

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No: 20250011-EI

Filed: November 10, 2025

**FLORIDA ENERGY FOR INNOVATION ASSOCIATION, INC. 'S
POST-HEARING BRIEF**

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I. INTRODUCTION

Florida Energy for Innovation Association, Inc. (“FEIA”) hereby files its Post-Hearing Brief¹ in support of the Stipulation and Settlement Agreement dated August 20, 2025 (“Settlement Agreement”) among and between Florida Power & Light Company (“FPL”), FEIA, Florida Industrial Power Users Group, Florida Retail Federation, Walmart Inc., EVgo Services, LLC, Americans for Affordable Clean Energy, Inc., Circle K Stores, Inc., RaceTrac Inc., Wawa, Inc., Electrify America, LLC, Federal Executive Agencies, Armstrong World Industries, Inc., and Southern Alliance for Clean Energy (collectively, the “Signatories”). The Signatories filed a Joint Motion for Approval of Settlement Agreement on August 20, 2025. The Commission conducted a multi-day formal hearing to consider the Settlement Agreement which concluded on October 16, 2025. This brief and the post-hearing brief of FPL will show that the Settlement Agreement will resolve all of the issues in this docket, provide compelling benefits for every customer group, and result in fair, just, and reasonable rates. Taken as a whole, the Settlement Agreement is in the public interest and should be approved as filed.

II. POST-HEARING BRIEF OF FPL IS ADOPTED

In order to avoid repetitious and redundant arguments, and for purposes of regulatory efficiency, FEIA adopts FPL’s post-hearing brief (the “FPL Brief”) with respect to (i) the appropriate standard under which the Commission should review the Settlement Agreement, (ii) why the Settlement Agreement is in the public interest, (iii) the legal issues identified in the Prehearing Order, Order No. PSC-2025-0298-PHO-EI, along with additional legal issues that are

¹ FEIA’s Post-Hearing Brief is filed pursuant to Rules 28-106.215 and 28-106.307, Florida Administrative Code, and the following Orders entered by the Commission in this rate case: Order Nos. PSC-2025-0075-PCO-EI, PSC-2025-0304-PCO-EI, PSC-2025-0323-PCO-EI, and PSC-2025-0345-PCO-EI.

expected to be raised in the briefs of the NSPs,² and (iv) the factors that the Commission must consider under Florida law in addressing the Settlement Agreement, along with discretionary factors the Commission may consider. FEIA has filed its own post-hearing brief to provide additional background that amplifies FPL’s arguments about why the Settlement Agreement is in the public interest, particularly as it relates to FPL’s proposed Large Load Contract Service Tariff. FEIA’s post-hearing brief also demonstrates that it has standing to intervene as a party in this proceeding.

III. BACKGROUND

Members of FEIA are actively developing large-scale data centers in FPL’s service areas. Tr. 3331-33 (Provine).³ Data centers are needed to support the substantial computational demands of critical national priorities including defense, technological competitiveness, and advanced computing applications such as artificial intelligence. Tr. 3338 (Provine); Tr. 3421, 3430, 3443 (Mangum). On July 23, 2025, President Trump issued an Executive Order proclaiming data centers “are essential to national security, economic prosperity, and scientific leadership.”⁴ Data centers are not speculative. The data center industry has experienced exponential growth, a trend expected to persist for the foreseeable future, driven by a combination of national strategic imperatives and robust commercial innovation. Tr. 3441-43 (Mangum).

² “NSPs” collectively refers to the Office of Public Counsel (“OPC”), Florida Rising, Inc., LULAC Florida, Inc., Environmental Confederation of Southwest Florida, Inc. (collectively “FEL”), and Floridians Against Increased Rates, Inc. (“FAIR”), which declined to join the Proposed Settlement Agreement and forego all of the important customer benefits it offers.

³ Citations to the final hearing transcript will be designated as “Tr.” followed by page number. Citations to exhibits will be designated by “Ex.” followed by the exhibit number and page number, if applicable. The exhibit numbers correspond to those assigned in Staff’s Comprehensive Exhibit List (“CEL”) for entry into the hearing record.

⁴ See Accelerated Federal Permitting of Data Center Infrastructure, Executive Order No. 13218, 90 Fed. Reg. 35385 (July 23, 2025); see also *In re: Petition for rate increase by Florida Power & Light Co.*, Order No. PSC-2025-0331-PCO-EI, Docket No. 20250011-EI (Sept. 4, 2025) (Order Granting FEIA’s Motion for Official Recognition).

A. Benefits Provided by Data Centers

Undisputed record evidence demonstrates that, assuming competitive electric power costs and a favorable tax structure, data centers are estimated to bring billions of dollars in economic development benefits to Florida and elevate our state's standing in the national high-technology economy. Tr. 3337-38, 3345 (Provine); Tr. 3423, 3427, 3430 (Mangum).

At the hearing, FEIA proffered the testimony of expert economist, Dr. Fletcher Mangum, who prepared a rigorous economic impact analysis which showed a single 1000 MW hyperscale data center campus in St. Lucie County would be expected to deliver: (i) \$13.5 billion in total private capital investment over course of development; (ii) \$1.2 billion per year in sustained statewide economic output; (iii) 370 direct long-term local jobs in St. Lucie County and 2,370 total supported jobs across the state of Florida; (iv) \$20.0 million per year in new state gross receipts tax revenue on electricity; (v) \$113.9 million per year in St. Lucie County tax revenue; and (vi) \$63.0 million per year in dedicated property tax revenue for St. Lucie County Public Schools. Tr. 3423-24 (Mangum). Dr. Mangum's economic analysis is of the type that has been vetted and relied upon by governmental bodies in other parts of the country, including Virginia, Maryland, Georgia, and Illinois, to assess the economic benefits for decision making purposes. Tr. 3421, 3439-3440 (Mangum). Dr. Mangum has estimated the economic and fiscal impact of potential data center projects in many localities across the nation, from California to Maryland and Florida to Wisconsin, plus a project in Mexico. Tr. 3421, 3439-3440 (Mangum).

Beyond direct employment at the data center facility itself, data centers also produce very high indirect employment due to a large indirect job multiplier. Tr. 3442 (Mangum). While OPC witness Wilson quibbled that a data center would not employ as many folks as an electrified industrial plant, he acknowledged that "data centers provide substantial tax revenues." Tr. 4759 (Wilson). The overwhelming evidence in the record shows that FPL's general body of ratepayers

and the rest of Florida will benefit from substantial state and local tax revenues and new jobs that data centers are expected to generate.

Moreover, competent substantial record evidence shows that adding large load data centers as customers will enable FPL to spread its fixed costs over a greater volume of electricity sales, thus contributing to lower unit costs of electricity for all FPL customers. Tr. 3339, 3343 (Provine); Tr. 3385, 3390 (Loomis); Tr. 108-109 (Pimentel).

B. Florida's Ability to Compete Nationally for Data Center Investment

Data centers require a constant, reliable, and cost-effective electric power source to operate their computer servers, cooling systems, storage, and other essential infrastructure. Tr. 3332 (Provine). The record shows that, compared to states like Texas, Virginia, Georgia, South Carolina, Arizona, and Ohio, data center development in Florida has lagged due to concerns about electric grid reliability stemming from Florida's vulnerability to hurricanes and storms. Tr. 3336 (Provine); Tr. 3400 (Loomis); Tr. 3425, 3431 (Mangum). Those concerns dissipated as FPL invested billions of dollars to harden its transmission and distribution network. Tr. 3336 (Provine). FPL's storm-hardening efforts have delivered industry-leading grid reliability and resilience, which have improved Florida's position to compete nationally for data center investment. *Id.* Florida's competitive position has also been enhanced by the Florida legislature's strong support for data center development, as evidenced most recently with the passage of HB 7031, a robust sales tax exemption for equipment and electricity used by qualifying data centers. Tr. 3398 (Loomis).⁵

In addition to grid reliability, the cost of electric power is one of the most heavily weighted factors when choosing a location for a new data center facility. Tr. 3431-32, 3338-39 (Provine). Indeed, the cost of electric power is the single largest operating expense for large-scale data

⁵ See Ch. 2025-208, § 46, Laws of Fla. (amending § 212.08(5)(r), Fla. Stat. (2025)).

centers, often comprising up to 60% of total operating costs. Tr. 3332, 3339 (Provine); Tr. 3431 (Mangum). In terms of electric power costs, FEIA members were initially attracted to develop data center projects in FPL's service area because of FPL's willingness to provide electricity to large-load data centers under FPL's General Service Large Demand ("GSLD") Tariff. Tr. 3334 (Provine). Under FPL's GSLD-3 Tariff, data centers had access to "all-in" electric rates of approximately 5.98 cents/kWh before taxes and fees that were competitive with data center power costs in other states like Georgia, North Carolina, and Virginia, which are in the 5.5 to 7.5 cents/kWh range. Tr. 3431 (Mangum). FPL's review showed that its then-current GSLD-3 rates compared favorably to the top ten data center locations in the United States. CEL Ex. 1218 at Bates page nos. FPL 040935, FPL 041046-041049, FPL 041061, & FPL 041099-041101.

However, when FPL filed its original petition to increase rates on February 28, 2025, it included a proposed new Large Load Contract Service-1 (LLCS-1) rate schedule, new LLCS-2 rate schedule, and an associated LLCS Service Agreement tariff (collectively referred to as the "LLCS Tariff") that would apply to large-scale data centers with loads of 25 MW or more and a load factor of 85% or more.⁶ FPL witness Cohen testified that large-scale data center customers would otherwise take service on a GSLD-3 rate schedule in absence of the proposed new rate schedules LLCS-1 and LLCS-2. Tr. 2744 (Cohen).

The new LLCS Tariff proposed by FPL would effectively close its GSLD-3 Tariff to large-scale data center customers and reclassify them as LLCS-1 or LLCS-2 customers with electric rates that are more than 69% higher than the rates under FPL's current GSLD-3 Tariff. Tr. 3377-

⁶ FPL designed the LLCS-1 rate schedule to serve 3 GW of combined total load in three zones in Martin, St. Lucie, and Palm Beach Counties, which are in close proximity to FPL's existing 500 kV transmission facilities. The LLCS-1 schedule includes a new stated Incremental Generation Charge ("IGC"), which FPL designed to recover the costs of the incremental generation capacity needed to serve expected large load data centers. Tr. 2625 (Cohen). The LLCS-2 rate schedule is an optional rate for those customers that elect not to site their load within one of the three regions included in LLCS-1. Although similar to the LLCS-1 schedule, the LLCS-2 is not available in the regions serviced under LLCS-1; is not capped at 3 GW; and the IGC is not stated but rather based on a formula. Tr. 2625-26 (Cohen).

79, 3389 (Loomis); Tr. 3334 (Provine); CEL Ex. 226. In addition, the proposed LLCS Tariff would require data center customers to enter long-term service agreements which imposed onerous contract terms and conditions, none of which are required under the current GSLD-3 Tariff. Tr. 3386-89 (Loomis); CEL Exs. 227-230.

Because of the overall magnitude of FPL's proposed rate increase and concerns that the proposed LLCS Tariff could stifle Florida's ability to attract data center investment, FEIA moved to intervene in this rate case.⁷

C. FEIA's Concerns with FPL's LLCS Tariff as Originally Proposed

After the Commission granted FEIA's motion to intervene,⁸ FEIA proffered three witnesses who testified that FPL's LLCS Tariff, as initially proposed, would subject large data center customers to excessive rates and overly burdensome contractual terms which would undermine Florida's ability to effectively compete with other states in order to attract and retain data center investment.⁹ Tr. 3332-3345 (Provine); Tr. 3374-3391, 3395-3403 (Loomis); Tr. 3420-25 (Mangum); *see also* CEL Ex. 1218 at Bates page nos. FPL 041046-041049, FPL 041061 & FPL 141101.

Under the LLCS-1 Tariff, FPL initially proposed charging data center customers an all-in electric price of approximately 10.16 cents per kWh, which is more than 69% higher than would be charged under its current GSLD-3 Tariff. Tr. 3377-79, 3384, 3386, 3389 (Loomis); CEL Ex.

⁷ See Florida Energy for Innovation Association's Motion to Intervene, filed May 15, 2025.

⁸ *In re: Petition for rate increase by Florida Power & Light Co.*, Order No. PSC-2025-0166-PCO-EI, Docket No. 20250011-EI (May 22, 2025) (Order granting FEIA's Motion to Intervene). FEIA's Motion to Intervene was granted subject to proof of standing, *id.* at 3, which FEIA has proven as explained below in Section V.C.1 of this brief.

⁹ In addition to FEIA, three other intervenors submitted direct testimony proposing modifications to FPL's proposed LLCS Tariff. Walmart, FIPUG, and FEA generally supported the LLCS Tariffs with certain recommended modifications. Both FIPUG and Walmart questioned whether the 25 MW demand threshold is too low and could unintentionally include more traditional commercial and industrial customers. FIPUG also questioned whether the rates under the LLCS tariffs were too high. Finally, FEA proposed that the termination notice for the LLCS tariffs be increased from 2 years to 5 years, proposed that the minimum take-or-pay demand charge be reduced, and questioned the amount of performance security included in the proposed LLCS Service Agreement.

226. Furthermore, record evidence shows LLCs-1 rate that FPL initially proposed would substantially exceed the price of electricity in other states that are competing with Florida for data center development. *See, e.g.*, CEL Ex. 1218 at Bates page nos. FPL 041046-041049, FPL 041061 & FPL 041452. The primary factor that caused the LLCs rate to be disproportionately high was FPL's introduction of a new charge—the IGC—which FPL designed to ensure that the costs for the incremental generation necessary to serve these new large loads are recovered from the data center customer and not from FPL's general body of customers. Tr. 2755-56 (Cohen).

The IGC was initially formulated to recover the costs associated with 3000 MW of new battery storage buildout that FPL had thought would be required to serve expected data center load between now and the next FPL rate case in 2030. Tr. 2684 (Cohen); Tr. 5215 (Cohen). FEIA witness Loomis testified that FPL had overstated the amount of battery storage buildout needed, which inflated the capital costs used in the IGC calculations and pushed LLCs rates far above the electric rates in other states that are competing with Florida for data center development. Tr. 3380-81 (Loomis); Tr. 3340 (Provine); Tr. 3429-3431 (Mangum); *see also* CEL Ex. 1218 at Bates page nos. FPL 041046-041049, FPL 041061, & 041101.

The record also shows that FEIA agrees that the LLCs Tariff can properly contain an IGC to ensure that the cost-causer bears primary responsibility for the additional generation investments required to serve large load data centers. To be fair, however, the IGC must be based on realistic projections of data center load and accurate modeling of FPL's cost to serve. FEIA witness Loomis testified that, when those steps are taken, the LLCs-1 Tariff should reflect an IGC much lower than FPL proposed. Tr. 3379-3381, 3389 (Loomis). Furthermore, once established, FEIA agrees the IGC should be implemented, reviewed, and, if needed, updated on a non-discriminatory basis

in future rate cases consistent with the Commission's accepted ratemaking principles. Tr. 3383-84 (Loomis).

In addition to charging disproportionately high rates, the proposed LLCS Tariff compelled data center customers to comply with onerous contract terms and conditions that were not required by the GSLD-3 Tariff and were materially beyond industry norms. Tr. 3386-89, 3402-03 (Loomis). Specifically, Witness Loomis testified that requiring a customer to enter a LLCS Service Agreement ("LSA") for a minimum 20-year term is disproportionately long when compared with accepted practice in other relevant markets. Tr. 3386-87 (Loomis). Witness Loomis pointed out that: Indiana & Michigan Power has a minimum 12-year contract term with up to a 5-year extension; AEP Ohio requires a minimum of 10 years with up to a 3-year load ramp; and Georgia Power has a 15-year minimum contract length. *Id.*; CEL Ex. 228. Accordingly, for Florida to attract data center investment, he recommended that the LSA's minimum contract term be reduced from 20 years to a base of 12 years with two optional 5-year extensions at the data center's discretion. Tr. 3387 (Loomis).

Witness Loomis testified that a take-or-pay charge of 90% of the customer's contract demand is not necessary given data centers' high load factors, predictable usage, and reliable revenue streams. Tr. 3387 (Loomis). He pointed out that a take-or-pay charge of 65% of the contract demand would be consistent with industry standards and still provide adequate protection to the general body of ratepayers. Tr. 3387-88 (Loomis); *see also* table at CEL Ex. 483 at p. 9 (Master Ex. No. E98492), FEIA's Responses and Objections to Staff's First Set of Interrogatories (Nos. 1-9), Rog. No. 8.

FEIA witness Loomis also testified that requiring LLCS customers to post upfront security amounting to 100% of expected IGC revenues over a 20-year LSA contract is excessive and results

in over-collateralization that is not commercially viable. Tr. 3387 (Loomis). For a 1,000 MW data center, this would mean over \$6 billion in redundant upfront collateral—an unreasonable burden that shifts infrastructure risk onto customers who also lack the right to resell unused capacity without FPL’s consent. *Id.*; CEL Exs. 227 & 228. Witness Loomis recommended that the redundant IGC collateral requirement be eliminated for customers who meet FPL’s stated creditworthiness requirements. Tr. 3388 (Loomis). If the customer executing the LSA does not meet FPL’s creditworthiness standards, then the IGC Performance Security should be set at an amount reflecting FPL’s actual generation costs, not total IGC revenues. *Id.*

Finally, Witness Loomis explained that requiring LLCS customers to complete negotiations and execute the LSA and other relevant FPL contracts within six months of accepting FPL’s formal engineering study is neither practical nor commercially viable. Tr. 3389 (Loomis). The development of a data center involves the negotiation of numerous, complex, multi-billion-dollar contracts which simply cannot be completed within such a compressed time period. Tr. 3341 (Provine). Dr. Loomis recommended that the LSA and other relevant FPL contracts should be executed within 18 months from acceptance of FPL’s formal engineering study. Tr. 3389 (Loomis).

D. FPL Modifies Its LLCS Tariffs in Rebuttal Testimony

In its rebuttal testimony, FPL modified its LLCS Tariff in ways that addressed some but not all FEIA’s concerns. For example, FPL proposed to lower the IGC from \$28.07/kW/month to \$12.18/kW/month, and to reduce the minimum take-or-pay requirements for LLCS customers from 90% of contracted load to 70%. Tr. 2685, 2687 (Cohen). Although FEIA viewed those modifications as constructive, FPL’s rebuttal testimony did not allay all of FEIA’s concerns regarding the level of the LLCS-1 rate, the LSA’s lengthy 20-year term, the unnecessary IGC performance security for creditworthy data center customers, and the inadequate amount of time

allotted for data center customers to complete the negotiation of the complex, multi-billion-dollar contracts required for a large-scale data center project. Tr. 2685-87 (Cohen).

Simply put, after all of the pre-filed testimony had been submitted by all parties, FEIA still had concerns that the rates, terms, and conditions in FPL's LLCs Tariff were not competitive with the regulatory policies in other states and would stifle FEIA members' ability to develop and operate data centers in FPL's service area. Thus, to protect its members' interests, FEIA had two options: it could proceed forward to hearing with its "as-filed" case, or it could attempt to reach settlement.

E. The Settlement

After considering the time, expense, and inherent uncertainty of administrative litigation associated with proceeding with the case as-filed—and recognizing the Commission's long-standing policy of favoring settlements—FEIA met with FPL and other parties to discuss the possibility of a comprehensive settlement of all the issues, including those involving the proposed LLCs Tariff. After extensive efforts, the Signatory Parties were able to work collaboratively to negotiate and reach a full resolution of all issues as delineated in the Settlement Agreement.

The FPL Brief provides a thorough summary and explanation of the key elements of the Settlement Agreement that need not be repeated here.¹⁰ However, as an association whose members include existing residential and general service customers of FPL, along with members that are developing data centers and actively seeking electric service from FPL, FEIA is compelled to briefly explain why it signed the Settlement Agreement and believes it to be in the public interest. First, with respect to electric rates in general, the Settlement Agreement obligates FPL to significantly reduce the overall revenue increase it initially requested. For 2026, the increase in

¹⁰ FPL Brief at Section III.

rates and charges sufficient to generate additional annual revenues of \$945 million represents a reduction of approximately 39% compared to FPL's as-filed case. Similarly, for 2027, the increase in rates and charges sufficient to generate additional annual revenues of \$705 million, represents a reduction of approximately 24% compared to FPL's as-filed case. The Settlement Agreement also provides for a lower ROE of 10.95%, which represents a reduction of nearly 100 basis points compared to FPL's as-filed case. All of these elements combine to ensure that FPL's residential and general service bills will remain well below the national average for the next four years. Tr. 5205-06 (Cohen).

Second, with respect to the ability of data centers to receive electric service under the LLCs Tariff, the Settlement Agreement proactively establishes a combination of robust tariff safeguards designed to protect the general body of FPL's customers from having to pay for the incremental generation costs needed to serve large load data centers. Tr. 5219-5220 (Cohen); *see also* Tr. 108-109 (Pimentel). At the same time, the LLCs Tariff, as modified by the Settlement Agreement, would expeditiously eliminate the regulatory uncertainty that presently arrests data center development in the state. Tr. 3399-3400 (Loomis). At its core, the modified LLCs Tariff provides a stable, commercially reasonable and predictable regulatory framework for data center development that is expected to bring billions of dollars in economic development benefits to Florida and elevate our state's standing in the national technology economy. Tr. 3427-3432 (Mangum); Tr. 3336-37 (Provine); Tr. 3400 (Loomis).

To be sure, the LLCs Tariff as modified by the Settlement Agreement did not address all of FEIA's concerns. For example, the "all-in" LLCs-1 rate incorporated in the Settlement Agreement of approximately 8.68 cents/kWh, Tr. 2685 (Cohen), substantially exceeded the LLCs-1 rate of approximately 6.89 cents/kWh recommended by FEIA. Tr. 3389 (Loomis). Furthermore,

the LSA's minimum 20-year term in the Settlement Agreement is far longer than the minimum 12-year term advocated by FEIA. Tr. 3388 (Loomis). The Settlement Agreement also did not address FEIA's request to eliminate the IGC performance security for creditworthy data center customers, *id.*, nor did it extend the time for execution of the LSA and related contracts to 18 months as FEIA requested. Tr. 3389 (Loomis). Although the Settlement Agreement did not address all of FEIA's concerns, FEIA ultimately agreed to the settlement in a spirit of compromise to resolve all of the issues in this docket. Overwhelming evidence shows that the Settlement Agreement taken as a whole results in fair, just and reasonable rates, and is in the public interest.

IV. STANDARD OF REVIEW

FEIA adopts the standard of review described in the FPL's post-hearing brief.

V. THE PROPOSED SETTLEMENT IS IN THE PUBLIC INTEREST

A. Overview of Proposed Settlement Agreement

FEIA adopts FPL's post-hearing brief.

B. Major Elements of Proposed Settlement Agreement

1. Term: 1/1/26-12/31/29, Unless Extended per RSM

FEIA adopts FPL's post-hearing brief.

2. Cost of Capital: ROE 10.95% and Capital Structure of 59.6% Equity Ratio

i. Return on Equity

FEIA adopts FPL's post-hearing brief.

ii. Capital Structure

FEIA adopts FPL's post-hearing brief.

3. 2026 Base Rate Adjustment \$945M

i. Reduced 2026 Revenue Requirement is in the Public Interest

FEIA adopts FPL's post-hearing brief.

ii. Other Contested Issues Underlying 2026 Base Rate Adjustment

FEIA adopts FPL's post-hearing brief.

4. 2027 Base Rate Adjustment \$705M

i. Reduced 2027 Revenue Requirement is in the Public Interest

FEIA adopts FPL's post-hearing brief.

ii. Other Contested Issues Underlying 2027 Base Rate Adjustment

FEIA adopts FPL's post-hearing brief.

5. Revenue Requirement Allocation

FEIA adopts FPL's post-hearing brief.

6. Commercial/Industrial Load Control and Demand Reduction Credits

FEIA adopts FPL's post-hearing brief.

7. Large Load Contract Service

FEIA adopts Section III. B. 7. of the FPL Brief, which thoroughly and accurately explains (i) the elements of its LLCs Tariff, as modified by the Settlement Agreement, (ii) why the modified LLCs Tariff is in the public interest, and (iii) why the concerns expressed by some of the NSPs regarding the modified LLCs Tariff are misinformed and unfounded. However, without being repetitious, FEIA believes it instructive to amplify that portion of the FPL Brief to further address OPC witness Wilson's testimony wherein he takes issue with the 70% minimum demand charge in the Settlement Agreement. As shown below, witness Wilson's opposition to that minimum demand charge is untenable on several levels.

First, witness Wilson ignores the testimony and exhibits of FEIA witness Loomis, which show that a minimum take-or-pay charge of 65% of the contract demand would be consistent with industry standards and still provide adequate protection to the general body of ratepayers. Tr. 3387-88 (Loomis); *see also* table at CEL Ex. 483 at p. 9 (Master Ex. No. E98492), FEIA's Responses

and Objections to Staff's First Set of Interrogatories (Nos. 1–9), Rog. No. 8.

Second, as pointed out by FPL in its brief, witness Wilson overlooks the fact that the 70% minimum demand charge is not the only take-or-pay provision in the LLCS Tariff specifically designed to protect FPL's general body of customers. Under the LLCS Tariff, as modified by the Settlement Agreement, in addition to being required to take-or-pay a minimum demand charge based on 70% of contracted demand, a data center customer is required to take-or-pay 100% of the IGC charges for the entire 20-year term of the LSA. In other words, regardless of whether the data center customer reduces its load, it is still required to pay 100% of the IGC, a charge that does not change with fluctuations in demand. Further, as explained by FPL witness Cohen, if the data center customer terminates the LSA before the end of the 20-year term, it is obligated to pay an exit fee equivalent to an accelerated payment of 100% of the IGC for the remaining term of the agreement. Tr. 5212 (Cohen). The combination of these measures provides robust safeguards that will protect FPL's general body of customers if the data center's contract demand does not materialize or drops, or if the data center leaves FPL's system.

Third, witness Wilson cites to a peer tariff study conducted in another case, in another state, by another unrelated individual¹¹ as a basis to suggest that the 70% minimum demand charge in the Settlement Agreement is uncommon. However, the study on which witness Wilson relies actually states that "minimum billed-demand thresholds in the 60-90 percent range are commonplace."¹²

The only rationale witness Wilson has given for his crusade against the 70% minimum demand charge appears to be that he just does not "like" it. Indeed, when he was asked at the

¹¹ See "Rebuttal Testimony of Steven W. Wishart on Behalf of Virginia Electric and Power Company, State Corporation Commission of Virginia Case Nos. PUR-2025-00058 and 00059, page 5 Table 1," available electronically at <https://www.scc.virginia.gov/docketsearch/DOCS/87%40c01!.PDF>

¹² See *id.*

hearing by Chairman La Rosa how FPL’s LLCS Tariff compared to what is being done in other states, witness Wilson replied:

It’s comparable. I think the company did a good job in research, and they probably researched what other states are doing in order to put their initial proposals together. So I think it’s pretty solid. And then through the settlement effort, there were some tweaks, probably some improvements, and some compromises in there. So overall, I think it’s a good job. **I just don’t like the 70 percent.**

Tr. 4780-81 (Wilson) (emphasis added). Witness Wilson’s visceral dislike for one component of the LLCS Tariff—the 70% minimum demand charge—rings hollow especially when he testified that overall the LLCS Tariff as modified by the Settlement Agreement is “pretty solid” and represents a “good job”. In short, OPC witness Wilson’s testimony does nothing to discredit the Settlement Agreement.

8. CIAC Tariff

FEIA adopts FPL’s post-hearing brief.

9. Electric Vehicle Charging Programs

FEIA adopts FPL’s post-hearing brief.

10. Cost Allocation Methodology for Cost Recovery Clause Factors

FEIA adopts FPL’s post-hearing brief.

11. Storm Cost Recovery Mechanism

FEIA adopts FPL’s post-hearing brief.

12. SoBRA Base Rate Adjustments 2027, 2028, 2029

FEIA adopts FPL’s post-hearing brief.

13. Federal or State Tax Law Changes

FEIA adopts FPL’s post-hearing brief.

14. Capital Recovery Schedules

FEIA adopts FPL’s post-hearing brief.

15. Depreciation and Dismantlement

FEIA adopts FPL's post-hearing brief.

16. Sale of Excess ITCs and PTCs

FEIA adopts FPL's post-hearing brief.

17. Rate Stabilization Mechanism

i. FPL's Tax Adjustment Mechanism Under Its Original Petition

FEIA adopts FPL's post-hearing brief.

ii. Rate Stabilization Mechanism in the Proposed Settlement Agreement

FEIA adopts FPL's post-hearing brief.

iii. The RSM is in the Public Interest

FEIA adopts FPL's post-hearing brief.

18. Asset Optimization Program

FEIA adopts FPL's post-hearing brief.

19. Long Duration Battery Storage Pilot

FEIA adopts FPL's post-hearing brief.

20. Land for Solar Facilities and Sale of Property Held for Future Use

FEIA adopts FPL's post-hearing brief.

21. Vandolah

FEIA adopts FPL's post-hearing brief.

22. Natural Gas Hedging

FEIA adopts FPL's post-hearing brief.

23. Disconnection Policy

FEIA adopts FPL's post-hearing brief.

24. Payment Assistance Contribution

FEIA adopts FPL's post-hearing brief.

25. Support Proposal for Large Customer Opt-out of ECCR

FEIA adopts FPL's post-hearing brief.

26. Minimum Bill (Exhibits B and C)

FEIA adopts FPL's post-hearing brief.

C. Legal Issues

1. FEIA's Standing to Intervene

FEIA satisfies all standing requirements under Florida law to intervene in this general rate case proceeding. On May 22, 2025, the Commission provisionally granted FEIA's motion to intervene finding that "taken as true, FEIA's allegations are sufficient to support all elements of associational standing under *Florida Home Builders*," but noting FEIA would have to provide proof of associational standing at the hearing absent stipulation by the parties. *In re: Petition for rate increase by Florida Power & Light Co.*, Order No. PSC-2025-0166-PCO-EI, at 2, Docket No. 20250011-EI (FPSC May 22, 2025).

In Florida, the test for associational standing was established by *Florida Home Builders Association v. Department of Labor and Employment Security*, 412 So. 2d 351 (Fla. 1982) and *Farmworkers Rights Organization, Inc. v. Department of Health and Rehabilitative Services*, 417 So. 2d 753 (Fla. 1st DCA 1982). Associational standing may be found where the association demonstrates three things: (1) that a substantial number of an association's members may be substantially affected by the Commission's decision in a docket; (2) that the subject matter of the proceeding is within the association's general scope of interest and activity; and (3) that the relief requested is of a type appropriate for the association to receive on behalf of its members.

After the Commission provisionally granted FEIA's motion to intervene, FEIA proffered the testimony of its president, Robert Provine, who confirmed under oath that FEIA meets the

three-prong associational standing test established in *Florida Home Builders*. With respect to the first prong, FEIA witness Provine testified FEIA is a not-for-profit Florida corporation whose members include customers of FPL facing the prospect of paying higher electricity base rates. Tr. 3331-3337. It is settled that customers of FPL are substantially affected by the Commission's decision in an FPL rate case and have standing to intervene. *See In re: Petition for rate increase by Florida Power & Light Co.*, Order No. PSC-2021-0446-S-EI, at 7, Docket No. 20210015-EI (PSC Dec. 2, 2021) ("As customers of FPL, each of these persons will realize an impact to their utility bill as a result of the decision in this rate case, and is 'substantially affected' for purposes of standing."); *In re: Petition for rate increase by Florida Power & Light Co.* Order No. PSC-2012-0229-PCO-EI, at 2, Docket No. 120015-EI (FPSC May 9, 2012) (granting FPL customer standing to intervene in an FPL rate case). FEIA witness Provine's testimony also confirmed that 75% of FEIA's members are FPL customers. Tr. 3335 (Provine). This is a "substantial number" under Florida case law. *See Hillsborough Cty. v. Fla. Rest. Ass'n, Inc.*, 603 So. 2d 587, 589 (Fla. 2d DCA 1992) (holding that the "substantial number" of members requirement for associational standing does not require a set percentage or specific number); *ABC Fine Wine & Spirits v. Dep't of Bus. & Pro. Regul.*, 323 So. 3d 794, 798 (Fla. 1st DCA 2021) (finding 42% of an association's members to be a "substantial number"). Furthermore, FEIA Witness Provine testified that 50% of FEIA's members are actively developing data centers in FPL's service territory and thus face the immediate prospect of paying higher rates and enduring onerous contract terms and conditions if the Commission decides to approve the new LLCS Tariff that FPL has proposed. Tr. 3332 (Provine). FEIA witness Provine's sworn testimony, which was not disputed or challenged by any party, certainly demonstrates that a substantial number of FEIA's members may be substantially affected by the Commission's decision in this rate case.

With respect to the second prong, FEIA witness Provine testified that FEIA’s intervention is within its general scope of interest and activity because FEIA was “formed to represent its members’ interests before Florida governmental entities, including the Florida Public Service Commission (“Commission”), and specifically to ensure that the data center industry has access to fair, just, reasonable and non-discriminatory rates.” Tr. 3331 (Provine). Thus, the subject matter of this rate case is squarely within FEIA’s general scope of interest and activity.

With respect to the third prong, FEIA witness Provine testified that all FEIA members have a strong interest in the Commission approving fair, just, reasonable and non-discriminatory rates. Tr. 3332-33 (Provine). Thus, the relief FEIA seeks in this case—fair, just, reasonable and non-discriminatory rates—is clearly the type of relief that that is appropriate for FEIA to request and receive on behalf of its members. *See, e.g., In re: Petition for rate increase by Florida Power & Light Co.*, Order No. PSC-2021-0134-PCO-EI at 2, Docket No. 20210015-EI (FPSC Apr. 16, 2021) (“The relief requested by FRF is of a type appropriate for an association to obtain on behalf of its members.”).

For all of the foregoing reasons, the undisputed evidence in this proceeding demonstrates that FEIA has associational standing to intervene as a party in this FPL rate case.

2. Authority to Approve the Tax Adjustment Mechanism

FEIA adopts FPL’s post-hearing brief.

3. Authority to Approve the Solar Base Rate Adjustment Mechanism

FEIA adopts FPL’s post-hearing brief.

4. Authority to Approve the Storm Cost Recovery Mechanism

FEIA adopts FPL’s post-hearing brief.

5. Authority to Approve the Tax Law Adjustment Mechanism

FEIA adopts FPL’s post-hearing brief.

6. The Commission's Authority to Approve the Proposed Settlement Agreement

FEIA adopts FPL's post-hearing brief.

7. The Commission Properly Rejected the NSPs Attempt to Settle with Themselves and Without FPL

FEIA adopts FPL's post-hearing brief.

D. Factors the Commission Must Consider Pursuant to FAIR

1. Cost of Providing Service to the Class, Rate History, Value of Service, and Experience of FPL

FEIA adopts FPL's post-hearing brief.

2. Consumption and Load Characteristics of the Various Classes of Customers

FEIA adopts FPL's post-hearing brief.

3. Public Acceptance of Rate Structures

FEIA adopts FPL's post-hearing brief.

4. FEECA Performance

FEIA adopts FPL's post-hearing brief.

E. Discretionary Factors that the Commission May Consider Pursuant to FAIR

1. The Efficiency, Sufficiency, and Adequacy of the Facilities Provided and the Services Rendered

FEIA adopts FPL's post-hearing brief.

2. The Cost of Providing Such Service and the Value of Such Service to the Public

FEIA adopts FPL's post-hearing brief.

3. The Ability of the Utility to Improve Such Service and Facilities

FEIA adopts FPL's post-hearing brief.

4. Energy Conservation and the Efficient Use of Alternative Energy Resources

FEIA adopts FPL's post-hearing brief.

5. Development of Renewable Energy Resources in the State

FEIA adopts FPL's post-hearing brief.

VI. CONCLUSION

For all of the reasons stated herein and in FPL's Brief, the Settlement Agreement taken as a whole is in the public interest, is fully supported by competent substantial record evidence, and resolves all of the issues in this docket. Therefore, FEIA respectfully requests that the Commission approve the Settlement Agreement as filed and issue an order finding that it: (i) is in the public interest; (ii) results in base rates and charges that are fair, just, and reasonable; and (iii) resolves all the issues in this docket.

Respectfully submitted this 10th day of November, 2025.

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