Alexander W.' <ajudd@duanemorris.com>; 'ymoskowitz@keyesfox.com' <ymoskowitz@keyesfox.com>; 'matthew.vondrasek.1@us.af.mil' <matthew.vondrasek.1@us.af.mil>; 'Jordan Luebkmann' <jluebkmann@earthjustice.org>; 'Danielle McManamon' <dmcmanamon@earthjustice.org>; 'Florida Case Updates' <flcaseupdates@earthjustice.org>; 'Ana Correa' <acorrea@earthjustice.org>

Subject: Docket No. 20250011-EI: Motion for Protective Order and Major Elements

Good morning.

I have been authorized by the Chair to inform the parties that the Joint Motion for Protective Order Regarding Corporate Representative Depositions (Document 09231-2025) has been GRANTED with respect to the Notices of Depositions filed by OPC (Documents 09165-2025, 09167-2025, 09169-2025, 09170-2025, 09172-2025, 09172-2025, 09175-2025, 09176-2025, 09177-2025, 09178-2025, 09179-2025, & 09180-2025) and DENIED with respect to the Notice filed by FEL (Document 09215-2025).

Additionally, I have been authorized to inform the parties that the request by OPC to add major elements one through eight to the existing list of twenty-nine is DENIED.

Orders will follow.

Shaw Stiller

Attorney Supervisor

Regulatory Analysis Section

Florida Public Service Commission

(850) 413-6187

PLEASE NOTE: Florida has broad public records laws. Written and electronic communications to or from the Florida Public Service Commission may be considered public records, which must be made available to anyone upon request.

ATTACHMENT B

From: Commission Clerk <CommissionClerk@psc.state.fl.us>

Sent: Thursday, September 18, 2025 9:16 AM

Subject: FPSC E - service of Document NO. 12435-2025 in Docket 20250011

The document described below has been filed with the Florida Public Service Commission and issued by the Office of Commission Clerk. You are being provided this information electronically, because you are a party of record or an interested person in this docket.

NOTICE: E-mail replies from this address are not monitored or read. Should you have any difficulty accessing this document, please forward this e-mail to Clerk@psc.state.fl.us, explaining the problem and a Deputy Clerk will assist you. Please do not alter the subject line, as it is used for processing.

DOCUMENT NO.	DESCRIPTION
12435-2025	Order PSC-2025-0354-PCO-EI granting in part and denying in part signatory intervenors' joint motion for protective order regarding corporate representative depositions.

ATTACHMENT C

Watrous, Austin

From: Bailey, Stephanie
Sent: Friday, September 19, 2025 3:16 PM
To: Jon Moyle ; Karen Putnal ; Moyle Law Firm, P.A.; 'James W. Brew'; Laura Wyn Baker; jrb@smxblaw.com; 'Sarah Newman'; Leslie R. Newton; Ashley N. George; Thomas A. Jernigan; Michael Rivera; James Ely; Ebony Payton; Matthew R. Vondrasek; Stephanie Eaton; Steven Lee; William C. Garner; bruce.may@hklaw.com; kevin.cox@hklaw.com; kathryn.isted@hklaw.com; fsself@bergersingerman.com; Ruth Vafek; remontejo@duanemorris.com; ajudd@duanemorris.com
Cc: Trierweiler, Walt; Wessling, Mary; Christensen, Patty; Ponce, Octavio; Watrous, Austin; Howard, Bernadette
Subject: Docket # 20250011-EI FPL Rate Case - Request for Privilege Log

Good afternoon,

On behalf of Austin Watrous in the Office of Public Counsel, please provide a copy of your privilege log for all discovery responses where you have asserted attorney-client, work product, or other privilege for the following discovery regarding the SIPP Settlement:

- OPC's 1st ROGs (Nos. 1-3) served on September 3, 2025
- OPC's 2nd ROGs (Nos. 4-8) served on September 5, 2025

Please provide the privilege logs via email to Austin Watrous at watrous.austin@leg.state.fl.us by noon on Tuesday, September 23, 2025.

If you have any questions or concerns, please do not hesitate to contact our office.

Sincerely,

Stephanie Bailey

Office of Public Counsel
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400
Main Phone: 850.488.9330
Direct: 850.717.0335

Watrous, Austin

From: Stephanie U. Eaton <seaton@spilmanlaw.com>
Sent: Tuesday, September 23, 2025 1:32 PM
To: Watrous, Austin
Cc: D. Bruce May; bgarner@wcglawoffice.com; Jon Moyle; Karen Putnal; Nikhil Vijaykar; Jay Brew; Laura Baker; NEWTON, LESLIE R Maj USAF HAF AFCEC/JAOE-ULFSC; JERNIGAN, THOMAS A CIV USAF AFMC AFIMSC/JAU; Michael.Rivera.51@us.af.mil; Floyd R. Self; rvafek@bergersingerman.com; Floyd R. Self; Alexander Judd; Robert Montejo; Trierweiler, Walt; Wessling, Mary; bmarshall@earthjustice.org; jluebkmann@earthjustice.org; dmcmanamon@earthjustice.org; John T. Burnett; Maria Moncada; Christopher Wright; schef@gbwlegal.com
Subject: Docket # 20250011-EI FPL Rate Case - Request for Privilege Log - Response from Signatory Intervenors [STB-WORKSITE.FID1208246]
Attachments: Letter to OPC re Privilege Logs.pdf

Austin,

Attached is a letter from Signatory Intervenors in response to OPC's request for privilege logs.

Stephanie U. Eaton
Co-Chair, Construction Practice Group
Spilman Thomas & Battle, PLLC
O 336.631.1062
M 336.655.2229
seaton@spilmanlaw.com

September 23, 2025

VIA E-MAIL (WATROUS.AUSTIN@leg.state.fl.us)

Austin Watrous
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Suite 812
Tallahassee, FL 32399-1400

Re: Docket No. 20250011-EI; In re: Petition for rate increase by Florida Power & Light Company

Dear Austin:

Several of the Signatory Intervenor received a request from OPC at 3:16 p.m. on Friday, September 19, 2025, requesting that we provide privilege logs for responses to OPC's First Set of Interrogatories served on September 3, 2025 (exemplar set attached as Exhibit 1) and OPC's Second Set of Interrogatories served on September 5, 2025 (exemplar set attached as Exhibit 2). OPC's Sept. 19, 2025 e-mail is attached as Exhibit 3. In particular, OPC has requested from those Signatory Intervenor privilege logs for "responses where [Signatory Intervenor] have asserted attorney-client, work product, or other privilege for the following discovery regarding the SIPP Settlement." OPC asked those Signatory Intervenor provide these privilege logs to OPC by noon on Tuesday, September 23, 2025.

The Signatory Intervenor are writing to advise you that, without waiving all objections we raised in our respective discovery responses, and to the extent we raised objections based on "attorney-client, work product, or other privilege," we will not be providing the requested privilege logs to OPC. While the OEP does anticipate that privilege logs would be provided where privilege has been asserted in response to discovery requests, the nature of OPC's Sept. 3 and Sept. 5 discovery requests and the Commission's recent Order quashing OPC's notices of deposition for Signatory Intervenor's corporate representative depositions support Signatory Intervenor's refusal to provide these specific privilege logs. In particular, the Commission has now indicated, albeit with respect to OPC's requested deposition discovery, that "inquiries regarding the substance of the settlement negotiations in this matter are outside of the scope of permissible discovery." Order No. PSC-2025-0354-PCO-EI, p. 5 (Sept. 18, 2025).

It seems obvious to us that production of privilege logs in relation to discovery on Pre-filed Testimony is very different from production of privilege logs with respect to the Settlement Agreement-based discovery. Logs of communications among the Signatories that, even where the subject matter is redacted, reveal who was speaking with whom and when, and the back and forth of negotiations with clients, FPL and others, reveals too much about the settlement negotiation process itself. Therefore, where Signatory Intervenor lodged this objection to the discovery interrogatories for which OPC is requesting a privilege log, no obligation to submit a privilege log arose in the first place. As the Second District Court of Appeals noted, "[b]efore a written objection to a request for production of documents is ruled upon, the documents are not 'otherwise discoverable' and thus the obligation to file a privilege log does not arise." Avatar Prop. & Cas. Ins. Co. v. Jones, 291 So. 3d 663, 667 (Fla. 2nd DCA 2020) (emphasis added); see also Gosman

v. Luzinski, 937 So. 2d 293, 296 (Fla. 4th DCA 2006); Morton Plant Hosp. Ass'n. v. Shahbas, 960 So. 2d 820, 826 (Fla. 2d DCA 2007); Am. Integrity Ins. Co. of Fla. v. Venable, 324 So. 3d 999, 1001 (Fla. 1st DCA 2021).

As the Court in Gosman explained,

A party is required to file a log only if the information is 'otherwise discoverable.' Where a party claims that the production of documents is burdensome and harassing, such as was done here, the scope of the discovery is at issue. Until the court rules on the request, the party responding to the discovery does not know what will fall into the category of discoverable documents. If the party is correct in her assertion that the documents requested are burdensome to produce, why should she still go through all the requested documents to determine which ones are privileged, even though none of them may be required to be produced because the request is burdensome?

937 So. 2d at 296.

This request for privilege logs is intrusive, harassing, will not lead to admissible evidence, and is unduly burdensome, especially given OPC's requested turnaround time and the stage at which we collectively find ourselves in this litigation. We respectfully request that OPC withdraw this request, but if not, we are happy to address this with the Commission at the appropriate time.

Respectfully submitted,

Stephanie U. Eaton
Spilman Thomas & Battle, PLLC
110 Oakwood Drive, Suite 500
Winston-Salem, NC 27103
Attorney for Walmart, Inc.

By: s/ Stephanie U. Eaton
Stephanie U. Eaton

William C. Garner
Law Office of William C. Garner, PLLC
3425 Bannerman Road
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Attorney for Southern Alliance for Clean Energy

By: s/ William C. Garner
William C. Garner

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Attorneys for Florida Energy for Innovation Association, Inc.

By: s/ D. Bruce May
D. Bruce May

Jon C. Moyle, Jr.
Karen Putnal
Moyle Law Firm, P.A.
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Tallahassee, Florida 32301
Attorney for Florida Industrial Power Users Group

By: s/ Jon C. Moyle
Jon C. Moyle

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Attorney for EVgo Services, LLC

By: s/ Yonatan Moskowitz
Yonatan Moskowitz

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Attorney for Federal Executive Agencies

By: s/ Thomas Jernigan
Thomas Jernigan

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Attorney for Armstrong World Industries,
Inc.

By: s/ Alexander W. Judd
Alexander W. Judd

James W. Brew
Stone Law Firm
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Washington, D.C. 20007
Attorney for Florida Retail Federation

By: s/ James W. Brew
James W. Brew

Floyd R. Self
Ruth Vafek
Berger Singerman, LLP
313 North Monroe Street
Suite 301
Tallahassee, Florida 32301
Attorney for Americans for Affordable Clean
Energy, Inc., Circle K Stores, Inc., RaceTrac, Inc.
and Wawa, Inc.

By: s/ Floyd R. Self
Floyd R. Self

Robert E. Montejo
Duane Morris, LLP
201 S. Biscayne Blvd., Suite 3400
Miami, FL 33131-4325
Attorney for Electrify America, LLC

By: s/ Robert E. Montejo
Robert E. Montejo

cc: Walt Trierweiler
Mary A. Wessling
Office of Public Counsel
c/o The Florida Legislature
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Tallahassee, Florida 32399-1400
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Florida Power and Light Company

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO.: 20250011-EI

FILED: September 3, 2025

**CITIZENS' FIRST SET OF INTERROGATORIES TO
WALMART INC. (NOS. 1-3)**

Pursuant to § 350.0611(1), F.S., Rule 28-106.206, Fla. Admin. Code, and Rule 1.340, Fla. R. Civ. P., the Citizens of the State of Florida (Citizens), through the Office of Public Counsel (“OPC”), propound the following interrogatories to Walmart Inc. to be answered within seven (7) days after the service of these interrogatories. These interrogatories shall be answered under oath by Walmart or its agent, who is qualified and who will be identified. As provided by Rule 1.340(a), Florida Rules of Civil Procedure, each interrogatory shall be answered separately and fully in writing under oath unless it is objected to. Each answer shall be signed by the person making it. Please supply the name, address, and relationship to Walmart of those persons providing the answers to each of the following interrogatories.

To the extent Walmart provides documents in response to an interrogatory, Citizens request Walmart produce the documents for inspection and copying at the Office of Public Counsel, Claude Pepper Building, 111 West Madison Street, Suite 812, Tallahassee, Florida 32399-1400.

DEFINITIONS

As used herein, the following words shall have the meanings indicated:

“Document” refers to written matter of any kind, regardless of its form, and to information recorded on any storage medium, whether in electrical, optical or electromagnetic form, and capable of reduction to writing by the use of computer hardware and software.

“Identify” means:

- (a) With respect to a person, to state the person’s name, address and business relationship (e.g., “employee”) to Walmart.
- (b) With respect to a document, to state the nature of the document in sufficient detail for identification in a request for production, its date, its author, and to identify its custodian. If the information or document identified is recorded in electrical, optical or electromagnetic form, identification includes a description

of the computer hardware or software required to reduce it to readable form.

INSTRUCTIONS

1. To the extent an interrogatory calls for information which cannot now be precisely and completely furnished, such information as can be furnished should be included in the answer, together with a statement that further information cannot be furnished, and a statement as to the reasons therefore. If the information which cannot now be furnished is believed to be available to another person, identify such other person and the reasons for believing such person has the described information.
2. In the event any interrogatory herein calls for information or documents which Walmart deems to be privileged, in whole or in part, Walmart shall:
 - (a) make the claim expressly and specify the grounds relied upon for the claim of privilege,
 - (b) produce the information or documents in redacted form, and
 - (c) to the extent any information or documents are withheld, Walmart shall identify and describe the nature of each document not disclosed and each redacted provision in a manner that will enable other parties to assess the applicability of the privilege or protection.
3. Documents or reports to be identified shall include all documents in Walmart's possession, custody and control and all other documents of which Walmart has knowledge. If a document is produced in response to an interrogatory, please produce a copy of the original and all versions that are different in any way from the original, whether by interlineation, receipt stamp or notation. If Walmart does not have possession, custody, or control of the originals of the documents requested, please produce a copy of the version(s) in Walmart's possession, custody, or control, however, made.
4. Separate answers shall be furnished for each interrogatory, although where the context permits, an interrogatory may be answered by reference to the answer furnished to another interrogatory.
5. For each interrogatory, identify the name, address, telephone number and position of the person responsible for providing the answer.

6. Responsive documents available in an electronic format shall be provided in their native electronic format, unless the parties have reached a specific agreement in advance for production of the documents in a different, agreed-upon format or medium. OPC requests that responses for each production of document request be provided in separate electronic folders that include the documents responsive to the request.
7. Documents should be produced in an OCR (Optical Character Recognition) searchable format.
8. Please provide all responses to these interrogatories that include workpapers, data, calculations and spreadsheets in non-password protected and executable PC-compatible computer program/models/software. Formulae, links, and cells, formatting, metadata and any other original features assisting in calculation should be intact. For example, Excel documents and documents of a similar format shall be produced in their native electronic format, with all spreadsheets, formulas, and links unlocked and intact. To the extent the data requested does not exist in the form requested, please notify the undersigned counsel so that the parties can confer to reach a resolution for timely production.
9. Please construe “and” as well as “or” either disjunctively or conjunctively as necessary to bring within the scope of the interrogatories any document which might otherwise be construed to be outside the scope.

INTERROGATORIES

1. With respect to the following “WHEREAS” clause contained in Walmart’s August 20, 2025, Stipulation and Settlement Agreement,

WHEREAS, the Parties to this Agreement have undertaken to resolve the issues raised in Docket No. 20250011-EI so as to maintain a degree of stability and predictability with respect to FPL’s base rates and charges; and

Please answer the following as to Walmart:

- a. Does the phrase “the issues raised in Docket No 20250011-EI” refer to all 130 issues contained in Order No. PSC-2025-0298-PHO-EI?
- b. Does this WHEREAS clause indicate that Walmart was authorized to enter into the Agreement to resolve each and every one of the 130 issues contained in Order No. PSC-2025-0298-PHO-EI?
- c. If the answer to b. is “no,” please indicate on which issues Walmart is authorized to enter into an agreement to resolve that issue and please identify the document(s) where Walmart’s legal authority to participate in an agreement to “resolve the issues raised in Docket No 20250011-EI” is found.
- d. If the answer to b. is “yes,” please identify the document(s) where Walmart’s legal authority to participate in an agreement to “resolve [all of] the issues raised in Docket No 20250011-EI” is found.
- e. Please identify the interests represented by Walmart that entitled Walmart and counsel representing Walmart to enter into and sign the agreement to resolve the issues identified in Order No. PSC-2025-0298-PHO.

2. With respect to the following “WHEREAS” clause contained in Walmart’s August 20, 2025, Stipulation and Settlement Agreement,

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

Please answer the following:

- a. With respect to the phrase “compromise of their respective positions taken” contained in this WHEREAS clause, does the word “positions taken” refer to the positions taken by Walmart as reflected in Order No. PSC-2025-0298-PHO?
- b. In the context of this WHEREAS clause, please explain as to s the meaning of the phrase “in accord with their rights and interests under Chapters 350, 366 and 120, Florida Statutes, as applicable”?
- c. Does the phrase “in accord with their rights and interests under Chapters 350, 366 and 120, Florida Statutes, as applicable” indicate that for certain issues Walmart have no “rights and interests” to resolve each and every one of the 130 issues identified in Order No. PSC-2025-0298-PHO?
- d. If the answer to c. is “yes,” please identify each of the issues that Walmart does have a “right and interest” to resolve.
- e. If Walmart has no right or interest to take an affirmative position on any one or more of the 130 issues identified in Order No. PSC-2025-0298-PHO, can Walmart nevertheless compromise on the specific issue(s)? If the answer is yes, did Walmart so compromise relative to such issues?

- f. Please identify the specific issue identified in Order No. PSC-2025-0298-PHO upon which Walmart reached a compromise.
 - g. Did Walmart have the right and interest to both take a position and compromise on each and every one of the 130 issues identified in Order No. PSC-2025-0298-PHO?
 - h. If Walmart stated in f. that Walmart had a right and interest to compromise on each and every one of the 130 issues identified in Order No. PSC-2025-0298-PHO, please identify the document(s) from which arise such rights and interests that Walmart compromised.
3. With respect to the following “WHEREAS” clause contained in your August 20, 2025, Stipulation and Settlement Agreement,

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

Please answer the following:

- a. Please describe the consideration that Walmart gave where Walmart took no position on certain issues or when Walmart lacked a right or interest to compromise on such an issue or issues?
- b. Please state whether Walmart possessed the right and interest to provide consideration on behalf of a represented interest on each and every one of the 130 issues identified in Order No. PSC-2025-0298-PHO.
- c. Did Walmart have the right to represent residential customers and small business customers identified by the abbreviation RS(T)-1 and GS(T)-1 in MFR Schedule E-? If Walmart’s answer is “yes,” identify the documents and provisions of law that provide the authorization to represent such interests.

Respectfully submitted,

/s/ Walt Trierweiler

Walt Trierweiler

Public Counsel

Florida Bar No.: 912468

trierweiler.walt@leg.state.fl.us

Office of Public Counsel

c/o The Florida Legislature

111 West Madison Street, Suite 812

Tallahassee, FL 32399-1400

(850) 488-9330

*Attorneys for the Citizens
of the State of Florida*

AFFIDAVIT

STATE OF _____

COUNTY OF _____

I hereby certify that on this _____ day of _____, 2025, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared _____, who is personally known to me, and he/she acknowledged before me that he/she provided the answers to number(s) _____ in CITIZENS' FIRST SET OF INTERROGATORIES TO WALMART INC. (NOS. 1-3) in Docket No. 20250011-EI, and that the responses are true and correct based on his/her personal knowledge.

In Witness Whereof, I have hereunto set my hand and seal in the State and County aforesaid as of this _____ day of _____, 2025.

Notary Public
State of Florida, at Large

My Commission Expires:

CERTIFICATE OF SERVICE
DOCKET NO. 20250011-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail on this 3rd day of September, 2025, to the following:

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Shaw Stiller
Timothy Sparks
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/s/ Walt Trierweiler
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Public Counsel
trierweiler.walt@leg.state.fl.us

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO.: 20250011-EI

FILED: September 5, 2025

**CITIZENS' SECOND SET OF INTERROGATORIES TO
WALMART, INC. (NOS. 4-8)**

Pursuant to § 350.0611(1), F.S., Rule 28-106.206, Fla. Admin. Code, and Rule 1.340, Fla. R. Civ. P., the Citizens of the State of Florida (Citizens), through the Office of Public Counsel (“OPC”), propound the following interrogatories to Walmart, Inc. to be answered within seven (7) days after the service of these interrogatories. These interrogatories shall be answered under oath by Walmart or its agent, who is qualified and who will be identified. As provided by Rule 1.340(a), Florida Rules of Civil Procedure, each interrogatory shall be answered separately and fully in writing under oath unless it is objected to. Each answer shall be signed by the person making it. Please supply the name, address, and relationship to Walmart of those persons providing the answers to each of the following interrogatories.

To the extent Walmart provides documents in response to an interrogatory, Citizens request Walmart produce the documents for inspection and copying at the Office of Public Counsel, Claude Pepper Building, 111 West Madison Street, Suite 812, Tallahassee, Florida 32399-1400.

DEFINITIONS

As used herein, the following words shall have the meanings indicated:

“Document” refers to written matter of any kind, regardless of its form, and to information recorded on any storage medium, whether in electrical, optical or electromagnetic form, and capable of reduction to writing by the use of computer hardware and software.

“Identify” means:

- (a) With respect to a person, to state the person’s name, address and business relationship (e.g., “employee”) to Walmart.
- (b) With respect to a document, to state the nature of the document in sufficient detail for identification in a request for production, its date, its author, and to identify its custodian. If the information or document identified is recorded in

electrical, optical or electromagnetic form, identification includes a description of the computer hardware or software required to reduce it to readable form.

INSTRUCTIONS

1. To the extent an interrogatory calls for information which cannot now be precisely and completely furnished, such information as can be furnished should be included in the answer, together with a statement that further information cannot be furnished, and a statement as to the reasons therefore. If the information which cannot now be furnished is believed to be available to another person, identify such other person and the reasons for believing such person has the described information.
2. In the event any interrogatory herein calls for information or documents which Walmart deem to be privileged, in whole or in part, Walmart shall:
 - (a) make the claim expressly and specify the grounds relied upon for the claim of privilege,
 - (b) produce the information or documents in redacted form, and
 - (c) to the extent any information or documents are withheld, Walmart shall identify and describe the nature of each document not disclosed and each redacted provision in a manner that will enable other parties to assess the applicability of the privilege or protection.
3. Documents or reports to be identified shall include all documents in Walmart's possession, custody and control and all other documents of which Walmart has knowledge. If a document is produced in response to an interrogatory, please produce a copy of the original and all versions that are different in any way from the original, whether by interlineation, receipt stamp or notation. If Walmart does not have possession, custody, or control of the originals of the documents requested, please produce a copy of the version(s) in Walmart's possession, custody, or control, however, made.
4. Separate answers shall be furnished for each interrogatory, although where the context permits, an interrogatory may be answered by reference to the answer furnished to another interrogatory.
5. For each interrogatory, identify the name, address, telephone number and position of the person responsible for providing the answer.

6. Responsive documents available in an electronic format shall be provided in their native electronic format, unless the parties have reached a specific agreement in advance for production of the documents in a different, agreed-upon format or medium. OPC requests that responses for each production of document request be provided in separate electronic folders that include the documents responsive to the request.
7. Documents should be produced in an OCR (Optical Character Recognition) searchable format.
8. Please provide all responses to these interrogatories that include workpapers, data, calculations and spreadsheets in non-password protected and executable PC-compatible computer program/models/software. Formulae, links, and cells, formatting, metadata and any other original features assisting in calculation should be intact. For example, Excel documents and documents of a similar format shall be produced in their native electronic format, with all spreadsheets, formulas, and links unlocked and intact. To the extent the data requested does not exist in the form requested, please notify the undersigned counsel so that the parties can confer to reach a resolution for timely production.
9. Please construe “and” as well as “or” either disjunctively or conjunctively as necessary to bring within the scope of the interrogatories any document which might otherwise be construed to be outside the scope.

INTERROGATORIES

Please refer to the proposed 2025 Stipulation and Settlement Agreement (SA) for the following questions.

4. Please refer to paragraphs 4(a) and 4(b) and answer the following:
 - a. Please verify Walmart's understanding of whether, if the SA is approved as filed, that each of the proposed battery and/or storage projects, including (i) the 522 MW Northwest Florida battery projects in 2025, (ii) the 1,420 MW of battery projects in the 2026 projected test year, (iii) the 820 MW of solar projects in the 2026 projected test year, and (iv) the 820 MW of battery projects in the 2027 projected test year are undisputed for inclusion in the 2026 and 2027 annual revenue increases.
 - b. Please explain Walmart's understanding of whether, if the SA is approved as filed, the Commission is approving, by default, any specific resource planning method (i.e., stochastic loss-of-load probability) by approving the revenue increases or the SA as a whole.
5. Please refer to paragraphs 4(f) and 13(i). Please explain why Walmart believes it is appropriate to increase the monthly credits for the CILC and CDR programs in each year following 2026 with each SoBRA.
6. Please refer to paragraph 13 and answer the following:
 - a. Please explain Walmart's understanding of whether, if the SA is approved as filed, the Commission is approving, by default, any specific resource planning method (i.e., stochastic loss-of-load probability) by approving the SOBRA Mechanism or the SA as a whole.
 - b. Explain Walmart's understanding of the methodology to be used in the calculation of the Cumulative Present Value Revenue Requirement (CPVRR) for the solar projects. As part of your response, explain what limitation(s), if any, would be on the Commission's or any other party's review of this methodology in the future SOBRA proceedings.

- c. Explain Walmart's understanding of the use of inclusion of non-SOBRA battery and/or solar projects as possible avoidable units in the determination of the CPVRR for solar projects in the future SOBRA proceedings.
 - d. Explain Walmart's understanding of whether the SOBRA battery projects must also demonstrate CPVRR benefits. If so, detail what conditions, if any, that the SOBRA battery projects are subject to, and what methodology or limitations would there be on the Commission's or any other party's review in the future SOBRA proceedings. If not, explain why not.
 - e. Explain Walmart's understanding of the methodology intended to be used in the determination of reliability need for solar and battery projects. As part of your response, explain what limitation(s), if any, would be on the Commission's or any other party's review of this methodology in the future SOBRA proceedings.
 - f. Explain Walmart's understanding of the methodology that would be used in demonstrating that solar and/or battery project portfolios are the lowest cost resource available to timely meet the resource need. As part of your response, explain what limitation(s), if any, would be on the Commission's or any other party's review of this methodology in the future SOBRA proceedings.
7. Please refer to paragraph 21(a). Explain Walmart's understanding of how the additional threshold and sharing percentage interacts with Order No. PSC-2024-0078-FOF-EI, specifically paragraph 21(v) of the 2021 Rate Case Settlement and the review and adjustment of the adjustable parameters in the Fuel Cost Recovery Docket. Explain under what circumstances the modified Asset Optimization Program may be changed by the Commission in a later proceeding during the term of the proposed SA, and what participation, if any, Walmart or any other party would be allowed in that proceeding.
8. Please refer to paragraph 9 of the proposed Settlement for the following interrogatories.
- a. Please verify Walmart understands that it has agreed to not oppose allocating all clause factors using a 4 Coincident Peak (CP) and 12 percent Average Demand (AD) methodology for production plant and 4CP methodology for transmission plant.
 - b. Please explain Walmart's understanding of the 4CP and 12 percent AD methodology for production plant and 4CP methodology for transmission plant to allocate clause

factors. As part of your response, explain what limitation(s), if any, would be on the Commission's or any other non-signatory party's review of this methodology in future clause proceedings.

- c. Please state whether Walmart has ever intervened and been a party in any of the clause proceedings during the past 3 years. If yes, please list the year and the specific clause.
- d. Please indicate whether Walmart intends to obtain party status and participate in the upcoming 2025 clause proceedings?
- e. Please explain whether it is Walmart's understanding that the Commission is obligated to approve the 4CP 12 percent AD methodology for production plant and 4CP for transmission plant cost of service methodology in future clause hearings, under the terms of the proposed Settlement.
- f. Please explain whether Walmart agrees to FPL's proposed cost of service methodology (12 CP and 25 percent AD) to allocate production and transmission plant to set base rates.

Respectfully submitted,

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(850) 488-9330

*Attorneys for the Citizens
of the State of Florida*

AFFIDAVIT

STATE OF _____

COUNTY OF _____

I hereby certify that on this _____ day of _____, 2025, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared _____, who is personally known to me, and he/she acknowledged before me that he/she provided the answers to number(s) _____ in CITIZENS' SECOND SET OF INTERROGATORIES TO WALMART, INC. (NOS. 4-8) in Docket No. 20250011-EI, and that the responses are true and correct based on his/her personal knowledge.

In Witness Whereof, I have hereunto set my hand and seal in the State and County aforesaid as of this _____ day of _____, 2025.

Notary Public
State of Florida, at Large

My Commission Expires:

CERTIFICATE OF SERVICE
DOCKET NO. 20250011-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail on this 5th day of September, 2025, to the following:

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Sarah D. Stoner

From: Stephanie U. Eaton
Sent: Tuesday, September 23, 2025 11:44 AM
To: Sarah D. Stoner
Subject: FW: Docket # 20250011-EI FPL Rate Case - Request for Privilege Log [STB-WORKSITE.FID1208246]

From: Bailey, Stephanie <BAILEY.STEPHANIE@leg.state.fl.us>
Sent: Friday, September 19, 2025 3:16 PM
To: Jon Moyle <jmoyle@moylelaw.com>; Karen Putnal <kputnal@moylelaw.com>; Moyle Law Firm, P.A. <mqualls@moylelaw.com>; 'James W. Brew' <jbrew@smxblaw.com>; Laura Wyn Baker <lwb@smxblaw.com>; jrb@smxblaw.com; 'Sarah Newman' <sbn@smxblaw.com>; Leslie R. Newton <Leslie.Newton.1@us.af.mil>; Ashley N. George <ashley.george.4@us.af.mil>; Thomas A. Jernigan <thomas.jernigan.3@us.af.mil>; Michael Rivera <Michael.Rivera.51@us.af.mil>; James Ely <james.ely@us.af.mil>; Ebony Payton <ebony.payton.ctr@us.af.mil>; Matthew R. Vondrasek <Matthew.Vondrasek.1@us.af.mil>; Stephanie U. Eaton <seaton@spilmanlaw.com>; Steven Wing-Kern Lee <SLee@spilmanlaw.com>; William C. Garner <bgarner@wcglawoffice.com>; bruce.may@hklaw.com; kevin.cox@hklaw.com; kathryn.isted@hklaw.com; fself@bergersingerman.com; Ruth Vafek <rvafek@bergersingerman.com>; remontejo@duanemorris.com; ajudd@duanemorris.com
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Subject: Docket # 20250011-EI FPL Rate Case - Request for Privilege Log

EXTERNAL SENDER

Good afternoon,

On behalf of Austin Watrous in the Office of Public Counsel, please provide a copy of your privilege log for all discovery responses where you have asserted attorney-client, work product, or other privilege for the following discovery regarding the SIPP Settlement:

- OPC's 1st ROGs (Nos. 1-3) served on September 3, 2025
- OPC's 2nd ROGs (Nos. 4-8) served on September 5, 2025

Please provide the privilege logs via email to Austin Watrous at watrous.austin@leg.state.fl.us by noon on Tuesday, September 23, 2025.

If you have any questions or concerns, please do not hesitate to contact our office.

Sincerely,

Stephanie Bailey

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CERTIFICATE OF SERVICE

DOCKET NO. 20250011-EI

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