State of Florida

Public Service Commission

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-M-E-M-O-R-A-N-D-U-M-

DATE: November 14, 2025

TO: Mike La Rosa, Chairman
Art Graham, Commissioner
Gary F. Clark, Commissioner
Andrew Giles Fay, Commissioner
Gabriella Passidomo Smith, Commissioner

FROM: Mark Cicchetti, Director, Division of Accounting and Finance
Thomas E. Ballinger, Director, Division of Engineering
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Cayce H. Hinton, Director, Office of Industry Development and Market Analysis
Adria E. Harper, General Counsel

RE: Docket No. 20250011-EI - Petition for rate increase by Florida Power & Light Company: Staff Overview and Summary

Introduction

The Commission is scheduled to consider Florida Power & Light Company's 2025 Stipulation and Settlement Agreement (Settlement Agreement) in Docket No. 20250011-EI at its November 20, 2025, Special Agenda Conference. The attached Summary and Analysis addresses the major elements of the Settlement Agreement and the legal issues before the Commission. The purpose of this document is to provide background and guidance through the record evidence and arguments of the parties for use by the Commission in its deliberations.

The Commission is to ultimately determine whether the Settlement Agreement, taken as a whole, results in fair, just, and reasonable rates, and is in the public interest. While each major element of the Settlement Agreement must be considered in reaching this determination, the Commission is not voting on the reasonableness of any particular element, or whether an element, on its own, is in the public interest.

Commission consideration of a rate case settlement is guided by a framework established by the Florida Supreme Court. Under that framework, the Commission must (1) discuss the major elements of a settlement agreement and (2) determine whether that agreement is in the public interest. This discussion should include consideration of the competing arguments made by the parties below in light of the factors relevant to the Commission's decision, and an explanation of how the evidence presented led to the ultimate public interest decision in light of those arguments and factors.

If the Commission votes to approve the Settlement Agreement, staff will draft an order that memorializes this decision. Pursuant to the same Supreme Court framework referenced above, the final order must provide a reasoned explanation for the Commission's decision to approve the Settlement Agreement, one that includes a rational connection between the facts found and the choice made.

If the Commission votes to not approve the Settlement Agreement, a procedural order will subsequently be issued that establishes a date for the parties to submit post-hearing briefs on the 130 issues identified in the Prehearing Order issued August 7, 2025. Those issues would be scheduled for consideration by the Commission at a future special Agenda Conference. Staff's full Settlement Summary Document is Attachment 1.

Executive Summary

Office of General Counsel

The Commission has subject matter jurisdiction to consider this non-unanimous settlement agreement and its proposed accounting mechanisms. Similarly, the Commission has the jurisdiction to approve a four-year term for this plan, which includes intermittent base rate increases under identified conditions, should it find a sufficient basis in the record to do so.

The Commission has personal jurisdiction over the parties to this proceeding, as those parties submitted record evidence that they are persons who are or may be substantially affected by the decision on FPL's rate request. SACE, however, did not prefile testimony or submit other evidence at the final hearing to prove that its members are or may be impacted by the decision in this docket. On that basis, SACE may be dismissed from this proceeding by the Commission for lack of standing.

Division of Accounting and Finance

Cost of Capital

In FPL's as-filed case, the Company requested an overall rate of return of 7.63 percent for 2026 and 7.64 percent for 2027 using a capital structure that included an equity ratio of 59.60 percent of investor sources of capital, and a return on equity (ROE) of 11.90 percent with a range of 10.90 percent to 12.90 percent. The 2025 Settlement specifically states that all rates, including those established in clause proceedings during the Term, shall be set using a 10.95 percent ROE. FPL's authorized range of ROE shall be 9.95 percent to 11.95 percent and shall be used for all purposes. The 2025 Settlement maintains the 59.60 percent equity ratio based on investor sources of capital.

The Non-signatory intervenors (NSPs) strongly oppose the 10.95 percent ROE, arguing it is excessive compared to national and regional averages and would lead to unjust rates, especially when coupled with the high equity ratio and the Rate Stabilization Mechanism (RSM). The NSPs proposed a lower 10.60 percent ROE as a more reasonable alternative. FPL and the signatory

parties (SPs) defended the 10.95 percent ROE and 59.60 percent equity ratio, asserting they are necessary to maintain financial strength and credit quality while meeting the legal standards set forth in the Hope and Bluefield Supreme Court decisions.

The ROE is impacted by both the equity ratio and mechanisms that act to reduce risk, such as the RSM. All other things being equal, a higher equity ratio results in lower financial risk, and mechanisms that stabilize earnings lower business risk. Both FPL witness Coyne and OPC witness Lawton agreed that the RSM will help stabilize FPL's earnings and lower its business risk. (TR 5274; TR 3162 – 3163) The NSPs argued that FPL's proposal for approval of both a high ROE and a high equity ratio is unacceptable, particularly when coupled with the RSM, and could lead to rates that are excessive. (TR 5055 – 5057)

2026 & 2027 Base Rate Adjustments

In its petition, FPL requested a base rate increase of $1.545 billion for the 2026 projected test year and $927 million for the 2027 projected test year. In the 2025 Settlement, these requests were reduced to $945 million and $705 million, respectively. The decrease in the requested amount resulted in a 39 percent reduction for 2026 and a 24 percent reduction for 2027. Under the 2025 Settlement, this amount is inclusive of the investment tax credits (ITC) benefit FPL will receive for the battery storage facilities.

OPC and FEL argued that the negotiated increase is still too high and not in the public interest. Specifically, the NSPs points of contention include the justification for the base rate increases, such as FPL's operational expenses and incentive compensation. Additionally, OPC argued that the sales forecast methodology used to project future revenues has underestimated sales, leading to potential overpayment by customers.

Rate Stabilization Mechanism (RSM)

The 2025 Settlement establishes a Rate Stabilization Mechanism (RSM) that replaces the originally proposed Tax Adjustment Mechanism (TAM) contained in FPL's as-filed case. The RSM is contemplated to operate during the Term of the 2025 Settlement and functions as a regulatory accounting mechanism intended to avoid rate cases in 2028 and 2029 as well as stabilize customer rates and book earnings over the years 2026 through 2029. FPL initially requested approval of a $2 billion TAM in its as-filed case. (TR 2313) This amount was later revised to $1.717 billion and further revised by the 2025 Settlement as detailed below. (TR 1871; EXH 113)

The NSPs are not in support of the RSM. NSP witness Herndon contended the RSM would allow FPL to unjustly take cash already paid by its customers for covering future tax obligations and instead use it for the purposes of enhancing earnings. FPL would then effectively have future customers pay back the money that it used to enhance earnings. (TR 2579) Further, witness Herndon stated it appears that FPL intends to use the RSM exactly as it has used the RSAM, to achieve returns that violate basic standards of fair, just, and reasonable rate setting. (TR 2591)

Witnesses Herndon also asserted that FPL intends to use the RSM to maximize its earnings up to and including achieving ROEs at or near the top of its range. (TR 2577)

Property Held for Future Use

In FPL's as-filed case, the utility reported substantial balances of property held for future use (PHFU), including $1.475 billion in 2026 and $1.533 billion in 2027, with the majority allocated to future renewable energy projects. Under the 2025 Settlement, FPL agreed to avoid purchasing land used exclusively for solar projects during the minimum term, except for the Duda property, and committed to sell $200 million of PHFU at fair market value, while retaining the ability to acquire land for other utility purposes such as transmission and distribution. FPL maintains that its land management practices are prudent, strategic, and consistent with Commission precedent, arguing that early acquisition secures suitable sites and avoids higher future costs, and that all long-held parcels have defined planned uses. OPC, however, asserted that the settlement leaves loopholes that would allow FPL to continue stockpiling land, contended that FPL already holds enough property for solar and battery needs through 2034, and argued that the PHFU balances should be significantly reduced because many parcels have been held for years without evidence of timely in-service dates. In this proceeding, the NSPs proposed further adjustments to reflect the impact of divestiture by removing the $200 million from the PHFU balance now, rather than waiting until the properties are sold in 2026.

Division of Economics

The Division of Economics is responsible for the major elements related to revenue requirement allocation, the new large load contract service rate schedules, changes to EV programs, capital recovery schedules and depreciation, minimum bill, and certain new provisions for residential customer protections contained in the settlement, that were not included in the as-filed case.

The revenue requirements established in the 2025 Settlement are allocated using a modified equal percentage allocation. All rate classes, excluding the Residential rate class, would be allocated revenues based on an adjusted system average. The revenue allocation to the Residential rate class shall be limited to 95 percent of the adjusted system average. The 5 percent reduction from the Residential rate class allocation shall be assigned on an equal percentage basis to the remaining non-residential classes.

The Large Load Tariffs are new rate schedules applicable to future large customers 50 megawatts or greater and a 85 percent or greater load factor. The tariffs include an incremental generation charge. The tariffs are designed with the following rate payer protections: 20-year minimum term, 2-year termination notice after the expiration of the minimum term, exit fees for early termination equivalent to payment of the total incremental generation charge for the remaining term, minimum take-or-pay requirement applicable to the demand charges (base and clauses) based on higher of 70 percent of contract demand, performance security amount required to equivalent to payment of 100 percent of the incremental generation charge over the 20-year term of the agreement, and Contributions-in-aid of Construction (CIAC) payment to cover costs associated with extending service to the customer facility.

The Settlement increases the current minimum bill for residential and small commercial customers from $25 to $30. The purpose of the minimum bill is to ensure that all customers contribute to the fixed system costs FPL incurs to maintain, regardless of usage and supported by the cost support in the record. In addition, the revenues received from the minimum bill are used to offset the revenue requirement to calculate the base charge, or customer charge.

The new provisions for residential customer protections are a $15 million dollar payment assistance contribution for customers who qualify for assistance based on Asset Limited, Income Constrained Employed (ALICE) criteria. The second provision is a disconnect policy incorporated into the settlement. The Disconnect Policy essentially provides that FPL will not disconnect customers for non-payment during certain hot weather (95 and plus degree days) and cold weather (32 and colder degree days) conditions.

Division of Engineering

CILC and CDR Programs

The CILC and CDR programs are DSM programs which provides a monthly demand credit, recovered through the ECCR clause, to commercial customers in exchange for the availability to be interrupted in times of capacity shortages. In FPL's initial filing, it proposed to decrease the monthly credit from the current level of $8.76/kW to $6.22/kW in order to provide assurance that the program remains cost-effective.

In the 2025 Settlement Agreement, FPL proposes to increase the monthly program credit to $9.75/kW in 2026. For 2026, this results in approximately $30.6 million in additional costs through the ECCR clause. In each subsequent year, the credit will increase as of the effective dates of each SoBRA. By July, 2029, the credit would be approximately $10.35/kW. Any amount above $9.24/kW would result in the general body of ratepayers subsidizing (RIM less than 1.0) the program. The non-signatories propose that the credit remain as is ($8.76/kW).

Storm Cost Recovery Mechanism

In its original filing, FPL requested to increase its existing storm reserve of $220 million to $300 million and to increase its initial surcharge of $4 to $5 per 1,000 kWh. FPL's existing storm reserve amount and surcharge were approved as part of its 2021 Settlement Agreement.

The 2025 Settlement Agreement is the same as requested in FPL's original filing. All storm related costs subject to interim recovery under the storm cost recovery mechanism will be calculated and disposed of pursuant to Rule 25-6.0143, F.A.C. In the event that FPL incurs an

excess of approximately $500 million of qualifying storm costs in a given calendar year, it may petition to increase the initial recovery beyond $5.00/1,000 kWh.

Non-signatories originally opposed the surcharge and reserve amount, then accepted the proposed levels in their settlement testimony noting this reduces risk and therefore justifies a lower ROE, then opposed these items again in their briefs stating that FPL can't rely on a prior settlement term going forward.

Solar and Battery Base Rate Adjustment

In FPL's original filing, it proposed a new Solar and Battery Base Rate Adjustment (SoBRA) mechanism that would allow FPL to recover costs associated with the addition of 3,278 MWs of solar facilities (1,490 MW in 2028 and 1,788 MW in 2029) and 1192 MW of battery storage facilities (596 MW in both 2028 and 2029). To recover costs under the SoBRA mechanism, FPL would be required to demonstrate either an economic or a resource need in a future proceeding based on the use of FPL's newly proposed stochastic loss of load probability (SLOLP) resource planning methodology.

In the 2025 Settlement Agreement, the proposed SoBRA mechanism includes 1,192 MWs solar projects in 2027 and has alternative requirements for cost recovery. Therefore, part of the stated base rate revenue reduction for 2027 is being offset by the 2027 SoBRA. The Settlement also increases battery projects in 2028 and 2029 from 596 MW to 600 MW. For the solar projects, FPL must demonstrate economic need with the requirement of a CPVRR that shows benefits within 10 years of the project in-service year and a cost benefit ratio of 1.15 to 1 compared to the projected system CPVRR without the solar projects. To demonstrate a resource need, solar and battery projects must to demonstrate a reliability need for the incremental capacity, but does not specify the methodology, unlike FPL's initial petition.

The non-signatories suggest that the proposed SoBRA lacks cost caps, which would make the MWs of proposed SoBRA generation into generation targets to build towards regardless of cost. Additionally, those projects would then have their need demonstrated after the facilities were constructed, which in turn could circumvent Commission oversight.

Vandolah

While FPL's February, 2025 filing did not include the acquisition of the Vandolah Power Company's (Vandolah) generating unit, FPL has applied to the Federal Energy Regulatory Commission (FERC) for approval to acquire Vandolah, a 660 MW natural gas/oil-fired generating facility. The 2025 Settlement provides that if the FERC approves the acquisition, then FPL shall not exclusively use the capacity from Vandolah to serve data center or hyperscaler customers.

The non-signatories contend that the acquisition of Vandolah could change the Company's resource needs in 2028, which would necessitate a change in FPL's requested projects and associated revenue requirement. As discussed under element 12, the 2025 Settlement Agreement

includes a SoBRA mechanism for both solar and battery additions for 2028 and 2029. Therefore, if the acquisition of Vandolah comes to fruition, the Commission can consider that as part of its deliberation. In addition, FPL has not requested cost recovery associated with the Vandolah acquisition in either its original filing or Settlement Agreement.

Asset Optimization Program

FPL's current Asset Optimization Program has the following sharing thresholds and percentages. For the first $42.5 million of gains, 100% goes to ratepayers. For gains between $42.5 and $100 million, 40% goes to ratepayers and 60% goes to FPL shareholders. For gains in excess of $100 million, the gains are split 50/50. Other investor-owned utilities have similar programs in place and FPL did not include any proposed changes to the Asset Optimization Program in its original filing.

On February 12, 2025, Docket No. 20250032-EI was opened to review the current Asset Optimization Programs of all investor-owned electric utilities. A staff workshop was originally scheduled for October 14, 2025, but was subsequently cancelled due to scheduling changes related to the FPL rate case docket.

As part of the 2025 Settlement Agreement, FPL proposes to move all of the customers' share of gains generated below a new $150 million threshold level into base rates instead of crediting these gains through the Fuel Clause. Gains in excess of $150 million are provided 100% to customers through the Fuel Cost Recovery Clause. This has the net effect of increasing base revenues up to $90.5 million annually. FPL claims that the changes to FPL's Asset Optimization Program are to assist the RSM in avoiding general base rate increases in 2028 and 2029 which will provide customers economic stability through lowered rates. FPL did not address the shift of the customer benefits to base rates.

The non-signatories contend that the movement of the customer's share of gains into base rates is another method for FPL to gain the as-filed amount requested for the 2026 revenue requirement of the original filing despite the reduction found in the settlement agreement.

Long Duration Battery Storage Pilot

In its original filing, FPL proposed a new Long Duration Battery Storage Pilot Program for the purpose of studying large-scale energy deployment and evaluating alternative storage technologies beyond lithium-ion batteries. This pilot will consist of two long-duration battery storage systems capable of dispatching 10 MW of power and storing a total of 100 megawatt-hours of energy. The estimated total cost for this pilot is $78 million.

FPL's 2025 Settlement Agreement proposes no changes to the pilot or the associated costs from FPL's original filing, but notes that the associated costs are not incremental to the revenue requirements set in paragraph 4 of the settlement.

While OPC provided testimony that supported the pilot, OPC now contends in their brief that this is an experimental project without known and measurable benefits and should be funded by shareholders.

CASE BACKGROUND

A. THE PARTIES

Florida Power & Light Company (FPL or Company) is a wholly-owned, subsidiary corporation of NextEra Energy, Inc., with its headquarters in Juno Beach, Florida. FPL provides electric service to approximately six million customer accounts, in forty-three counties. FPL is an investor-owned utility, and operates under the jurisdiction of the Florida Public Service Commission (Commission) pursuant to Chapter 366, Florida Statutes (F.S.).[1]

By letter dated January 2, 2025, FPL notified the Commission that it would be seeking a base rate increase effective January 2026.[2] On February 28, 2025, FPL filed its petition for base rate increase, minimum filing requirements, and supporting direct testimony. Pursuant to Order No. PSC-2025-0075-PCO-EI, the evidentiary hearing on FPL's petition was scheduled for August 11 through August 22, 2025.

On January 7, 2025, the Florida Office of Public Counsel (OPC) filed a Notice of Intervention in this docket. OPC was established by the Legislature in Chapter 350, F.S., "to represent the general public of Florida before the Florida Public Service Commission."[3] In furtherance of this duty, OPC has the power "to appear, in the name of the state or its citizens, in any proceeding or action before the commission . . . and urge therein any position which he or she deems to be in the public interest, whether consistent or inconsistent with positions previously adopted by the commission . . ., and utilize therein all forms of discovery available to attorneys in civil actions generally, subject to protective orders of the commission . . . ."[4] On January 15, 2025, OPC's intervention in this docket was acknowledged.[5]

Numerous other persons, organizations, and groups subsequently filed for and were granted intervention in this docket, subject to proof of standing. Each is discussed briefly below.

Florida Rising / Environmental Confederation of Southwest Florida / League of United Latin American Citizens Florida, Inc.

Florida Rising, Inc. (FL Rising), Environmental Confederation of Southwest Florida, Inc. (ECOSWF), and the League of United Latin American Citizens Florida, Inc., (LULAC) and filed a common petition to intervene in this proceeding. These co-intervenors are collectively referred to as "FEL."

FL Rising

FL Rising represents that it is a membership-based organization dedicated, under their articles of incorporation, to building "broader multiracial movements with individuals from historically marginalized communities to seize power and govern to advance social, economic, and racial

[1]All statutory references are to the 2024 codification of the Florida Statutes, unless otherwise indicated.
[2]*See* Rule 25-6.140, Florida Administrative Code (F.A.C.).
[3]Section 350.061(1), F.S.
[4]Section 350.0611(1), F.S.
[5]Order No. PSC-2025-0020-PCO-EI, issued January 15, 2025.

justice." (Petition to Intervene at 2) FL Rising is made up of individual members across Florida, approximately half of whom (600) reside in FPL territory. (TR 3902) FL Rising as an organization is an FPL customer. (TR 3902) FL Rising alleges that because FPL's proposed rates will increase customer bills, a substantial number of its members' substantial interests – as well as FL Rising's own interest as a customer – are or may be impacted by the Commission's decision. FL Rising focuses on climate justice work, including "energy policy, disaster response, and climate change initiatives." (TR 3902) FL Rising alleges that the relief it seeks regarding FPL's proposed capital investments in fossil-fuel generation over the next four years and rate increases aligns with this mission, and is appropriate for it to receive on behalf of its members. (TR 3902 – 3903)

ECOSWF

ECOSWF represents that its members include individuals, business entities, and other organizations in Southwest Florida. (Petition to Intervene at 5) Of these individual and organizational members, ECOSWF states that approximately 70 percent of them are FPL customers. (TR 4228) ECOSWF alleges that because FPL's proposed rates will increase customer bills, a substantial number of its members' substantial interests are or may be impacted by the Commission's decision in this docket. (TR 4228) ECOSWF's mission "is to conserve, maintain, and protect the air, water, soil, wildlife, historic and architecturally significant structures, flora and fauna, and other natural resources of Southwest Florida, the State of Florida and of the United States of America" (TR 4227) ECOSWF alleges that the relief it seeks regarding FPL's proposed capital investments in fossil-fuel generation over the next four years and rate increases aligns with this mission, and is appropriate for it to receive on behalf of its members. (TR 4227 – 4228)

LULAC

LULAC represents that it is part of the largest and oldest Hispanic civil rights organization in the United States. (Petition to Intervene at 3) LULAC has over 140 members, approximately one-third of whom are FPL customers. (TR 4235) LULAC alleges that because FPL's proposed rates will increase customer bills, a substantial number of its members' substantial interests are or may be impacted by the Commission's decision in this docket. (TR 4236 – 4237) LULAC's mission "is to advance the economic condition, educational attainment, political influence, housing, health and civil rights of the Hispanic population of the United States." (TR 4238) LULAC alleges that the relief it seeks regarding FPL's proposed capital investments and rate increases over the next four years aligns with this mission, and is appropriate for it to receive on behalf of its members. (TR 4240)

Florida Industrial Power Users Group

The Florida Industrial Power Users Group (FIPUG) is an *ad hoc* association of industrial users of electricity and natural gas in Florida. FIPUG alleges that its members "are among the largest FPL customers and consume significant quantities of electricity, often around-the-clock, and require a reliable, affordably-priced supply of electricity to power their operations." (TR 3469) A substantial number of FIPUG members purchase electricity from FPL. (TR 3469) FIPUG has a long history of representing its members' interests in regulatory and legal proceedings, including FPL rate cases, before the Commission. (TR 3469 – 3470) As an *ad hoc* organization, FIPUG is not incorporated, has no bylaws, and does not have a registered agent. (TR 3566 – 3567) FIPUG alleges that because its members use, rely on, and pay for considerable amounts of FPL electrical

power, those members' substantial interests are or will be affected by the Commission's decision in this docket. (TR 3469 – 3470)

Federal Executive Agencies

The Federal Executive Agencies (FEA) consists of certain agencies of the United States Government which have offices, facilities, and/or installations in FPL's service area. Pursuant to 40 U.S.C. subsection 501(c)(1)(B), the Department of Defense has been delegated authority by the General Services Administration, through Department of the Air Force counsel, to represent the consumer interest of FEA "in proceedings involving carriers or other public utilities before federal and state regulatory bodies." FEA states that utility costs represent one of the largest variable expenses of operating federal offices, facilities, and installations on whose behalf intervention is sought, and all will be significantly affected by any action the Commission takes in this docket. FEA alleges that because its members use, rely on, and expend considerable amounts of taxpayers money for FPL electrical power, those members' substantial interests are or will be affected by the Commission's decision in this docket on matters including depreciation, rate structure, and return on equity. FEA intervened in this docket to represent the interests of its agencies, as FPL customers, in seeking reliable service and fair, just, and reasonable rates. FEA submitted no prefiled testimony in support of these representations.

Southern Alliance for Clean Energy

The Southern Alliance for Clean Energy (SACE) represents that it is a non-profit corporation organized under the laws of Tennessee and authorized to conduct operations in Florida. (Petition to Intervene at 2) SACE alleges that it has staff and over 8,000 members in Florida. SACE represents that a substantial number of its Florida members are FPL ratepayers who will be substantially affected by the Commission's decision, and that the interests affected are of the type this proceeding is designed to protect. SACE avers that because its organizational purposes include advocating for energy plans that best serve the economic, environmental, and public health goals of communities in the Southeast United States, it is appropriate for the organization to seek and receive relief in this docket (*e.g.,* lower rate increases, changes in energy generation types) on behalf of its members. SACE notes that it has petitioned for and been granted leave to intervene in many prior Commission proceedings.

SACE submitted no prefiled testimony in support of these representations made in its Petition to Intervene.

EVgo Services, LLC

EVgo Services, LLC (EVgo) represents that it is one of the nation's leading providers of electric vehicle (EV) public direct current fast-charging (DCFC) stations. (TR 4058) Some of the EV DCFC stations owned and operated by EVgo are in FPL's service territory. (TR 4059) These stations take service under FPL's General Service Demand rates, including GSD-1EV and GSLD-1EV. EVgo also participates in FPL's existing Electric Vehicle (EV) Charging Infrastructure Rider pilot programs, which the Company proposes to make permanent. (TR 4060) EVgo may seek to continue to participate in these programs, and will continue to be affected by the conditions and terms. Electricity makes up a substantial portion of ongoing costs for EV charging stations, so the

way electric rates are designed impacts the economic case for EVgo installing new infrastructure. (TR 4061) EVgo alleges that because it uses, relies on, and pays for considerable amounts of FPL electrical power, its substantial interests are or will be affected by the Commission's decision. (TR 4061)

Electrify America, LLC

Electrify America, LLC (Electrify America) represents that it is the largest open DCFC network in this country. (Petition to Intervene at 2) Electrify America operates 35 locations with 164 individual direct-current fast chargers in FPL's service territory. (TR 4041) These stations take service under FPL's General Service Demand rates, including GSD-1EV and GSLD-1EV. (TR 4043)The rate increases sought by FPL, if granted, would increase the cost of electricity, thereby increasing the costs of operations and affecting Electrify America's substantial interests. (TR 4043)

Florida Retail Federation

The Florida Retail Federation (FRF) is an established association with more than 1,500 members in Florida, many of whom are retail customers of FPL pursuant to different rate schedules. (TR 3705) FRF contends that the substantial interests of its members will be directly affected by the Commission's decision regarding FPL's retail electric rates. (*See, e.g.,* TR 3729)

Walmart, Inc.

Walmart, Inc. (Walmart) is a national retailer of goods and services throughout the United States with its principal office located in Bentonville, Arkansas. Walmart states that it is a customer of FPL, with 179 retail units, four supply chain facilities, and related facilities located in FPL's service territory. (TR 2147) Walmart purchases more than 800 million kWh annually from FPL pursuant to the Company's General Service Large Demand - Time of Use (500-1,999 kW) (GSLDT-1), General Service Demand – Time of Use (25-499 kW) (GSDT-1), and High Load Factor - Time of Use (HLFT-2) schedules. (TR 2147) Because the cost of electricity is a significant element of the cost of operation for its stores and facilities in FPL's service territory, FPL asserts it will be substantially and directly impacted by the Commission's decision. (TR 2148)

Florida Energy for Innovation Association

The Florida Energy for Innovation Association (FEIA) is a Florida not-for-profit association consisting of members generally described as "companies that are developing data centers in Florida" (Companies) and (2) "affiliates (of the Companies) that are existing electric customers of FPL" (Affiliates). (TR 3331)

The Companies are actively seeking to develop data centers in FPL territory and obtain electric service from FPL for these centers. (TR 3332) The Companies have entered into confidential agreements with FPL regarding the configuration and cost of providing electrical service. (TR 3334) The Companies could take service under FPL's existing General Service Large Demand- 3 (GSLD-3) tariff, but will be required to take service under the new Large Load Contract Service (LLCS) tariff proposed in this rate case if approved by the Commission. FEIA argues that the charges for electric service under the LLCS tariff are 65 percent more than under the GSLD-3

tariff, and that the LLCS tariff imposes conditions on an electric customer that are not required under the GSLD-3 tariff. (TR 3334 – 3335) The Companies assert that their substantial interests are or may be affected by the Commission's decision on whether to approve the LLCS tariff. (TR 3335 – 3336)

The three Affiliates are current electric customers of FPL. (TR 3332) FEIA alleges that FPL's proposals to increase base rates will affect the substantial interests of existing FPL ratepayers, including the Affiliates. (TR 3332 – 3333)

FEIA states that a substantial number of its members are existing retail electric customers of FPL. FEIA continues that intervention is within the association's general scope of interest and activity, as its Articles of Incorporation provide for representation of the members' interests before the Public Service Commission regarding the importance of fair, just, and reasonable rates. FEIA argues that both the Companies and Affiliates would benefit from the assurance of fair, just, and reasonable rates, and, therefore, the relief sought would be appropriate for the association to receive on behalf of its members. (TR 3335 – 3337)

Floridians Against Increased Rates, Inc.

Floridians Against Increased Rates, Inc. (FAIR) is a not-for-profit corporation "organized to advocate on behalf of Florida electric customers for lower electric rates in Florida." (EX NHW-1) FAIR has 1,136 members, 986 (86 percent) of whom are retail customers of FPL. (EX NHW-3; TR 4216) The substantial interests of a substantial number of FAIR's members who are FPL ratepayers will be directly affected by the Commission's action on FPL's request for a rate increase, and this injury is of sufficient immediacy and of the type this proceeding is designed to protect. Protecting its members' interests in fair, just, and reasonable rates is within FAIR's general scope of corporate interest and activity. (TR 4215) It would be appropriate for the association to obtain relief in the form of fair, just, and reasonable rates on behalf of its members. (TR 4217)

Fuel Retailers

The Americans for Affordable Clean Energy, Inc. (AACE), Circle K Stores, Inc., (Circle K), RaceTrac, Inc. (RaceTrac) and Wawa, Inc. (Wawa) (collectively "Fuel Retailers") filed a Petition to Intervene. Intervention is sought for the Fuel Retailers as they are all retail electric customers of FPL. (TR 4193)

AACE is a nonprofit association of fuel retailers. AACE seeks intervention on behalf of "its five fuel retailer members in Florida," who collectively own and operate over 1,500 convenience stores, public travel facilities, and truck stops in the state. (TR 4188 – 4189) These locations offer fuel, goods, services, and other amenities. (TR 4188) Electric vehicle (EV) charging stations have or will be deployed at some of the locations owned and operated by AACE members. (TR 4193) The membership of AACE includes Circle K, RaceTrac, and Wawa. (TR 4188)

Armstrong World Industries, Inc.

Armstrong World Industries, Inc. (AWI) owns and operates a manufacturing plant in Pensacola, Florida, that receives electrical service from FPL. AWI's electrical consumption totaled 30,350,000 kWhs in 2024. The cost of this service is a significant operational cost. The rate increases sought by FPL in this case, if granted, would increase the cost of electricity, thereby increasing the costs of operations and affecting AWI's substantial interests.

B. DISCOVERY AND CUSTOMER SERVICE HEARINGS

OPC propounded its first round of discovery in this docket on January 29, 2025. The other parties listed above soon followed with extensive written discovery of their own after orders granting intervention were issued. FPL provided answers and responses to well over 1,000 interrogatories (not including subparts) and 500 requests for production prior to the July 25, 2025 Prehearing Conference. The parties also conducted dozens of depositions over the course of several weeks.

In addition, as part of the administrative hearing in this docket, we conducted ten customer service hearings over a two week period in May and June of 2025. Testimony was taken from 425 FPL customers and public officials, with respect to the rates and service provided by the utilities.

C. NOTICE OF SETTLEMENT

The hearing was set to commence August 11, 2025. On August 8, 2025, the Friday before the commencement of the hearing the following Monday, FPL filed a Notice of Settlement in Principle and Joint Motion to Suspend Schedule and Amend Procedural Order. FIPUG, FRF, FEIA, Walmart, EVgo, AACE, Circle K, RaceTrac, Wawa, EA, FEA, AWI, and SACE (collectively FPL Signatories or SP) joined in the Joint Motion to Suspend. On August 11, 2025, OPC, FL Rising, LULAC, ECOSWF, and FAIR (collectively FPL Non-Signatories or NSP) filed a Joint Response in Opposition to the Joint Motion to Suspend. After hearing argument from the parties, the Commission voted to grant the Joint Motion and suspend the schedule in order to allow the parties time to finalize the settlement. On August 12, 2025, Order No. PSC-2025-0304-PCO-EI memorializing this vote was issued.

On August 20, 2025, FPL and the FPL Signatories filed a Joint Motion for Approval of 2025 Stipulation and Settlement Agreement. The FPL Non-Signatories did not sign or otherwise join in the 2025 Stipulation and Settlement Agreement (2025 SSA). Because the 2025 SSA is not unanimous, further proceedings under Section 120.57(1), F.S., were necessary to address the disputed issues of material fact. Accordingly, on August 22, 2025, the Prehearing Officer issued a First Order Revising Order Establishing Procedure,[6] and therein set this matter for a two-week hearing to commence October 6, 2025.

The Prehearing Officer set aside two-weeks to accommodate a hearing on both the February 28, 2025, FPL petition for base rate increase, as well as a hearing on the 2025 SSA. As agreed to by all parties, Phase One of the hearing would be limited to the "as-filed," February 28, 2025, FPL petition for base rate increase. Phase Two would be limited to the 2025 SSA.

[6]Order No. PSC-2025-0323-PCO-EI.

Four days later, on August 26, 2025, the FPL Non-Signatories filed a Joint Motion to Approve Stipulation and Settlement Agreement (Settlement Motion), along with an attached Stipulation and Settlement Agreement (NSPs' Proposal) signed by the FPL Non-Signatories. The NSPs' Proposal is not signed by any other intervenor or FPL. The NSPs' Proposal "is submitted as a counter proposal," proposes terms that materially differ from those in the 2025 SSA on issues such as return on equity, and includes terms not found in the 2025 SSA (*e.g.,* NSP Paragraphs 29 & 30).

On August 29, 2025, FPL filed its Response in Opposition to the Settlement Motion. FPL contended that because it initiated this request for rate relief under Chapter 366, F.S., and invoked the jurisdiction of the Commission over public utilities, the utility itself is an indispensable party to any agreement to settle this docket. Because it is not a party to the NSPs' Proposal, FPL requested that the Commission deny the Non-Signatories' request.

By Order No. PSC-2025-0345-PCO-EI, the Prehearing Officer dismissed the NSPs' Proposal. The Non-Signatories timely filed a Motion for Reconsideration, to which FPL filed a Response in Opposition. The Commission granted in part and denied in part this Motion on October 6, 2025, at the commencement of the final hearing. The only portion of the Motion that was granted was the portion that requested the Commission to change its dismissal of the NSPs' Proposal into a denial. In all other respects, the Motion was denied.

D. THE FINAL HEARING

The final hearing on FPL's base rate increase petition, as well as the 2025 SSA, was held October 6-10 and 13-16, 2025. The testimony of fifty plus witnesses and over 600 exhibits were admitted into the record. On November 10, 2025, multiple parties filed post-hearing briefs. A Special Agenda Conference is scheduled for November 20, 2025, to consider and vote on whether the 2025 SSA is in the public interest and establishes rates that are fair, just, and reasonable.

The Commission has jurisdiction over this matter pursuant to the provisions of Chapter 120 and Sections 366.04, 366.05, and 366.06, F.S.

STATUTORY CONSIDERATIONS

1. Quality of Service

Pursuant to Section 366.041, F.S., in fixing rates the Commission is authorized to give consideration, among other things, to the efficiency, sufficiency, and adequacy of the facilities provided and the services rendered. The Commission held seven in-person service hearings from May 28, 2025, through June 6, 2025, within FPL's service territory. Additionally, the Commission held three virtual service hearings on June 3, 2025, and June 4, 2025. The service hearings provide an opportunity for customers to raise concerns regarding the Company's quality of service and request for a rate increase. Approximately 428 customers testified at the service hearings. Of which, approximately 326 customers provided positive feedback and 34 customers provided negative feedback with respect to FPL's quality of service. Approximately 107 customers opposed the overall rate increase. (Service Hearing Transcripts; FPL BR 145) FPL serves approximately six million customer accounts, or approximately 12 million Floridians.

Staff witness Calhoun testified that from June 16, 2021, through May 16, 2025, a total of 26,724 complaints were logged against FPL (including Gulf Power Company or Gulf) in the Commission's Consumer Activity Tracking System (CATS). Of those complaints, 20,754 were transferred directly to FPL/Gulf via the Commission's Transfer Connect (Warm-Transfer) System. (TR 4250) Witness Calhoun further testified that of the total 26,724 logged complaints, seventeen quality of service and six billing complaints appeared to demonstrate a Commission Rule violation. The apparent rule violations were related to billing errors, disconnections, and delays in restoring service. (TR 4252)

None of the intervenors filed testimony regarding FPL's quality of service. However, OPC did request and obtain official recognition of all customer comments filed in this docket through July 16, 2025.[7] This exhibit included comments from over 1,200 FPL customers. (EXHS 762 – 764) An overwhelming majority of the comments, approximately 95 percent, opposed the rate increase. OPC subsequently requested and obtained official recognition of all customer comments received from July 17, 2025, through August 18, 2025.[8] In that time, approximately 6,000 additional customer comments were received, the majority of which opposed the rate increase. (EXH 1322)

FPL argued that its quality of service is adequate based on its high reliability and resiliency, operational efficiencies, and customer satisfaction. FPL supported its position by citing its industry awards and providing metrics such as its System Average Interruption Duration Index performance, reduced customer complaints in CATs, and non-fuel O&M savings. (FPL BR 144; TR 411; TR 416; TR 829 – 831; TR842; TR3625) None of the other intervening parties specifically addressed FPL's quality of service in their briefs.

The record provides sufficient evidence regarding FPL's quality of service. (TR 829 – 836) FPL witness testimony and evidence showed that overall customer satisfaction has increased for both its residential and business customers, and exceeded the industry average. (TR 829 – 831) Moreover, FPL's quality of service appears to be adequate given only seventeen potential rule violations were identified by Commission staff from June 16, 2021, through May 16, 2025, and the overwhelming majority of the customer testimony and comments addressed concerns with a potential rate increase rather than quality of service issues. (TR 915; EXH 1527)

2. Performance of FPL pursuant to FEECA

Collectively, Section 366.80 through 366.83, and 403.519, F.S., are laws that enacted the Florida Energy Efficiency and Conservation Act (FEECA). Section 366.82(10), F.S. states, in part, that the Commission shall "consider the performance of each utility pursuant to ss. 366.80-366.83 and 403.519 when establishing rates for those utilities over which the commission has rate setting authority."

At least every five years, the Commission reviews and establishes numeric demand and energy savings goals for each utility subject to FEECA. FEECA goal achievement results are reported in the first quarter of each year, based upon the utility's prior years' performance. The Commission compiles and summarizes the results from utility reports and publishes such data in its annual FEECA Report, which it provides to the Legislature and the Governor in accordance with Section

[7]Order No. PSC-2025-0329-PCO-EI.
[8]Order No. PSC-2025-0370-PCO-EI.

366.82(10), F.S. As indicated in the 2024 Report,[9] FPL's Demand-Side Management Plan includes 16 demand and energy saving programs designed to meet the objectives embodied in FEECA. Such programs are offered to all eligible customers on a voluntary basis, and thus, program participation and FEECA goal achievement result vary from year to year. In 2020 through 2024, the Commission annually reviewed FPL's progress on meeting the numeric demand and energy savings goals established by the Commission, and reported the results in its Annual Report on Activities Pursuant to the FEECA Reports.

No party submitted prefiled testimony on this topic.

STANDARD OF REVIEW

In reviewing a settlement agreement, we first "make [] factual findings based on the evidence presented by the parties."[10] As the finder of fact, we must "consider all the evidence presented, resolve conflicts, judge credibility of witnesses, draw permissible inferences from the evidence, and reach ultimate findings of fact based on competent substantial evidence."[11] Each of those ultimate findings of fact must be supported by a preponderance of the record evidence.[12] The Florida Supreme Court defines "preponderance of the evidence" as follows:

> The greater weight of the evidence, not necessarily established by the greater number of witnesses testifying to a fact but by evidence that has the most convincing force; superior evidentiary weight that, though not sufficient to free the mind wholly from all reasonable doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than the other.[13]

After making factual findings, the second step in our analysis of a settlement agreement is for us to "decide[] whether the settlement agreement, in light of [our] findings of fact, is in the public interest and results in rates that are fair, just, and reasonable."[14] We review settlement agreements as a whole to determine whether approving them is in the public interest.[15]

The Florida Supreme Court has identified the factors that we must consider when making a determination of whether a settlement agreement is in the public interest:

> The Legislature has provided that the Commission, in "fixing fair, just, and reasonable rates for each customer class, . . . shall, to the extent practicable, consider the cost of providing service to the class, as well as the rate history, value of service, and experience of the public utility; the consumption and load characteristics of the various classes of customers; and public acceptance of rate structures." § 366.06(1). The Commission "shall also consider the performance of each utility pursuant to

[9]By Order No. PSC-2025-0368-PCO-EI, issued October 6, 2025, in Docket No. 20250011-EI, *In re: Petition for rate increase by Florida Power & Light Company*, the Commission officially recognized the five most recently published FEECA Reports (2020-2024).
[10]*Floridians Against Increased Rates, Inc. v. Clark*, 371 So. 3d 905, 910 (Fla. 2023) (referred to hereafter as *FAIR*).
[11]*Martuccio v. Dep't of Pro. Regul., Bd. of Optometry*, 622 So. 2d 607, 609 (Fla. 1st DCA 1993) (citation omitted).
[12]Section 120.57(1)(j), F.S.
[13]*S. Fla. Water Mgmt. v. RLI Live Oak, LLC*, 139 So. 3d 869, 872 n.1 (Fla. 2014).
[14]*FAIR*, 371 So. 3d at 910.
[15]*See Sierra Club v. Brown*, 243 So. 3d 903, 909 (Fla. 2018).

> (the Florida Energy Efficiency and Conservation Act) when establishing rates for those utilities over which the commission has ratesetting authority." § 366.82(10), Fla. Stat. (2021). A reasonably explained decision from the Commission must reflect that those factors have been considered to the extent practicable.[16]

The Court also noted additional factors that we may consider in appropriate circumstances at our discretion:

> (T)he Commission can consider "the efficiency, sufficiency, and adequacy of the facilities provided and the services rendered; the cost of providing such service and the value of such service to the public; the ability of the utility to improve such service and facilities; and energy conservation and the efficient use of alternative energy resources." § 366.041(1), Fla. Stat. (2021). And the Legislature has made clear that "it is in the public interest to promote the development of renewable energy resources in this state." § 366.91(1), Fla. Stat. (2021). Evidence that these factors have been considered—where they are germane to determining whether the settlement agreement is in the public interest and results in rates that are fair, just, and reasonable—permits meaningful judicial review of the Commission's conclusions.
>
> The Commission can also consider non-statutory factors if it explains why they are relevant and how they relate to the Commission's "historical and statutory role."[17]

In making its ultimate determinations, the Commission is guided by the record evidence and its own specialized knowledge.

> Our conclusion as to the standard of review is guided by *FAIR*. In that case, we explained that the Commission's power to determine whether a settlement is in the public interest and results in fair, just, and reasonable rates rests on both facts in the record and policy judgments guided by the Commission's "specialized knowledge and expertise in this area." *Id.* (quoting *Gulf Coast Elec. Coop., Inc. v. Johnson*, 727 So. 2d 259, 262 (Fla. 1999)). In making policy judgments, the Commission is afforded a "broad legislative grant of authority." *Id.* (quoting *Citizens of State v. Pub. Serv. Comm'n*, 425 So. 2d 534, 540 (Fla. 1982)). We observed that the Commission's decision "rest[ed] on both facts in the record and policy judgments guided by its 'specialized knowledge and expertise in this area.' " *Id.* (first quoting *Gulf Coast Elec. Coop., Inc.*, 727 So. 2d at 262; then citing *Utils. Operating Co. v. Mayo*, 204 So. 2d 321, 324 (Fla. 1967)). We concluded that our review was therefore limited to ensuring that, first, the Commission's factual findings are supported by competent, substantial evidence and, second, that the Commission's policy decisions are "within the range of discretion given to the Commission by the Legislature." *Id.* at 910-11; *see also* § 120.68(7)(e)1., Fla. Stat. (2021).[18]

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[16] *FAIR*, 371 So. 3d at 912.
[17] *Sierra Club*, 243 So. 3d at 911.
[18] *Fla. Rising, Inc. v. Fla. Pub. Serv. Comm'n*, 415 So. 3d 135, 140 (Fla. 2025)

LEGAL ISSUES

OPC presented argument in its post-hearing brief on the issue of whether the 2025 Settlement is a valid agreement. OPC BR 105. While this issue was not identified as one of five Legal Issues to be briefed, both FEL [FEL BR 14-23] and FPL [FPL BR 137-38] also submitted written argument on this issue. Evidence and argument on this issue were presented at the prehearing conference and at the final hearing.

OPC presents several arguments in support of its contention that the 2025 Settlement is invalid. OPC first urges the Commission to apply principles of contract law and invalidate the 2025 Settlement Agreement because it is alleged to lack consideration, a meeting of the minds, or mutuality of assent. OPC BR 107. OPC asserts that the parties to the agreement made representations that they represented the residential classes, that these representations were "simply false," and that the Commission should reject the Agreement on this basis. OPC BR 109-11. Finally, OPC argues that approval of the 2025 Settlement Agreement will subvert the public interest. OPC BR 117-18.

FEL's arguments largely mirror those presented by OPC. FEL asserts that the parties to the 2025 Settlement represent niche parties and interests, noting "[t]hese are not diverse parties but are parties representing their special interests and seeking to protect those special interests." FEL BR 15. FEL continues that the 2025 Settlement should be invalidated because the SPs do not represent genuine competing interests. FEL BR 17. Turning specifically to the actions of the Company, FEL asserts that FPL "designed" the settlement process from the start and that the result is illegal self-regulation. (FEL BR 22-24)

FPL anticipated these arguments being raised by OPC and FEL, and provided a brief response in its post-hearing brief. FPL first notes that the Florida Supreme Court has previously approved non-unanimous settlement agreements such as the one here at issue where OPC was not a signatory but, to the contrary, was an active opponent.[19] (FPL. BR 137) FPL contends that any further inquiry into the authority to enter into a settlement agreement by any particular party or their counsel "is a matter beyond this Commission's jurisdiction to decide." (FPL BR 137)

Many of the arguments of both OPC and FEL rest on the factual assertion that no authorized representative of the residential class was involved in the negotiations, and the legal argument that this absence voids the 2025 Settlement. There are no cases that require the Commission to make a threshold determination of the validity of a settlement agreement based on the rate classes that are represented by the signatories to that agreement. The holding in Citizens indicates that a settlement agreement should not deemed ineligible for Commission consideration solely because members of every rate class are not party to the settlement.

The Commission may rely on any facts in the record, including those set forth in OPC's and FEL's arguments on this issue, in determining whether the 2025 Settlement Agreement is in the public interest, so long as the Commission "explains why they are relevant and how they relate to the Commission's 'historical and statutory role."[20]

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[19] *Citizens of the State of Fla. v. Fla. Pub. Serv. Comm'n*, 146 So. 3d 1143, 1152 (Fla. 2014).
[20] *Floridians Against Increased Rates, Inc. v. Clark*, 371 So. 3d 905, 913 (Fla. 2023).

ISSUE 1: Whether the following persons have standing to intervene in this proceeding:

a. League of United Latin American Citizens of Florida

b. Environmental Confederation of Southwest Florida, Inc.

c. Florida Rising, Inc.AC

d. Florida Industrial Power Users Group

e. Federal Executive Agencies

f. Southern Alliance for Clean Energy

g. EVgo Services, LLC

h. Electrify America, LLC

i. Florida Retail Federation

j. Walmart, Inc.

k. Florida Energy for Innovation Association

l. Floridians Against Increased Rates, Inc.

m. Americans for Affordable Clean Energy, Inc.

n. Wawa, Inc.

o. RaceTrac, Inc.

p. Circle K Stores, Inc.

q. Armstrong World Industries, Inc.

Pursuant to Rule 28-106.205, F.A.C., persons, other than the original parties to a pending proceeding, whose substantial interests will be affected by final agency action in the proceeding and who desire to become parties, may move for leave to intervene.

An individual seeking to intervene on the basis that their substantial interests will be affected must plead facts sufficient to demonstrate an injury in fact which is of sufficient immediacy to entitle them to an evidentiary hearing, and that this injury is of a type or nature which the proceeding is designed to protect. *Agrico Chem. Co. v. Dep't of Env't Regul.,* 406 So. 2d 478, 482 (Fla. 1st DCA 1981).

An association seeking to intervene in an administrative proceeding on behalf of its members must specifically plead and prove the following:

(1) the substantial interests of a substantial number of its members may be affected by the proceeding;

(2) the subject matter of the proceeding is within the association's general scope of interest and activity; and

(3) the relief requested is of a type appropriate for the association to receive on behalf of its members.

Fla. Home Builders Ass'n v. Dep't of Lab. & Emp. Sec., 412 So. 2d 351, 354 (Fla. 1982).

Every person listed above in Legal Issue 1 (a) – (q) filed a Petition to Intervene. FPL takes no position regarding whether any of the intervenors have demonstrated standing. (FPL BR 129) FAIR, EVgo, FIPUG, FEIA, AACE, AWI, EA, and Walmart also take no position regarding the standing of the other intervenors. FEA supports the standing of FIPUG and takes no position on the standing of the other intervenors. (FEA BR 2) FRF generally supports the standing of the signatories of the 2025 Settlement and takes no position on the standing of the other intervenors. (FRF BR 9)

OPC does not argue that any intervenor lacks standing, but offers a legal opinion on what the Commission should or must do if it makes a determination that an intervenor lacks standing. (OPC BR 96) FEL contests the standing of FIPUG (FEL BR 9 – 11), FEA (FEL BR 11 – 12), FRF (FEL BR 12 – 14), and SACE (FEL BR 14).

AWI, EA, EVgo, FL Rising, Circle K, RaceTrac, Wawa, and Walmart each filed for intervention as an individual person whose substantial interests are or may be affected by the determination in this docket. The record demonstrates each of these persons is an FPL ratepayer. The Commission's decision in this docket will establish the allowable rates and charges FPL may levy on its ratepayers for the next four years and, accordingly, will directly impact FPL ratepayers' substantial interests.[21] This base rate proceeding is specifically designed to allow ratepayers the opportunity to protect these interests. On this basis, the Commission may find that each of these persons has individual standing to intervene as a party.[22]

LULAC, ECOSWF, Florida Rising, FIPUG, AACE, FEIA, FEA, FRF, SACE and FAIR filed for associational intervention to represent the interests of their individual members

SACE's allegations in its Petition to Intervene, taken as true, were found sufficient to support all elements of associational standing under *Florida Home Builders*. Accordingly, the Order Granting Intervention for SACE stated that "SACE's petition to intervene shall be granted, subject to proof of standing or stipulations that there are sufficient facts to support all elements for standing."[23]

Despite the directions in this Order, SACE offered no prefiled testimony or documentary evidence in support of its allegations. Instead, as set forth in the Prehearing Order, SACE argues that it

[21]*See* Order No. PSC-12-0229-PCO-EI, issued May 9, 2012, in *In re Petition for Increase in Rates by Florida Power & Light Co.* (FPL customer is substantially affected and has standing to intervene in FPL rate case).
[22]Subsection 120.52(13)(b), F.S.
[23]Order No. PSC-2025-0079-PCO-EI (emphasis added).

should be granted standing in this proceeding based on inferences from findings and conclusions in prior Commission orders.

> SACE clearly has standing to intervene in this proceeding. The Commission has determined in numerous past cases, including rate cases, before this Commission that SACE has standing, and has determined preliminarily in Order No. PSC-2025-0079-PCO that SACE has alleged sufficient facts in this proceeding to be granted intervenor status. Pursuant to the standard Order Establishing Procedure in this case, Order No. PSC-2025-0075-PCO-0075-PCO-EI, the Commission has taken official notice of all its own final orders, and it is therefore unnecessary for SACE to request or seek their official recognition. Thus, these Final Orders constitute record competent substantial evidence in this proceeding, upon which determinations may be founded, and reasonable inferences can be made . . . . The Commission may reasonably, based on these Final Orders, which are a matter of record in this proceeding, together with SACE's assertions in its filings, which are consistent with those in prior cases, draw the inference that in three short months (since entry of the most recent order) no radical changes have occurred in SACE's membership or corporate status to alter its intervenor status.[24]

The First District has cautioned against using prior final orders for any purpose other than legal precedent, specifically noting such orders are not binding factual precedent if challenged in a subsequent proceeding.

> Respondents have expressed concern that persons not parties to a Section 120.565 proceeding, who therefore are not in a position to seek judicial review of the resulting declaratory statement, may later be adversely affected by the agency's enforcement against them of its interpretation of law thus announced. That is true. Agency orders rendered in Section 120.57 proceedings may in the same way indirectly determine controversies and affect persons yet unborn. But the rule is stare decisis, not res judicata. If such a person's substantial interests are to be determined in the light of a prior agency order or declaratory statement, Section 120.57 proceedings will afford him the opportunity to attack the agency's position by appropriate means, and Section 120.68 will provide judicial review in due course.[25]

Based on the absence of supporting testimony or other competent, substantial record evidence regarding SACE membership, the Commission may conclude that SACE has failed to prove its standing.[26]

Turning to the remaining associational intervenors, the record demonstrates that a substantial number of the members of FL Rising, ECOSWF, LULAC, FIPUG, AACE, FEIA, FEA, FRF, and FAIR are FPL ratepayers. The record demonstrates that the subject matter of this proceeding is

[24]Order No. PSC-2025-0298-PHO-EI at 45-46.
[25]*State Dep't of Health & Rehab. Servs. v. Barr*, 359 So. 2d 503, 505 (Fla.1st DCA 1978).
[26]*See Fraternal Ord. of Police, Miami Lodge No. 20 v. City of Miami*, 233 So. 3d 1240, 1242 (Fla. 3d DCA 2017).

within each organization's general scope of interest and activity, and that the relief requested is of a type appropriate for the organization to receive on behalf of its members.

FEL forwards two factual arguments in opposition to the standing of three of the associational intervenors. FEL first asserts that FRF "failed to put in almost any evidence whatsoever regarding its standing . . . ." (FEL BR 12) While the evidence it offered is brief, FRF did provide unrebutted factual assertions regarding its members, their status as FPL ratepayers, and their arguments for seeking lower rates. (TR 3705; TR 3743 – 3747)

FEL next argues that because FIPUG and FEA do not have articles of incorporation that set forth their interest(s), it is not possible to make factual findings as to whether the relief sought is appropriate for the entity to receive on behalf of its members as necessary to satisfy the third prong of Florida Home Builders. The Commission may draw a reasonable inference from the record evidence of the membership of each intervenor, the focus of the prefiled testimony, and the rate relief sought, in making a determination as to whether the common interests are being pursued and whether the relief sought is appropriate.

On the basis of the record evidence and the reasonable inferences from that evidence, the Commission may find that these associations have provided sufficient facts to demonstrate standing to intervene in this proceeding.[27]

FEL next argues that certain parties should be denied standing as a matter of law. Specifically, FEL asserts that FIPUG and FEA lack standing because they are unincorporated. (FEL BR 9 – 12) FEL is correct in asserting that, under common law, unincorporated associations have no legal existence[28] and cannot sue or be sued in their own name.[29] This Commission has relied on that case law in dismissing a petition to intervene filed by an unincorporated association.[30] Relying solely on that case law, the Commission may conclude that FIPUG and FEA lack standing.

There are other considerations the Commission may take into account on this issue. As argued by FIPUG in its Brief, a "party" to a Chapter 120 proceeding, includes "[a]ny other person . . . whose substantial interests will be affected by proposed agency action, and who makes an appearance as a party." Fla. Stat. subsection 120.52(13)(b)(emphasis added). "Person" under Chapter 120 means "any person described in s. 1.01, any unit of government in or outside the state, and any agency described in subsection (1)." "Person" described in Section 1.01 "includes individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations." Fla. Stat. subsection 1.01(3)(emphasis added). The Commission has not previously relied upon this provision to grant standing to an unincorporated entity.

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[27]*Palm Coast Util. Corp. v. State*, 581 So. 2d 243, 244 (Fla. 1st DCA 1991)(affirming final order of the Commission as "supported by competent, substantial evidence and reasonable inferences which may be drawn therefrom").
[28]*Larkin v. Buranosky*, 973 So. 2d 1286, 1287 (Fla. 4th DCA 2008); *Johnston v. Meredith*, 840 So. 2d 315, 315 (Fla. 3d DCA 2003).
[29]I.*W. Phillips & Co. v. Hall*, 128 So. 635, 637 (Fla. 1930).
[30]*In re: Energy Conservation Cost Recovery Clause*, Order No. PSC-08-0596-PCO-GU at 4; *See In re: Petition to Determine Need for Polk Unit 6 Electric Power Plant by Tampa Electric Power Company*, Docket No. 070467-EI, Order No. PSC-07-0695-PCI-EI (requiring proof of valid corporate certificate issued by the Department of State).

FEL cites *Cape Cave Corp. v. State Dep't of Envtl. Reg.*, 498 So. 2d 1309 (Fla. 1st DCA 1986) for the proposition that "unincorporated associations may not bring administrative claims." FEL BR 9. However, standing in that case was decided under Section 403.412(5), F.S., with the court expressly stating that "the standing requirements of Chapter 120, Florida Statutes, do not apply to this intervention." 498 So. 2d at 1311-12. *Id.* at 1311. After stating that these provisions do not apply, the court continued in *dicta* to question the agency's conclusion in its final order regarding Section 1.01(3), noting that there is an "absence of explicit treatment of the issue in prior case law." *Id.* at 1311 n.7.[31]

Cape Cave has been cited in numerous orders from the Division of Administrative Hearings (DOAH) that involved standing under 403.412, F.S. FEL cited one recommended order issued by DOAH that discusses *Cape Cave* and its potential effect on standing under Chapter 120 generally. The Administrative Law Judge concluded in that recommended order that "(a)n unincorporated association is an amorphous concept," and that such associations do not have standing under Chapter 120.[32] As noted by FIPUG in its Brief, this portion of the Recommended Order was not adopted by the agency, and has no precedential value.

Because this issue has not before been squarely placed before the Commission on a full record, the Commission may consider the arguments of FIPUG and FEA, keeping in mind the counterarguments set forth above and the general maxim that "[a]ny statute that deviates from the common law approach must be strictly construed."[33]

There is an additional legal consideration with respect to FEA. Federal agencies are treated as a unit for certain purposes under the Code of Federal Regulations.[34] The Department of Air Force Counsel has been specifically delegated authority to represent these agencies as a unit before the Commission.[35] The establishment of the agencies as a unit and designation of common representation for an identified purpose may be viewed as accomplishing the same goals as incorporation would for a non-governmental agencies.

Further considerations may also be relevant to the Commission's deliberations regarding FIPUG and FEA. Common law concerns regarding the capacity of unincorporated to sue and be sued hinge largely on questions of enforceability. If there is no legal entity from whom a judgment could be collected or enforced, the common law required that the party seeking redress name every person alleged to be a part of that entity in the suit. Under that theory, the common law has been

[31]The only appellate case that has cited *Cape Cave* on the issue of standing also involved Section 403.412, F,S., and an appellant who "does not contend that it is entitled to participate in these proceedings by virtue of a substantial interest" under Chapter 120, F.S. See *Legal Env't Assistance Found. v. Dep't of Env't Prot.*, 702 So. 2d 1352, 1352 (Fla. 1st DCA 1997).
[32]*Palm Beach Cnty. Envtl. Coalition v. Department of Community Affairs*, DOAH Case No. 10-5608GM, 2010 WL 3638076, at *2 (Recommended Order dated Sept. 16, 2010).
[33]*Hilyer Sod, Inc. v. Willis Shaw Exp., Inc.*, 817 So. 2d 1050, 1054 (Fla. 3d DCA 2002).
[34]"Agency" is defined broadly to include any executive department, government corporation, military department, the Postal Service, court and court administrative offices, an instrumentality of the legislative branch, and similar entities and facilities. *See, e.g.*, 5 U.S.C. section 550.1103 & subsection 2634.105(b).
[35]40 U.S.C. subsection 501(c)(1)(B).

applied to bar suits by an association of foreign investors organized under the laws of Spain[36] and college fraternities.[37]

These situations are fundamentally different from a utility monopoly where the entity bringing the administrative proceeding (utility) and those intervening in that proceeding (ratepayers) have an existing and ongoing contractual relationship. The terms of that contract are set in a base rate proceeding. There is no question as to whether the judgement will be enforceable or enforced. There is no question as to the past or ongoing validity of the underlying contract for utility services. And there is certainly no question as to the efficiency of having groups of ratepayers participate in base rate proceedings under common representation, rather than having dozens if not hundreds of individual persons in a docket such as this one. As recognized in *Florida Home Builders*,

> [w]hile it is true that the "substantially affected" members of the builders' association could individually seek determinations of rule invalidity, the cost of instituting and maintaining a rule challenge proceeding may be prohibitive for small builders. Such a restriction would also needlessly tax the ability of the Division of Administrative Hearings to dispose of multiple challenges based upon identical or similar allegations of unlawful agency action.[38]

The same can be said of FPL's ratepayers, whether individual residents (FAIR), large power users (FIPUG), retail operations (FRF), or governmental agencies (FEA).

Finally, FEL cautions that unincorporated entities will escape the sanction provisions of Chapter 120, F.S., as there will be no "party" from whom to collect attorneys' fees or costs should that entity be found to have participated in a proceeding for an improper purpose. (FEL BR 11) FEL continues that "all attorneys would be well-advised to intervene with an unincorporated association on behalf of their real clients in interest – that way, should there be an award against their client, there will be nothing to collect as unincorporated associations, as shown above, cannot be sue and cannot be collected against." *Id.* (emphasis added).

The following provision applies to proceedings under Section 120.57, F.S., such as this one, and allows the tribunal to impose sanctions against an attorney of record:

> All pleadings, motions, or other papers filed in the proceeding must be signed by the party, the party's attorney, or the party's qualified representative. The signature constitutes a certificate that the person has read the pleading, motion, or other paper and that, based upon reasonable inquiry, it is not interposed for any improper purposes, such as to harass or to cause unnecessary delay, or for frivolous purpose or needless increase in the cost of litigation. If a pleading, motion, or other paper is signed in violation of these requirements, the presiding officer shall impose upon the person who signed it, the represented party, or both, an appropriate sanction,

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[36] *Asociacion De Perjudicados Por Inversiones Efectuadas En U.S.A. v. Citibank, F.S.B.*, 770 So. 2d 1267, 1268 (Fla. 3d DCA 2000).
[37] *Johnston v. Meredith*, 840 So. 2d 315, 316 (Fla. 3d DCA 2003).
[38] *Fla. Home Builders Assn. v. Dept. of Lab. and Emp. Sec.*, 412 So. 2d 351, 353 (Fla. 1982); *cf. Rogers & Ford Constr. Corp. v. Carlandia Corp.*, 626 So. 2d 1350, 1354 (Fla. 1993) (suit by condominium association more efficient than suits by individual unit owners for same reasons).

> which may include an order to pay the other party or parties the amount of reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.[39]

These considerations, coupled with the statutory provision cited above, may be taken in account by the Commission in its ultimate determination of standing.

The remaining Legal Issues 2-5 all address the Commission's legal authority to approve certain accounting mechanisms proposed in the 2025 Settlement Agreement. In its Final Order in FPL's 2021 base rate case, the Commission approved mechanisms substantially the same as the ones as proposed in the 2025 Settlement. The Final Order in that docket was appealed, and the Florida Supreme Court "remand(ed) this case to the Commission for an explanation of its decision consistent with the governing law as set forth in our case law and reiterated here."[40] This quoted sentence was followed by this footnote:

> Appellants raise other arguments in opposition to the Commission's approval of the settlement agreement. These arguments include challenges to the Commission's statutory authority to approve various pieces of the settlement agreement: the Storm Cost Recovery Mechanism; the Reserve Surplus Amortization Mechanism; the Asset Optimization Incentive, which includes the monetization of renewable energy credits; a corporate tax adjustment; the Solar Base Rate Adjustment mechanism (SoBRA); a construction incentive for solar generation sites constructed pursuant to SoBRA; and cost recovery related to the Green Hydrogen Pilot Program and a consummation payment FPL made to Jacksonville Electric Authority concerning the retirement of a coal-fired power generation unit. To the extent any of these challenges to the Commission's statutory authority is preserved, none gives us a reason to set aside the order under review.[41]

Following the Court's remand, the Commission issued a Supplemental Final Order. In that Order, the Commission quoted this footnote, and then concluded that "[b]ecause the Court found our stated bases for jurisdiction to be sufficient, we are not entering supplemental findings or conclusions regarding our jurisdiction to consider the 2021 Settlement, and that section of the 2021 Final Order remains unchanged."[42] On appeal of the Supplemental Final Order, the Supreme Court affirmed, and did not upset its prior determination that the Commission has jurisdiction to consider FPL's proposed mechanisms.[43]

Based on the Florida Supreme Court's rulings in the FPL 2021 rate case, the Commission may determine that is has jurisdiction to consider whether FPL's proposed mechanisms meet the

[39]F.S. subsection120.569(2)(e)(emphasis added).
[40]*Floridians Against Increased Rates, Inc. v. Clark*, 371 So. 3d 905, 907 (Fla. 2023).
[41]371 So. 3d at 907. (emphasis added).
[42]Order No. PSC-2024-0078-FOF-EI at 5.
[43]*Fla. Rising, Inc. v. Fla. Pub. Serv. Comm'n*, 415 So. 3d 135, 144 (Fla. 2025).

requirements of the substantive law. Specific arguments raised by the parties as to the individual issues are set forth below.[44]

ISSUE 2: Does the Commission have the authority to approve FPL's requested Rate Stabilization Mechanism (RSM)?

OPC argues that the Commission lacks authority to approve the RSM. That argument is limited to opposing FPL's proposed use of unprotected, non-excess deferred taxes as part of the RSM funding. (OPC BR 96 – 104) OPC contends that the proposed use of these taxes violates Section 366.01, F.S., because it is *ipso facto* contrary to the public interest. OPC continues that the proposal violates the utility accounting principle of matching and prohibition on double-recovery. Finally, OPC argues that the proposed use of these taxes is without support in Commission precedent.

Both OPC and FEL contend that the use of funds that were collected to pay deferred taxes to populate the RSM followed by the (re)collection of funds over the next 30 years to pay those taxes as they come due violates Section 366.06, F.S., which provides that an electric utility shall recovery "the actual legitimate costs of the property of each utility company, actually used and useful in the public service."

FEL also contests the proposed use by FPL of "carryover" funds from the previous RSAM in the newly proposed RSM. FEL argues that the terms of the 2021 Settlement Agreement prohibit FPL from amortizing any of the RSAM past December 2025 absent a condition precedent, which has not been fulfilled. (FEL BR 96 – 97) There are no provisions in the Commission's Final Order and Supplemental Final Order in the 2021 rate case that shed light on the appropriate interpretation of these terms.

Finally, FEL contends that the 2025 Settlement contains a date discrepancy that will allow FPL to continue the RSM into the future beyond the minimum term of the Agreement. (FEL BR 97)

FPL argues that accounting mechanisms like the RSM have been previously approved by the Commission and affirmed by the Florida Supreme Court. (FPL BR 130 – 31) FPL contends that the remaining arguments do not pertain to the legal authority for the mechanism, and are addressed elsewhere in the post-hearing brief on the merits. (FPL BR 131)

While the Commission's authority to approve a mechanism like the RSM has been previously affirmed by the Supreme Court, the authority to use unprotected, non-excess deferred taxes as part of such a mechanism is a question of first impression. Likewise, the Commission's authority to carry over excess funds from one mechanism (RSAM) to another (RSM), as well as the applicability of the 2021 Settlement Agreement to sunset the RSAM, are issues not affected by direct precedent.

The RSM is discussed in full under Major Element 16.

[44]SACE, AWI, EA, EVgo, and FRF did not take a post-hearing position on Legal Issues 2-5. FEA and FIPUG concur with the arguments presented by FPL. FAIR adopts and concurs with the position and arguments of OPC. FEIA and the Fuel Retailers adopt the post-hearing positions of FPL on these Legal Issues.

ISSUE 3: Does the Commission have the authority to approve FPL's requested Solar Base Rate Adjustment mechanisms in 2028 and 2029?

OPC states that its argument against the legal authority for the SoBRA is found in its discussion of Major Element 12.

FEL states its position as follows: "Possibly, under existing precedent regarding SoBRAs in Settlements. However, FEL maintains that the applicable precedent was wrongly decided and does not believe there is statutory authority for the SoBRA mechanisms as contained in the settlement." (FEL BR 7) FEL provided no further argument in support of this position.

FPL argues that the SoBRA mechanism has been approved by the Commission for FPL – at least once with the concurrence of OPC – as well as for other Florida investor owned utilities. (FPL BR 132) FPL also notes that the SoBRA mechanism has been upheld by the Florida Supreme Court.

ISSUE 4: Does the Commission have the authority to approve FPL's proposed Storm Cost Recovery mechanism?

OPC states that its argument against the legal authority for the SCRM is found in its discussion of Major Element 11. There are no specific arguments regarding the Commission's legal authority under Major Element 11. The arguments OPC raises under that Element are addressed later in this document under Major Element 11.

FEL states its position as follows: "Possibly, under existing precedent regarding storm cost recovery mechanism in settlements. However, FEL maintains that the applicable precedent was wrongly decided and believes there is no statutory authority for the storm cost recovery mechanisms as contained in the settlement." (FEL BR 7) FEL notes that no other jurisdictions have a comparable mechanism. (FEL BR 90) FEL further contends that "FPL's approach of charge first, consider legitimate costs later is unlawful as there is no statutory basis for the Commission to pre-approval (sic) rate increases."

Like with the SoBRA, FPL argues that the SCRM mechanism has been previously approved by the Commission for FPL and has been upheld by the Florida Supreme Court. (FPL BR 134) FPL further asserts that the legal arguments by OPC and FEL are based on the incorrect presumption that the SCRM increases rates, when it is instead "a pass through of the incremental storm costs actually incurred." (FPL BR 135)

ISSUE 5: Does the Commission have the authority to approve modification FPL's proposed mechanism for addressing change in tax law?

OPC states that its argument against the legal authority for the mechanism to address changes in the tax law is found in its discussion of Major Element 13. There are no specific arguments regarding the Commission's legal authority under Major Element 13. The arguments OPC raises under that Element are addressed later in this document under Major Element 13.

FEL states its position as follows: "Possibly, under existing precedent regarding tax law change mechanisms in settlements. However, FEL maintains that the applicable precedent was wrongly decided and believes there is no statutory authority for the tax law change mechanisms contained

in the settlement." (FEL BR 7) FEL contends that the Commission cannot allow FPL to unilaterally change rates based on hypotheticals, and that any change requires a public hearing and proof that FPL earnings have fallen below the lower threshold of its ranges. (FEL BR 123 – 24)

FPL argues that the change in tax law mechanism has been approved by the Commission for FPL and other Florida investor owned utilities. (FPL BR 136) FPL also notes that the SoBRA mechanism has been upheld by the Florida Supreme Court.

ISSUE 6: Is the 2025 FPL Stipulation and Settlement Agreement in the public interest and should it be approved?

Major Elements

1. Term

FPL's initial request sought approval of a four-year rate plan that would begin on January 1, 2026, and last until December 31, 2029. The 2025 Settlement would become effective on the same initial date of January 1, 2026, and continue until the later of December 31, 2029, or the effective date of new base rates when FPL's base rates are next reset in a general base rate proceeding (the Term). (EXH 1277) The minimum term of the agreement is the four years ended December 31, 2029 (the Minimum Term). Except in certain circumstances as expressly provided in the 2025 Settlement, FPL could not seek another base rate increase during the Term. The SPs argue the 2025 Settlement provides base rate predictability for FPL customers and allows FPL to continue its focus on improving service and creating additional operating efficiencies. (Bores Settlement Testimony p. 2)

The NSPs argue the rate stability purported to benefit customers is illusory as customer bills could still fluctuate significantly during the Term. This is due to both ever-present concerns such as storm damage, natural gas prices, and inflation, as well as due to additional concerns in this case such as whether or not the Investment and Production Tax Credits will remain available to FPL as anticipated as well as the impact of potential federal tariffs. (TR 3219)

Section 366.06(2), F.S., states that if a utility's rates are insufficient to yield reasonable compensation it may request a proceeding in order for the Commission to determine just and reasonable rates. FPL witness Bores acknowledged this reality, describing its four-year plan as a "unilateral commitment" to not seek a general base rate increase. (TR 2396) Additionally, if the Commission finds that rates are excessive, it can initiate a proceeding to determine just and reasonable rates.

Accordingly, while the Commission has resolved base rate cases in previous years that include multi-year increases to rates, and in settlement agreements it has similarly approved "stay-out" provisions, the Commission should continue to recognize its obligation to monitor utility earnings and, if circumstances warrant, require additional proceedings. For these reasons, it is appropriate to acknowledge FPL's commitment while also noting that approval of the 2025 Settlement would not prohibit future proceedings on these matters during the term of the agreement.

2. Cost of Capital

In FPL's as-filed case petition filed in February 2025, the Company requested an overall rate of return of 7.63 percent for 2026 and 7.64 percent for 2027 using a capital structure that included an equity ratio of 59.60 percent of investor sources of capital, and a return on equity (ROE) of 11.90 percent with a range of 10.90 percent to 12.90 percent. Out of thirteen signatory intervenors, five took no position on the 11.90 percent ROE requested by FPL in its as-filed case. (TR 4985) The remaining eight took positions that the ROE should be below 10.00 percent, except FIPUG who offered what appears to be a range of 9.81 percent to 10.50 percent. (TR 4985)

The 2025 Settlement specifically states that all rates, including those established in clause proceedings during the Term, shall be set using a 10.95 percent ROE. FPL's authorized range of ROE shall be 9.95 percent to 11.95 percent and shall be used for all purposes. The 2025 Settlement maintains the 59.60 percent equity ratio based on investor sources. (EXH 1277)

The ROE is impacted by both the equity ratio and mechanisms that act to reduce risk, such as the RSM. All other things being equal, a higher equity ratio results in lower financial risk, and mechanisms that stabilize earnings lower business risk. Both FPL witness Coyne and OPC witness Lawton agreed that the RSM will help stabilize FPL's earnings and lower its business risk. (TR 5274; TR 3162 – 3163) The NSPs argued that FPL's proposal for approval of both a high ROE and a high equity ratio is unacceptable, particularly when coupled with the RSM, and could lead to rates that are excessive. (TR 5055 – 5057)

When considering the cost of capital the Commission should weigh the proposed ROE and capital structure according to the three standards set forth in the *Hope*[45] and *Bluefield*[46] decisions. (OPC BR 5; FAIR BR 5; TR 5191) In *Bluefield*, the U.S. Supreme Court stated:

> A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties, but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure investor confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties.[47]

Later, in *Hope*, the Court established a standard for the ROE that remains the guiding principle for ratemaking regulatory proceedings to this day:

> [T]he return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover,

[45] *Federal Power Commission v. Hope Natural Gas Company*, 320 U.S. 591 (1944).
[46] *Bluefield Waterworks and Improvement Company v. Public Service Commission of West Virginia*, 262 U.S. 679 (1923).
[47] 262 U.S. at 692-93.

> should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital.[48]

FPL added that both the U.S. Supreme Court and the Florida Supreme Court have held that setting the ROE is a utility-specific, factual determination.[49] (FPL BR 17)

The SPs argued that in the 2025 Settlement, FPL made a concession to lower the ROE by 95 basis points to 10.95 percent which is effectively equivalent to a reduction in revenue requirement of approximately $485 million in 2026 and more than $2 billion over the term of the settlement. (FPL BR 16 – 17; TR 5158) In the context of the broader Settlement, and together with FPL's equity ratio of 59.60 percent, the SPs argued a 10.95 percent mid-point ROE provides a fair and reasonable allowed return on equity. (FPL BR 17; TR 4610)

The SPs offered testimony that, combined with the RSM, the proposed 10.95 percent ROE provides FPL the financial strength it needs to continue to attract capital to make investments for the benefit of customers and maintain its strong balance sheet to withstand unexpected risks. (TR 4610) The SPs opined the 10.95 percent ROE and 59.60 percent equity ratio is commensurate with returns available for investments of similar risk, would support FPL's credit profile, and enable the Company to attract capital at reasonable rates as required under the *Hope* and *Bluefield* Supreme Court decisions.[50] (FPL BR 17; TR 5192) If approved, the 2025 Settlement would maintain rate predictability and stability and reinforce Florida's constructive regulatory environment. Witness Coyne opined that the proposed ROE and equity ratio are supported by record evidence, and would provide FPL a fair and reasonable allowed return on equity in the context of the broader settlement. (FPL BR 17; TR 5192)

The NSPs rejected the proposed 10.95 percent ROE reasoning that the 10.95 percent ROE is excessive as compared to those awarded by regulatory agencies in other jurisdictions over the past few years. (TR 2572 – 2573, 4982, 4986, 5101, and 5160) Specifically, it is 45 basis points greater than any ROE approved, whether in a settlement or a litigated outcome, by any public utility commission or public service commission in the United States over the past two years. (OPC BR 4) It is also 45 basis points greater than the highest ROEs approved in the southeastern United States (U.S.) in recent years. (OPC BR 4; TR 2571) The ROEs approved in 2024 and 2025 for other vertically integrated electric utilities in the southeastern U.S. range from 9.70 percent for Virginia Electric & Power Co. in Virginia to 10.50 percent for Georgia Power Co. in Georgia and Tampa Electric Company in Florida. (TR 2572; EXH 1291)

The NSPs argued that the recognized standard for fair and reasonable ROEs to be established by utility regulatory authorities such as the Commission is that the allowed ROE should be equal to the returns generally being earned at the same time and in the same general part of the country on comparable investments. (OPC BR 6; FEL BR 82; TR 1272) OPC argued that it is necessary to consider recent national average awarded ROEs as a benchmark when determining whether FPL's proposed ROE comports with the *Bluefield* and *Hope* standards. (OPC BR 6) The recently authorized, average ROEs for vertically integrated electric companies are 9.71 percent in 2023,

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[48] 320 U.S. at 603.
[49] *Bluefield,* at 692; *United Tel. Co. v. Mayo,* 345 So. 2d 648 (Fla. 1977).
[50] *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591 (1944); *Bluefield Water Works and Improvement Co. v. Public Service Commission*, 262 U.S. 679 (1923). *Hope and Bluefield are discussed, further supra.*

9.85 percent in 2024, and 9.83 percent through April 2025. (OPC BR 6; TR 2156) The average ROE for vertically integrated utilities authorized from 2023 through April 29, 2025, is 9.78 percent. (OPC BR 6; TR 2156) OPC argued these returns show the actual average ROEs that will be earned for the companies that have similar risks to those of FPL. (OPC BR 6)

The NSPs argued that a 10.95 percent ROE is objectively excessive and greater than necessary for FPL to earn a reasonable return while providing safe and reliable service, and would result in unfair, unjust, and unreasonable rates. (FEL BR 82; TR 2571 – 2572) FEL argued an ROE of 10.95 percent does not follow the *Hope* and *Bluefield* standard as a reasonable ROE because it does not strike a balance between satisfying the financial support that FPL needs to provide safe and reliable service, without charging excessive rates to its customers. (FEL BR 82) Allowing such an excessive ROE would be contrary to the best interests of the 12 million Floridians who receive their residential electric service from FPL, and contrary to the public interest of the State and the Florida economy as a whole because it would result in a massive transfer of wealth from FPL's customers to FPL's sole shareholder, NextEra Energy, Inc. (TR 2573)

The NSPs also argued that the reduction in ROE from 11.90 percent to 10.95 percent is not a significant concession by FPL. (FEL BR 81 – 82; OPC BR 115 – 116; TR 4998; TR 5045 – 5046) OPC witness Shultz contended that there is clear evidence that FPL's reduction from 11.90 percent was not a concession, and that, based on his experience, there was zero chance that an ROE above 10.95 percent with a 59.60 percent equity ratio would be approved by the Commission. (TR 4988)

The NSPs argued the 2025 Settlement still allows FPL, through the RSM at its sole discretion, to adjust its earned ROE to reach the top of its authorized ROE range of 10.95 percent. (TR 4998) The NSPs opined that the ROE combined with the RSM needlessly shifts dollars to improve the return for FPL's shareholder and deprives its customers of revenue requirement reductions due them now and in the future. (TR 4998)

NSPs witness Rábago contended FPL's comparably high equity ratio of 59.60 percent should be considered when setting the ROE to account for lower financial risk. (TR 5056) The proxy group of holding companies used by FPL witness Coyne has a significantly lower equity ratio than FPL. As stated by OPC witness Lawton:

> It is important to note that the average of the comparable risk company group has about a 51.80% equity ratio which would be more-risky (in terms of financial risk) than the FPL 59.60% equity ratio. As such, the equity return estimates developed from the comparable group would reflect higher financial risk and would need to be reduced if applied to FPL with a 59.60% equity ratio for setting rates in this case. Mr. Coyne's analysis fails to recognize the financial risk differences between FPL and the comparable group.

(TR 3147)

The NSPs argued that the ROE should be based on the lower end on the range of results from the ROE model results. (TR 5056) Witness Rábago also contended FPL's proposal for approval of both a higher-than-reasonable ROE and a higher-than-reasonable equity ratio is indefensible. (TR 5056) Coupled with the RSM, the NSPs contend there is no reasonable argument that the SPs' cost of capital proposal will not lead to excessive earnings. The NSPs argued that, in combination, the

ROE, equity ratio, and RSM interplay together and are completely excessive. (TR 5056 – 5057) Instead of leading to a lower ROE, or lower equity ratio, or no need for an RSM, the NSPs further argued that FPL attempted to push the boundaries to the top on all three, leading it to be decisively against the public interest. (TR 5056 – 5057)

As noted by FEL in its brief (FEL BR 100 – 101), the Florida Supreme Court has explained the purpose of establishing a range as follows:

> By establishing a rate of return range in addition to establishing a specific rate of return, the commission is acknowledging the economic reality that a company's rate of return will fluctuate in the course of a normal business cycle. Earnings in excess of the authorized rate of return could possibly be offset by lower earnings in later years. Thus the purpose of having a range is to give the commission some flexibility in deciding whether a public utility's rates should be changed. The existence of the range does not limit the commission's authority to adjust rates even though a public utility's rate of return may fall within the authorized range. For example, if a public utility is consistently earning a rate of return at or near the ceiling of its authorized rate of return range, the commission may find that its rates are unjust and unreasonable even though the presumption lies with the utility that the rates are reasonable and just. The commission's discretion in this matter is not annulled by the establishing of a rate of return range.[51]

FEL argued that if the Commission approves a midpoint ROE of 10.95 percent, it must either direct the SPs to remove the RSM from the agreement, or to instead reset the ROE at 9.95 percent, understanding that based on FPL's 15-year history of earning at the top of the ROE range, FPL will use the RSM to earn a 10.95 percent ROE. (FEL BR 101 – 102)

The NSPs opined that a more reasonable ROE would be 10.60 percent, with a range of 9.60 percent to 11.60 percent, as included in their proposal. (TR 5109; EXH 1297, p. 34) The NSPs also proposed to maintain FPL's equity ratio of 59.60 percent, based on investor sources. (EXH 1297, p. 34) An ROE of 10.60 percent is still higher than any ROE approved by any regulatory commission in the United States since 2023. (TR 5109) FPL argued that accepting the NSP's proposal to reduce FPL's current ROE by 20 basis points would be viewed by investors' as a departure from Commission past practice and increase investors' perception of regulatory risk. (FPL BR 23) FPL further argued that credit rating agencies likely would downgrade FPL's credit rating which would eventually increase FPL's overall cost of capital. (FPL BR 23) However, credit rating agencies consider Florida to have a highly supportive regulatory environment which benefits FPL. (FEL BR 85; TR 2272)

FPL and the SPs disagreed with the NSPs' argument that FPL's proposed ROE is unreasonable because it would be higher than the national average of ROEs awarded over the past few years. (FPL BR 21 – 22; TR 5160) FPL argued that the NSPs witnesses failed to justify their argument through any analytic rationale that considered FPL's comparable risk profile in relation to accepted cost of equity analysis. (FPL BR 20; TR 5160) Further, FPL points out that the Company's current allowed 10.80 percent ROE was approved when 30-year Treasury Yields were 2.49 percent in

[51] *Gulf Power Co. v. Wilson*, 597 So. 2d 270, 273 (Fla. 1992)

mid-2022. (FPL BR 21 – 22; TR 5161) Since that time, the 30-year Treasury Yields have increased and are currently approximately 4.70 percent currently. (FPL BR 21 – 22; TR 5161) FPL argued that based on the increase in interest rates, investors expect to see an increase in ROE that is above FPL's current 10.80 percent ROE. FPL contends that an authorized ROE lower than 10.80 percent under current market conditions would signal to investors that regulatory risk and business risk have increased and credit rating agencies would likely downgrade FPL's credit rating. (FPL BR 22 – 23; TR 5161 – 5162)

According to witness Coyne, the 10.95 percent ROE included in the 2025 Settlement is within the range of model results estimated by FEA witness Walters and above the range of OPC witness Lawton in their respective direct testimonies. (FPL BR 21; TR 5189 – 5190) OPC witness Lawton's range of ROE models was 8.51 percent to 10.64 percent. FEA witness Walters' range of ROE models was 7.24 percent to 11.12 percent. The overall results of ROE models from all witnesses who provided ROE analysis in testimony ranged from 7.24 percent to 15.95 percent as summarized in Table 6-1.

Table 6-1
ROE Model Results

	FPL Witness Coyne	FEA Witness Walters	OPC Witness Lawton
DCF Model Results	8.94% - 11.47%	8.31% - 10.43%	8.51% - 9.95%
CAPM Model Results	15.37% - 15.95%	7.24% - 11.12%	9.70% - 9.89%
Risk Premium Results	10.45% - 10.57%	9.98% - 10.23%	10.39% - 10.64%
Expected Earnings	10.91%	Not Used	Not Used
Overall Range of ROE Model Results	8.94% - 15.95%	7.24% - 11.12%	8.51% - 10.64%

(TR 1996 – 2004; TR 4627)

FPL witness Coyne's average CAPM result of 15.65 percent is significantly higher than the results of all the other cost of equity models employed by the ROE witnesses and is questionable at best.[52] OPC and FEL argued that witness Coyne's CAPM results in both his direct and rebuttal should be excluded as an outlier when compared to the results of other ROE models. (OPC BR 10 – 11; FEL BR 85 – 86) The next highest ROE model result is 11.12 percent from FEA witness Walters' CAPM derivation using the Federal Energy Regulatory Commission DCF method which is similar to the CAPM method used by FPL witness Coyne. (TR 4615; EXH 216) FEA witness Walters

[52]In witness Coyne's CAPM derivation, he used an expected market return of 16.68 percent that was calculated using a constant growth discounted cash flow model to estimate the expected return on the S&P 500 Index. The assumptions witness Coyne made when applying the constant growth DCF model did not conform with standard practice, nor has his methodology been widely accepted by other regulatory agencies when determining the ROE for vertically integrated electric companies. (OPC BR 10-11; TR 1993-1994, 4174; EXH 426, Interrogatory No. 62; EXH 434, Interrogatory No. 242)

CAPM analysis included a derivation that returned results of 7.24, 7.71, and 8.04 percent, which based on current market conditions is unreasonably low. (TR 4314 – 4318, 4615) Staff points out that by removing the outlying lowest and highest CAPM results from the ROE witnesses' collective analytical results, the ROE range is narrowed to 8.31 percent to 11.12 percent.

FPL argued the proposed equity ratio of 59.60 percent contributes to FPL's strong balance sheet that supports FPL's credit quality and financial strength which allows FPL to obtain capital at reasonable rates. Additionally, the Commission has a long-standing policy of setting a utility's authorized capital structure equal to its actual capital structure, as long as it is within the range of 40 percent to 60 percent. (FPL BR 24 – 25; TR 4337) Further, FPL has maintained its current Commission-approved 59.60 percent equity ratio for the past 20 years and a significant reduction in the equity ratio would be viewed by credit rating agencies as upward pressure on regulatory risk. (FPL BR 26; TR 4607, 4624) Witness Coyne acknowledged FPL's proposed equity ratio of 59.60 percent has been included in the Company's capital structure for the past 20 years and is at the top of the range of equity ratios of the comparable proxy group. (FPL BR 25; TR 2022) However, witness Coyne also agreed that the more debt in a capital structure, the riskier that company is relative to a company with lower debt, all else being equal. (OPC BR 12; TR 4690 – 4693; TR 4383)

The proposed ROE of 10.95 percent is near the top of the range of results of the ROE models supported by record evidence and would meet all the tenets of the *Hope* and *Bluefield* standard cited herein. The NSPs' proposed ROE of 10.60 percent, while lower than FPL's current authorized ROE of 10.80 percent, would also meet the *Hope* and *Bluefield* tenets and would benefit customers through a lower ROE and result in rates lower than those proposed in the 2025 Settlement.

3. 2026 & 2027 Base Rate Adjustments

In its petition, FPL requested a base rate increase of $1.545 billion for the 2026 projected test year and $927 million for the 2027 projected test year. In the 2025 Settlement, these requests were reduced to $945 million and $705 million, respectively. The decrease in the requested amount resulted in a 39 percent reduction for 2026 and a 24 percent reduction for 2027. Under the 2025 Settlement, this amount is inclusive of the investment tax credits (ITC) benefit FPL will receive for the battery storage facilities. (FPL BR 27; EXH 1277)

FPL stated that an increase to base rates is necessary in 2026 and 2027 to support FPL's growth over the next four years, and that without the increase the company projects its ROE will fall below the authorized range. (FPL BR 28) FPL also addressed concerns with its level of incentive compensation, claiming they are appropriate and necessary, as the Company's level of total compensation is below the market median, and FPL needs to be able to compete for quality workers. (FPL BR 35) Furthermore, the SPs have agreed that this adjustment in base rates represents a reasonable reduction that is in the public interest, given FPL's original request. Additionally, the SPs stated that the 2025 Settlement provides a reasonable base rate increase in regards to other settled and litigated electric and gas rate cases and that residential and business customers will see lower increases in their bills than they would have under the as-filed case. (FPL BR 27 – 28)

OPC claimed that the main drivers of the base rate increase were unnecessary planned solar and battery additions, various overstated operating expenses, inflated cost of capital, and excessive PHFU. (OPC BR 15) Furthermore, OPC witness Schultz testified that the 2027 test year reduction to base rates appears overstated, due to solar projects now being recovered by a SoBRA mechanism rather than included in base rates. (TR 4995 – 4996) In its brief, OPC identified $304 million worth of reductions that witness Schultz recommended for FPL's original filing, including a reduction of $228.8 million to salaries and benefits that OPC believes to still be necessary. (OPC BR 27 – 28)

FEL disagreed that the base rate reduction was in the public interest. Furthermore, FEL claimed that no party to the 2025 SSA represented residential customers besides FPL, and that is a conflict of interest. (FEL BR 5 – 6, 24 – 25) FEL also disagreed that the base rate reduction was a compromise. (FEL BR 19-20) FEL contended that the changes for both the 2026 and 2027 test years, revenue requirements were primarily due to the reduction in the ROE and extensions in retirement and recovery schedules. (TR 5045 – 5046; FEL BR 19 – 20, 23) FEL claimed that even though the amount collected through base rates has decreased, functionally FPL has still included everything in the revenue requirement that was requested in its as-filed case. (FEL BR 26, 81 – 82) FEL further claimed that customer growth and inflation accounted for less than half of rate base growth over the past 15 years. (FEL BR 25) FEL also called into question FPL's level of spending, pointing to FPL awarding incentive compensation to 96.7 percent of their employees. (FEL BR 75)

The NSPs' Proposal offered a reduction of $678 million which would result in a base rate increase of $867 million, a 44 percent reduction from the as-filed case for the 2026 test year. For the 2027 test year, the NSPs' Proposal offered a $524 million reduction resulting in an increase in base rates of $403 million, a 57 percent reduction. (TR 4975)

In response to staff's discovery regarding the adjustments made to rate base in the 2025 Settlement, FPL stated that the base rate revenue increases and related amounts were not developed through a formulaic or mathematical calculation. (EXH 1346) Instead, these amounts reflect the negotiations made by the SPs and the compromise of various positions within the comprehensive 2025 Settlement. As such, the reduction results in the benefit of lower residential and business customer rates than the as-filed case. (EXH 1346)

Perdido RNG Project

The 2025 Settlement does not specifically mention the Perdido RNG Project, but FPL witness Bores confirmed in testimony that FPL seeks approval of all of its projects proposed for 2026 and 2027, which includes this project. FPL is planning to invest in biogas upgrading technology to convert landfill gas into pipeline-quality natural gas, which can subsequently be burned in existing combustion turbines at the Gulf Clean Energy Center. The landfill gas is currently being consumed by two turbine generating engines which will reach the end of their useful lives and be retired by 2029. (TR 1228) FPL witness Oliver testified this project is expected to be operational in 2028, and will provide a cumulative present value revenue requirement (CPVRR) benefit of $41 million and enhance FPL's gas supply. (TR 1228; TR 1322 – 1323) FPL witness Oliver argues that this project involves the generation of power to serve its customers and therefore falls under the Commission's authority to approve for cost recovery under Chapter 366, F.S. (EXH 445, P 160) Initially, OPC recommended denial, joined by FIPUG, FAIR, and Walmart, while FEL

recommended the CPVRR benefit analysis is contingent upon the continued validity of tax credits and so the approval should be as well.

The Commission's authority to determine and fix fair, just, and reasonable rates for public utilities comes from Section 366.06(1), F.S. The definition of "electric utility" provided in Section 366.02(4), F.S., includes any utility which "owns, maintains, or operates an electric generation, transmission, or distribution system" within Florida. The Florida Supreme Court has stated that under the plain meaning of these statutes, cost recovery is permissible only for costs arising from the "generation, transmission, or distribution" of electricity.[53] In that instance, the project in question dealt with investments in the exploration, drilling, and production of natural gas in the Woodford Shale Gas Region in Oklahoma (Woodford Project).

In response to discovery, FPL stated the project represents "traditional utility plant investment in owned and operated facilities that directly supports FPL's existing generation fleet by providing an alternative fuel source processed by utility-owned equipment for the benefit of FPL's customers." (EXH 445, P 160) While FPL intends to use the resulting RNG to supply its fleet, this project involves the production of fuel which was stated to be outside the purview of an electric utility.[54] Regardless of the merits of this project, "[w]hether advance cost recovery of speculative capital investments in gas exploration and production is in the public interest is a policy determination that must be made by the Legislature."[55] The Perdido RNG project involves the production of pipeline quality fuel, which under current law is not part of the generation, transmission, or distribution of electricity.[56] If the Commission approves the 2025 Settlement, it should be acknowledged that FPL cannot include the Perdido RNG Project in base rates.

Sales Forecast

An important input to the 2026 and 2027 base rate adjustment proposed by the SPs is projected revenue growth. The SPs did not address revenue growth in prefiled testimony regarding the 2025 SSA. OPC witness Schultz stated that OPC provided expert testimony demonstrating the need for an increase in FPL's projected revenues of $133,032,000 (jurisdictional) related to underestimated sales and customer growth based on historical trends for each projected test year. (TR 4991) FEL witness Rábago argued that FPL customer rates are increased in part due to the Company's reliance on twenty-year weather normalization models which he claims discounts the existence of climate change. (TR 5047)

FPL stated that its weather normalized forecasts vary from its weather normalized actuals by less than one percent. It also maintained that twenty-year normal weather is widely used for forecasting and normalization. (FPL BR 53 – 54) Regarding the NSPs' argument that FPL's retail sales forecast is understated, OPC stated that Commission approval of the 2025 SSA without its recommended sales adjustment of $133,032,000, along with its recommended adjustment for depreciation and dismantlement expenses, would cause all customers to overpay for service (OPC BR 28) FPL's weather-normalized retail sales forecasts based on FPL's 20 year normalization

[53] *Citizens of the State of Florida v. Graham*, 191 So. 3d 897, 901 (Fla. 2016).
[54] *Id.*
[55] *Id.* at 902.
[56] *Id.*

period have been lower than actual sales for each of the past 10 years (2015 through 2024), averaging 2.2 percent difference between forecast and actual. (EXH 445)

The base rates included in the NSPs' Proposal are based on the projected 2026 and 2027 test year billing determinants set forth in FPL's 2026 MFRs filed with the Petition, which reflect the Company's sales forecast. (EXH 1290, P 4 – 5) As part of a negotiation process, the SPs reduction in FPL's 2026 and 2027 base rate adjustment is not itemized by the source of the adjusted dollars.

4. Revenue Requirement Allocation

In its as-filed case, FPL witness Cohen stated that an important goal in setting rates is to bring all rate classes as close to the FPL system average Rate of Return (ROR) as reasonably practicable to minimize interclass cross subsidies. Witness Cohen explained FPL has set the target revenue by rate class to move each class towards parity and improve parity among the rate classes to the greatest extent possible. The ROR for each class compared to the system average ROR equates to the parity index for each rate class (TR 2607 – 2608) Witness Cohen stated that the proposed allocation adheres to the Commission's longstanding practice of gradualism. This practice limits the increase of a specific rate class to 1.5 times the system average increase in total rate class operating revenue (including adjustment clauses). The allocation approach also requires that no rate class receive a decrease in revenue. (TR 2618)

In rebuttal testimony, witness Cohen responded to intervenor witnesses representing FIPUG, FEA, and FRF who took issue with FPL's allocation methodology. Disagreements involved whether to apply the gradualism limit to total operating revenues (including cost recovery clauses) or only to base revenues (excluding cost recovery clauses) and the application of Commercial/Industrial (CILC)/Commercial Demand Reduction (CDR) payments. FPL continued to maintain that any increase should be spread to all customer classes based on cost of service allocations designed to move them closer to parity, while adhering to gradualism guidelines. (TR 2643)

Pursuant to paragraph 4(e) of the 2025 Settlement, the revenue requirements established in the 2025 Settlement are allocated using a modified equal percentage allocation. All rate classes, excluding the Residential Service (RS) rate class, would be allocated revenues based on an adjusted system average. The revenue allocation to the RS rate class shall be limited to 95 percent of the adjusted system average. The resulting revenue differential (the 5 percent reduction from the RS rate class allocation) shall be assigned on an equal percentage basis to the remaining non-residential classes.

Witness Cohen's settlement testimony addressed the justification of the revenue increase included in the 2025 Settlement. Witness Cohen testified:

> Multiple parties presented evidence in this case regarding revenue allocation, and each had different proposals for how to allocate the revenue increases to the customer classes. The revenue allocation under the Proposed Settlement Agreement reflects a negotiated compromise of differing and competing positions by parties presenting a broad range of interests and customers. (TR 4629)

Witness Cohen stated the revenue allocation under the 2025 Settlement is consistent with the Commission's gradualism policy and the parity indices are generally consistent with parity index

for each rate class at present rates under the methodology approved in the 2021 rate case, "demonstrating continuity and reasonableness in the approach." (TR 4631) EXH 1284 provides the parity indexes for each rate class under the differing allocation proposals and under the 2025 Settlement. This exhibit shows that under the 2021 Settlement, the parity index for the RS class is 0.99 and under the proposed 2025 Settlement 0.98. Witness Cohen asserted that this improvement in parity for the RS class is due to the revenue allocation being capped at 95 percent of the system average increase. (TR 5203) Finally, Witness Cohen testified that if the residential class had received an equal percentage increase similar to the other rate classes, they would have been allocated an additional $29 million. (TR 4630)

With respect to the revenue increase to the General Service (GS) rate class, witness Cohen explained that under the 2025 Settlement the revenue increase appears higher than the as-filed revenue increase. (TR 4632) Witness Cohen supported the allocation of the increase to the GS rate class by stating that the GS rate class received the same percent increase as the other Commercial and Industrial (CI) rate classes and the five-year Compound Annual Growth Rate of the typical GS customer bill is projected to be approximately 2.4 percent, the lowest among the major CI rate classes and is stated to be well below the rate of inflation. (TR 4632) Finally, witness Cohen asserted that the parity index for the GS rate class under the 2025 Settlement is 1.18. This index is essentially flat when compared to present rates calculated under the current allocation method approved in the 2021 Rate Case Settlement (index of 1.18) (TR 4632) FPL's calculations show that for the 2026 test year, in the as-filed case, FPL proposed a 3.3 percent increase without adjustment clauses, while the 2025 Settlement includes a 10.4 percent increase for the GS class. (EXH 1343) In its brief, FPL submitted that "the revenue allocation to the RS, GS, and all other rate classes is a reasonable outcome in terms of revenue apportionment and bill impact for the rate classes." (FPL BR 61)

FEL witness Rábago presented several arguments criticizing the revenue allocation methodology within the 2025 Settlement. Witness Rábago stated that the 2025 Settlement references no cost of service methodology to justify the proposed revenue allocation and "somehow incorporates, by non-reference" the cost of service from the 2021 Settlement. (TR 5049) Witness Rábago further asserted that the negotiated 2021 methodology "that is not open to review" does not justify the revenue allocations. (TR 5049 – 5050)

Witness Rábago stated that RS customers should be getting an even larger reduction and GS customers are getting a larger increase than if FPL's original as-filed petition had been approved in full and that the large load classes were the largest beneficiaries of any reduction. (TR 5050) Witness Rábago calculated that in 2026, under the 2025 Settlement, compared to FPL's as-filed cost of service study, RS and GS customers are paying almost $350 million more than their fair share. (TR 5052) FAIR, in its brief, stated that the 2025 Settlement imposes an increase in the GS class's revenue responsibility that is dramatically greater than the revenue increase that FPL proposed for the GS class in the as-filed case. (FAIR BR 42) The NSPs' Proposal includes a cost-of-service study that applies the 12 CP and 1/13 Average Demand methodology for Production Plant, and 12 CP for Transmission Plant, limited by the Commission's traditional gradualism test. (TR 5085)

5. Commercial/Industrial Load Control and Demand Reduction (CILC/CDR) Credits

As part of its FEECA programs, FPL offers the CILC and CDR programs, which allow eligible participants to receive bill credits or lower rates in exchange for a lower level of service whereby the customer's service may be interrupted or curtailed. This in turn reduces the firm demand FPL must meet with generation resources. (TR 994) In FPL's as-filed case, it proposed to decrease its monthly CILC/CDR program credit from $8.76/kW to $6.22/kW. (TR 968; FPL BR 62) In the Settlement Agreement, FPL proposes to increase the monthly program credit to $9.75/kW in 2026, and in each following year during the settlement term, FPL proposes to increase this credit amount at the effective dates of each SoBRA and by the SoBRA factors it submits in those filings. (EXH 1283; EXH 1349)

FPL recovers the cost of CILC/CDR program credits through the Energy Conservation Cost Recovery (ECCR) Clause. The 2026 monthly CILC/CDR program credit proposed in the 2025 Settlement would result in a net annual increase of $8.6 million to the ECCR Clause. (TR 5027; EXH 419) This amount would be subsequently adjusted with each SoBRA increase. Table 6-2 below shows an estimate of the CILC/CDR program credit amounts during the settlement term.

Table 6-2
Estimated Settlement Agreement CILC/CDR Program Credits

Date	Jan 2026	Jan 2027	Apr 2027	Jul 2027	Oct 2027	Jan 2028	Jul 2028	Jan 2029	Jul 2029
$/kW	$9.75	$9.77	$9.79	$9.81	$9.83	$10.15	$10.13	$10.24	$10.35

Source: EXH 1349

In the as-filed case, FPL asserted that it was proposing to decrease the monthly CILC/CDR program credit to $6.22/kW to provide added assurance that the program will remain cost-effective until reviewed again. (TR 1000; FPL BR 62) Walmart witness Perry, FRF witness Georgis, and FIPUG witness Ly opposed FPL's proposed decreased program credit amount because they believe the amount understates the value of the program as a dependable capacity resource that can reliably be called upon when needed and will undermine program participation. (TR 2170 – 2172; TR 2179 – 2180; TR 3756 – 3760; TR 3812 – 3815) They recommended either maintaining the monthly CILC/CDR program credit amount at the current level of $8.76/kW, increasing to $9.63/kW, or increasing to $12.32/kW, respectively. (Walmart BR 4; FRF BR 14; FIPUG BR 17) FEL witness Marcelin recommended that there should be no monthly credit provided for this program because the program has not been dispatched in many years and is not projected to be dispatched. (TR 3908; FEL BR 113) In FPL's rebuttal testimony, witness Whitley argued that, based on his analysis, FPL's proposed CILC/CDR program credit amount appropriately balances the needs of the system and the interests of participating and non-participating customers by reflecting the benefit of the program to the system, and targeting continued program participation since the proposed credit is larger than the incentive was when 75 percent of participants originally enrolled in the program.[57] (TR 1042 – 1047) Witness Whitley further argued that any monthly CILC/CDR program incentive amount above $9.24/kW would result in the general body of ratepayers subsidizing the program. (TR 1047) This cost-effectiveness analyses is based on FPL's 2025 planning assumptions consistent with the methodology used in previous base rate proceedings, not FPL's proposed SLOLP methodology. (EXH 439)

[57]During the time period 2000 to 2012, the monthly incentive was initially $4.75/kW then decreased to $4.68/kW.

In her settlement direct testimony, in support of the proposed CILC/CDR program monthly credits, FPL witness Cohen stated that the proposed monthly credit of $9.75/kW in 2026 is a modest increase from the current monthly credit of $8.76/kW, and represents a reasonable compromise between the credit levels proposed by the SPs. In addition, witness Cohen stated that FPL has been increasing CDR credits effective with each SoBRA since 2013, and are including this provision in the 2025 Settlement to be consistent with historical SoBRA-type base rate increases. (TR 4637 – 4638; TR 4715; FPL BR 63)

FEL witness Marcelin and the NSPs argued that the proposed monthly credit and subsequent increases are no longer cost-effective based on the Rate Impact Measure (RIM) test[58], and therefore, it would be more cost-effective for FPL to build generation to serve customers and replace the capacity claimed from interruptible customers under the CILC/CDR programs. (TR 5025 – 5026; FEL BR 113; OPC BR 34; FAIR BR 40 – 41) FEL also pointed out in its brief that FPL witness Whitley previously testified that any incentive higher than $9.24/kW should be rejected as it would not be cost-effective based on the RIM test. (TR 1047; EXH 439; FEL BR 113) Additionally, witness Marcelin asserted that the credit increases to be effective with each SoBRA do not make sense because additional generation will be added with each SoBRA, further reducing the likelihood of FPL needing to interrupt CILC/CDR program participants. (TR 5026 – 5027; FEL BR 114) As a result of the proposed monthly CILC/CDR program credit, witness Marcelin and the NSPs asserted that the general body of ratepayers will have to pay $30.6 million more annually, and $122.5 million more over the four-year settlement term, than they would have otherwise paid with FPL's originally proposed monthly credit of $6.22/kW. (FEL BR 113; OPC BR 34; FAIR BR 40) Witness Marcelin and the NSPs further asserted that the subsequent SoBRA increases will add an annual cost to ratepayers of more than $5 million over the settlement term. (TR 5027; OPC BR 34 – 35; FEL BR 114)

In addition, FEL stated in its brief that the 2025 Settlement adopts all of FPL's generation resource additions based on the SLOLP methodology and therefore, adopts the SLOLP methodology, which found that by 2029, the maximum cost-effective CILC/CDR monthly program credit would be $4.25/kW. FEL asserted that by 2029, the $9.75/kW monthly program credit proposed in the 2025 Settlement would be more than twice the indicated maximum cost-effective value based on the SLOLP methodology, and that, based on the SLOLP methodology, the value of the program credits should be decreasing with every generation addition.[59] (EXH 439; FEL BR 113 – 114) As such, FEL asserted that the CILC/CDR program monthly credit proposals in the 2025 Settlement are not in the public interest for FPL's residential and small business customers. In addition, the NSPs stated that the TRC test is not appropriate for a demand reduction program as it does not consider incentives, which are essentially the entirety of the program costs, and do not impact the TRC test results. (FEL BR 114; OPC BR 35) Witness Marcelin and the NSPs argued that the proposed program credits will only benefit program participants, and recommended that the credit level be maintained at the current monthly level of $8.76/kW, as a compromise, because it will not increase the minimum bill, although witness Marcelin believes this amount is still too high. (TR 5034 –

[58]The RIM test measures the net costs of a DSM program as a resource option to non-participants, and is therefore an indirect measure of the impact on customer rates caused by a DSM program. A RIM score of one or more means that the benefits of the program outweigh the costs to customers.

[59]EXH 439 shows that the CILC/CDR program monthly program credit would be $7.48/kW in 2027, and $4.90/kW in 2028 based on the SLOLP methodology.

5036; OPC BR 34; FAIR BR 25) Witness Marcelin's recommendation was included in the NSPs' Proposal attached to OPC's witness Schultz's settlement testimony. (EXH 1297)

In her settlement rebuttal testimony, FPL witness Cohen reiterated that the proposed monthly credit is a modest increase from the current monthly credit, and represents a compromise of competing proposals. (TR 5208 – 5209) The SPs also reaffirmed this in their briefs. (Walmart BR 4; FRF BR 15; FIPUG BR 17) In addition, witness Cohen stated that the proposed monthly credit results in a RIM test score of 0.96; however, it passes the TRC test[60] with a score of 105.79. Witness Cohen argued that the TRC test represents one of three cost-effective tests recognized by the Commission, and asserted that it is the test that FEL has routinely supported in multiple of the Commission's DSM goals dockets. (FPL BR 63) Regarding the credit increases to be effective with each SoBRA, witness Cohen indicated that this is a negotiated term, and this approach is consistent with prior Commission-approved settlement agreements. Additionally, witness Cohen argued that this term aligns with the intent of the SoBRA mechanism in that base rate changes should be applied uniformly to all base rate components. (TR 5209)

In response to FEL witness Marcelin's argument that the credit amount should not increase once the SoBRAs become effective due to the addition of generation sources, witness Cohen asserted that the intent of the credit increases are due to the SoBRA, and are not related to the resource additions. Witness Cohen argued that load control credits have increased by a contemporaneous percentage with every GBRA and SoBRA since 2013 as with all base rate items, and therefore, witness Marcelin's argument misunderstands the intent of the credit escalation. (TR 5210; FPL BR 64) In addition, FPL and the SPs noted in their briefs that it was made apparent by FRF's counsel during cross-examination that witness Marcelin had no understanding of the value that the CILC/CDR programs provide for FPL's system, or the operational effects that would need to be accounted for if FPL needed to shut off a CILC/CDR participant in a load control event. (FPL BR 63; FRF BR 15)

As discussed above, the proposed Settlement increases the monthly program credit from $8.76/kW to $9.75/kW in 2026, and in each following year during the settlement term. While this is not cost-effective under RIM, with a score of 0.96, it is cost-effective under the TRC test with a score of 105.79. (TR 5209; EXH 1343; EXH 1345; FPL BR 63) This increase in the credit appears to be solely based on a compromise amongst the signatories to the Settlement. By comparison, the NSPs' Proposal has the credit remain at its current level of $8.76, which is cost-effective under both the RIM and TRC tests. (TR 5034 – 5036; EXH 1343; OPC BR 34; FAIR BR 25)

6. Large Load Contract Service

FPL proposed, in its original filing, new Large Load Contract Service (LLCS) rate schedules LLCS-1 and LLCS-2 and an associated LLCS Service Agreement, applicable to future customers with new or incremental loads of 25 MW or greater and with a load factor of 85 percent or greater. (TR 2624) Witness Cohen testified that future customers of that size would have significant impacts on FPL's transmission system and generation resource plan. (TR 2624) Witness Cohen

[60]The TRC test measures the net costs of a DSM program as a resource option based on the total costs of the program, including both the participants' and the utility's costs. A TRC score of one or more means that the program is cost-effective as a resource option for the utility's system.

contended that the new rate schedules include rate payer protections from the costs of investments to serve those large customers. (TR 2625)

The LLCS-1 tariff allows for up to 3 gigawatts (GW) of combined load (cap); limits service to three areas (St. Lucie, Martin, and Palm Beach counties), chosen for their proximity to FPL's 500 kW transmission lines and suitability for incremental generation, and contains an incremental generation charge (IGC) ($28.07/kW). The IGC was based on the annual revenue requirement for the incremental generation capacity that can serve 3 GW of additional load. (TR 2625; TR 2627)

The LLCS-2 tariff is available to customers outside the three designated LLCS-1 zones, contains no 3 GW load cap, and contains a revenue requirement formula for the incremental generation/transmission capacity charge. (TR 2625 – 2627)

FPL asserted that it included the following rate payer protections in the LLCS rate schedules:

- Customers must enter into a binding LLCS Service Agreement
- Incremental generation charge to recover the incremental generation costs FPL incurred to serve the LLCS customer
- 20-year minimum term (20 years based on useful life of batteries); after the minimum term customer must provide 2-year termination notice if customer wishes to terminate service
- Exit fees for early termination (prior to minimum term or less than two years notice) equivalent to payment of the total incremental generation charge for the remaining term of the LLCS Service Agreement or 2-year notice period
- Negotiated load ramp period (time from in-service date until customer reaches full contract demand) and negotiated maximum contract demand; the billed incremental generation charge is based on customer's load ramp demand and thereafter on customer's contract demand
- Minimum take-or-pay requirement applicable to the demand charges (base and clauses) based on higher of 90 percent of contract demand or highest previously established monthly billing demand during the past 11 months
- Performance Security amount required to equivalent to payment of 100 percent of the IGC over the 20-year term of the LLCS Service Agreement; security can be guaranty from customer's parent, letter of credit, or cash deposit in escrow
- Contributions-in-aid of Construction (CIAC)[61] payment to cover costs associated with extending service to the customer facility required within 45 days of signing LLCS Agreement

[61]The CIAC proposed by FPL as part of this tariff is discussed in detail in Section 7

- Customer must pay for system impact study and engineering study related to interconnection

(TR 2627 – 2629)

In rebuttal testimony, FPL witness Cohen proposed certain revisions to the LLCS tariffs. There are three main revisions: First, because FPL expects to serve 1 GW under LLCS-1 by the end of 2029, the IGC has been recalculated and reduced from $28.07/kW (based on 3 GW of load) to $12.18/Kw. (TR 2684 – 2685) Second, based on recent engineering studies completed or currently in progress showing that most large load customers will be in excess of 100 MW, the threshold to qualify for LLCS was increased from 25 MW to 50 MW. (TR 2672 – 2673) Third, FPL reduced the minimum take-or-pay demand charge from 90 percent to 70 percent. (TR 2686 – 2687)

Pursuant to paragraph six of the Settlement, the LLCS rate schedules remain as proposed in the rebuttal testimony, with the following additional main modification: The LLCS Service Agreement includes revised performance security provisions where the security amount is determined based on the customer's credit rating relative to the incremental generation investment required to serve that customer. As initially proposed, the security amount was equal to the total IGC to be paid by the customer over the 20 year term of the LLCS Service Agreement. (TR 2685) Witness Cohen explained that it would be reasonable for the security amount to be based on the customer's credit rating. Customers that have higher credit ratings would be required to post lower collateral to reflect their lower relative risk as compared to a customer with a lower credit rating. (TR 2686) The performance security can be cash, letter of credit, surety bond, or a parent company guaranty.

In its brief, with respect to the reduction of the minimum take-or-pay demand charge from the original 90 percent to the 70 percent under the 2025 Settlement, FPL stated that the take-or-pay provision only applies to demand charges, which recovers a portion of the fixed transmission, distribution, and customers costs incurred to serve an LLCS customer. (FPL BR 70) FPL asserted that consistent with the original filing, an LLCS customer is still required to pay 100 percent of the IGC. (FPL BR 70)

OPC witness Wilson testified that the LLCS rate schedules as proposed in the original filing would adequately protect other customers. (TR 4742) With respect to the LLCS rate schedules included in the 2025 Settlement, witness Wilson contended that the reduction in the minimum take-or-pay provision from the original 90 percent to 70 percent weakens customer protections. (TR 4744) Witness Wilson offered a potential compromise of reducing the minimum take-or-pay level from the original 90 percent to 80 percent. (TR 4745) The 80 percent minimum take-or-pay demand charge is also contained in the NSPs' Proposal as a compromise between several proposals: the 90 percent originally filed by FPL, the 65 percent sought by the FEIA, and the 70 percent included in FPL witness Cohen's rebuttal testimony and in the 2025 Settlement. (EXH 1290) FEIA, in its brief, stated that that 70 percent minimum take-or-pay provision is in addition to a data center customer being required to pay 100 percent of the IGC charges for the 20-year term of the agreement and that combination of these measures "provides robust safeguards that will protect FPL's general body of ratepayers if the data center's contract demand does not materialize or drops." (FEIA BR 14)

The NSPs' Proposal stressed that the 80 percent compromise regarding the minimum take-or-pay does not fully insulate ratepayers from potential financial repercussions resulting from the construction and operation of these large campuses. (EXH 1290)

The NSPs proposed that the Commission conduct a workshop "to provide a collaborative framework for impacted stakeholders to create a disciplined planning structure" and to explore concerns over potential subsidization and financial repercussions from large data centers. (EXH 1290)

FEL witness Rábago contended that if the load threshold remains at 50 MW, customers with loads between 25 MW and 50 MW may enter FPL's service territory without being subject to the LLCS and will not be required to pay the incremental generation charge associated with the new generation they require. (TR 5063) Witness Rábago testified that the LLCS provisions in the 2025 Settlement do not sufficiently protect existing and future customers from potentially subsidizing this new generation demand. (TR 5063)

7. CIAC Tariff

CIAC is the amount due from applicants who request new or upgraded facilities in order to receive electric service. According to FPL witness Jarro, an applicant's load is the primary driver of the total cost to extend service. (TR 441) If FPL does not fully recover its investment from the applicant because the projected load did not materialize, the burden for these costs would be placed on FPL's other customers. To better protect the general body of customers from risks associated with the cost incurred to install new or upgraded facilities to serve significantly large new or incremental loads, FPL proposed to revise its CIAC tariff (Tariff Sheet No. 6.199) in the as-filed case. (TR 412)

FPL witness Cohen testified that the Company's proposed revised CIAC tariff requirement will apply to all new non-governmental applicants that (1) have total projected load of 15 MW (represents an equivalent electrical load of approximately 10,000 homes) or more at the point of delivery or (2) require new or upgraded facilities with a total estimated cost of $25 million or more at the point of delivery. (TR 2632) Witness Jarro in his direct testimony stated that the 15 MW and $25 million thresholds were set with the intent that the tariff would apply only to applicants of substantial size. (TR 441) An applicant that meets or exceeds one or both of these thresholds would be required to advance the total estimated costs to extend service and will receive a refund through monthly bill credits of the advanced costs minus the required CIAC amount due under Rule 25-6.064, F.A.C. (TR 442)

FPL witness Cohen explained in rebuttal testimony that the Company's existing Commission-approved tariff requires applicants with speculative or uncertain load or revenue to enter into a Performance Guaranty Agreement (PGA). The existing PGA tariff requires the applicant to post security in the amount equal to the non-CIAC amount. Witness Cohen asserted that the current PGA and proposed CIAC tariff are substantially similar except that, under the proposed CIAC tariff, the applicants get the benefit of one additional year to repay the non-CIAC amount and the general body of customers do not have to bear the interim risk until year five of the applicant's service. (TR 2657 – 2658)

Pursuant to paragraph seven of the 2025 Settlement, the proposed CIAC tariff modification changed the applicability for the total estimated cost of new or upgraded facilities from $25 million or more at the point of delivery to $50 million or more. Witness Cohen testified that "this was a compromise of competing and divergent interests and is one part of a multi-faceted agreement." (TR 5221)

The 2025 Settlement further specifies that an applicant that meets or exceeds one or both of these thresholds will be required to advance the total estimated costs to extend service and will receive a refund of the advanced costs minus the CIAC amount due under Rule 25-6.064, F.A.C. Upon the in-service date, the applicant will receive the refund through monthly bill credits that are equal to the applicant's actual monthly base energy and base demand charges for that billing cycle. The total amount eligible for refund shall be limited to the total costs to extend service less the required CIAC amount. The refund period will be limited to a maximum of five (5) years from the in-service date or until the full costs to extend service, less the required CIAC, has been refunded to the applicant through bill credits, whichever occurs first. Any remaining balance after the end of the five-year refund period will become nonrefundable.

Witness Cohen defended the $50 million threshold included in the 2025 Settlement, stating that applicants below that threshold, are still subject to FPL's existing PGA tariff if there is uncertainty regarding the applicant's projected load or estimated revenues used to calculate the CIAC amount. (TR 5222; FPL BR 75) Under the PGA, the applicant pays the CIAC upfront and posts collateral in an amount equal to the non-CIAC amount. (TR 5222; FPL BR 75) The primary difference is whether the applicant posts collateral for the non-CIAC amount under the PGA or is required to pay the non-CIAC amount upfront. (TR 5222; FPL BR 75)

The NSPs advocated approval of the CIAC tariff modifications as proposed by FPL in the as-filed case. The NSPs' Proposal further required FPL to file a schedule attached to its monthly Earnings Surveillance Report showing the incremental amount of CIAC collected pursuant to the CIAC tariff modification contained in paragraph seven of the 2025 Settlement. FEL witness Rábago argued that FPL walking back these protections - specifically, doubling the monetary threshold from $25 million to $50 million - is detrimental to existing customers. (TR 5064) He contended that this leaves customers open to subsidizing the transmission and distribution costs for new customers who still require significant investments into FPL's grid and concluded that this modification only represents the interests of big corporations and is not in the public interest. (TR 5064) FEL stated in its brief that "(t)he contribution in aid of construction provisions are part and parcel of the giveaway to large businesses, giving away protections for the general body of customers in the settlement." (FEL BR 115) FEL further stated, "[t]his provision is not in the public interest, as it is solely designed to cater to the whims of the (FPL Signatory Parties)." (FEL BR 115)

OPC stated that the change in the CIAC tariffs in the 2025 Settlement to double the threshold to $50 million is not in the public interest. (OPC BR 50) OPC further stated that the proposed $50 million CIAC threshold is:

> …despite the specific engineering reasons FPL picked the $25 million amount and FPL's own admission that any increasing of the CIAC thresholds would increase the risks borne by FPL's general body of ratepayers. Because this threshold is

> double what FPL initially proposed, customers are doubly at risk of subsidizing the transmission and distribution costs for large load customers who still require significant investments into FPL's grid.

(OPC BR 50)

8. Electric Vehicle Charging Programs

In the as-filed case, FPL proposed several modifications to its existing electric vehicle charging programs, as well as the addition of certain new programs. In the proposed 2025 Settlement, FPL has proposed further modifications to its electric vehicle charging programs. Each EV charging program as proposed in the original filing and in the proposed 2025 Settlement is discussed below.

The GSD-1EV (25 kW to 500 kW) and GSLD-1EV (500-2,000 kW) tariffs are voluntary EV public charging pilot tariffs approved by the Commission effective January 2021 for a 5-year period pursuant to Order No. PSC-2020-0512-TRF-EI. The tariffs are set to terminate on January 1, 2026. (TR 1238) The tariffs were intended to stimulate third party infrastructure investment by mitigating the demand costs billed to charging stations.

In the original filing, FPL proposed to make the GSD-1EV and GSLD-1EV tariffs permanent. FPL witness Oliver stated in direct testimony that "These tariffs are designed to mitigate the demand costs billed to the charging stations and to stimulate infrastructure investment in the early days of electric vehicle adoption, with the demand charges increasing as utilization of the charging station increases." (TR 1238)

In rebuttal, FPL defended its current GSD-1EV and GSLD-1EV programs and opposed proposals from Electrify America, EVgo, and Walmart for further reductions in demand charges for their EV charging stations. Witness Oliver argued in rebuttal testimony that, "[t]hese changes would increase the risk of cross-subsidization from the general body of FPL customers, burdening all utility customers - including non-EV owners and drivers - to support third-party operational costs." (TR 1268) Furthermore, FPL submitted testimony to refute the proposal to expand GSLD-1EV to measured demand of greater than 2,000 kW. Witness Cohen explained in rebuttal testimony that EV loads of 2,000 kW or greater should be on GSLD-2 standard rates and that there is no need to expand GSLD-1 for EV loads above 2,000 kW. (TR 2655)

Pursuant to the 2025 Settlement, the GSD-1EV and GSLD-1EV riders would become permanent. In addition, FPL will create a new GSLD-2EV tariff. This new rate schedule will be permanent and is designed to allow for demand greater than 2,000 kW. Paragraph 8(a)(ii) of the proposed 2025 Settlement states that, "(u)ntil such time as the new rate schedule is established, existing customers will be allowed to exceed 2,000 kW of demand and remain in GSLD-1EV." (EXH 1277) FPL states that the GSLD-2EV rate schedule, "would build on the success of FPL's current demand limiter programs and accommodate technology changes, including larger vehicle batteries, faster charging stations, and larger installations of chargers." (FPL BR 80) FEL states in its brief that, "[t]he costs associated with serving a charging station taking service under the GSLD-2EV rate is significantly higher than serving a customer under the GSLD-1EV." (FEL BR 120) Furthermore, FEL states that, "[t]his substantial discount increases the risk that other classes of

customers will end up subsidizing the benefits that GSLD-2EV customers receive under this schedule." (FEL BR 120)

The UEV tariff is currently a pilot program applicable to customers charging electric vehicles at FPL-owned public EV charging stations with an output power of 50 kW or greater. In the original filing, FPL proposed to increase the UEV rate from $0.30 per kWh to $0.35 per kWh and to make the UEV tariff permanent. (TR 1240)

Witnesses from Electrify America and EVgo proposed various methodologies to establish a higher UEV rates of no less than $0.50 per kWh. (TR 4053, TR 4071) Walmart proposed that the Commission require FPL to implement a percentage rate change for the 2027 UEV energy charge equivalent to the percentage change applicable to GSLD-1EV. (TR 2128) AACE proposed that the Commission reject FPL's proposal to make the UEV program permanent. (TR 4208)

In rebuttal, FPL defended the proposed increase to $0.35 per kWh, stating that the rate is, "market-based and comparable to the EV pricing options offered by non-utility providers." (TR 1240) Witness Oliver further explained that "FPL designed the market-based pricing to allow for recoverability of all costs and expenses over the life of the assets." (TR 1240)

The 2025 Settlement provides that FPL would increase the UEV rate to $0.45 cents per kWh, with an additional two-cent increase (to $0.47/kWh) in January 2027, and an additional one-cent increase each January 1 in 2028 (to $0.48/kWh) and 2029 (to $0.49/kWh). Furthermore, the SPs agreed that FPL would commit to not initiating any further new construction of FPL-owned public EV charging stations during the term of the Settlement. The proposed Settlement further permits FPL to complete any ongoing construction of FPL-owned fast-charging infrastructure initiated prior to the term of the Settlement, for a total of not more than 585 FPL-owned ports. (EXH 1277) FEL, in its brief, stated that if utilization of the UEV stations does not continue to increase, the general body will be subsidizing these programs for a longer period of time without seeing benefits. (FEL BR 120) FPL, in its brief, stated that due to the increased UEV rates contained in the 2025 Settlement, utilization is expected to slightly slow down. (FPL BR 80) However, even with lower charger utilization, FPL expects the program to operate without support from the general body ratepayers by the end of the useful lives of the assets. (FPL BR 80)

The CEVCS-1 tariff is a Commission-approved pilot program available on a voluntary basis to customers who desire commercial EV charging for fleet vehicles though the installation of FPL owned, operated, and maintained EV charging equipment. In the original filing, FPL proposed to make the CEVCS-1 program permanent and remove the word "fleet," to allow broader types of commercial electric vehicle charging. Pursuant to paragraph eight of the 2025 Settlement, the CEVCS-1 tariff would continue as a pilot program and will not be expanded. (EXH 1277)

The RS-1EV is currently a Commission-approved pilot program applicable to residential customer who request the installation of FPL owned, operated, and maintained EV charging equipment. Customers taking service under the RS-1EV program pay a fixed monthly program charge, a fixed monthly off-peak energy charge, and a variable energy charge for on-peak energy consumption.

In the original filing, FPL proposed to close RS-1EV to new customers effective January 1, 2026, and cancel the tariff effective December 31, 2029. FPL also proposed to increase the fixed monthly

price each January 1 to reflect the actual costs and usage until the program terminates. Furthermore, FPL proposed a new program, RS-2EV, which current RS-1EV participants may elect to transition to and will be required to transition to RS-2EV once the RS-1EV program terminates in December 31, 2029, if they wish to remain residential EV charging customers. (TR 1243; TR 2621) The 2025 Settlement includes the residential electric vehicle tariffs as proposed in the as-filed case without modifications.

The Make-Ready program was not included in FPL's original filing, but was instead originally proposed by intervenors. The Make-Ready program is an incentive program that helps cover the upfront costs of preparing a site for an electric vehicle charging station. EVgo witness Beaton requested that the Commission direct FPL to implement a Make-Ready program with an annual budget of at least $5 million, providing incentives of at least $50,000 per DC Fast Charging (DCFC) stall. (TR 4092) In rebuttal, FPL witness Oliver disagreed with the intervenor Make-Ready proposal, pointing to a risk of stranded assets and subsidization by the general body of ratepayers. (TR 1269 – 1270)

In the 2025 Settlement, FPL commits to spending $20 million on a Make-Ready program for electric vehicle charging infrastructure. This amount will be amortized over a four-year period, with $19 million designated for public DCFC infrastructure, and $1 million designated for Level 2 charging infrastructure. (TR 4650) The Make-Ready Program will provide financial credits to third-party commercial customers building DCFC and Level 2 stations. These customers can receive from $20,000-$50,000 per port, up to a maximum of $120,000-$300,000 per site. (TR 4651) FPL anticipates that revenues from this program will offset the credits and all program costs over the life of the customers' charging assets. (TR 4651) FPL witness Oliver characterized the program as revenue positive, and argued that the increased electricity sales from the charging infrastructure it enables will result in the program being a net benefit to the general body of ratepayers over the life of the assets. (TR 5237) FPL will launch an application process for this program in January 2026. (TR 4652) In their brief, Fuel Retailers argue that the program "is a significant positive benefit for the traveling public, including FPL's ratepayers," and that "it costs ratepayers nothing." (Fuel Retailers BR 4). Likewise, EVGo argues that the Make-Ready program is "a sound investment," and that "the investments will pay for themselves ten times over." (EVG BR 7-8)

FEL witness Rábago characterized the Make-Ready program as FPL using the general body of ratepayers to fund third-party developers' construction of DCFC and Level 2 charging stations. (TR 5065) Witness Rábago also characterized the program as a handout to the EV companies who intervened. (TR 5065) He also testified that the allocation was not in the public interest, and that it set a precedent for FPL to wrongfully influence private markets using customer money. (TR 5066) FPL anticipates that revenue from additional electricity sales from the Make-Ready program will exceed its costs by 2027. (EXH 1287) Over the four years that FPL will be actively funding the Make-Ready program, it expects the impact to the general body of ratepayers to be approximately $7.3 million in the customers' favor, with the amount per year after active funding ends in 2029 rising from a net $7.8 million per year in 2030, to $16.9 million in 2035. (EXH 1287) In its brief, OPC reiterates FPL witness Oliver's arguments against the program from his rebuttal testimony. (OPC BR 50-51). OPC argues that "the general body of ratepayers would be at risk of having to subsidize unnecessary and expensive grid upgrades, and that "the general body of ratepayers could still end up subsidizing these programs." (OPC BR 51-52)

The evidence in the record indicates that the proposed Make-Ready program should not result in subsidization by the general body of ratepayers over the life of the asset, but rather it indicates additional revenues are expected to eventually produce a net benefit. Because the program is described as having objective criteria for applicants, with caps on ports and sites, FPL anticipates that it will expand EV charging options for anyone in FPL's service territory while enhancing competition, rather than distorting it. (TR 5237)

9. Cost Allocation Methodology for Cost Recovery Clause Factors

Currently, pursuant to FPL's 2021 Settlement, FPL uses the 12 Coincident Peak (CP) and 1/13 Average Demand (AD) methodology to allocate production plant and 12 CP methodology to allocate transmission plant. FPL proposed in the original filing to adopt a 12 CP and 25 percent methodology for production plant costs which allocates 75 percent of demand-related production plant costs based on average 12 CP demand and 25 percent based on energy, or average demand. (TR 1457)

FPL witness DuBose stated the proposed methodology in the as-filed case to increase the energy weighting from 1/13 (which equates to about eight percent) to 25 percent more accurately reflects how FPL plans and operates its generating facilities. (TR 1457) FPL witness Whitley stated that FPL has installed a significant amount of solar generation. (TR 991) As explained by witness DuBose, solar generation provides system fuel savings and therefore it is appropriate to allocate production plant costs to the rate classes using a higher energy component. (TR 1458) Witness DuBose also stated that this methodology would also be used in FPL's cost recovery clauses. (TR 1459) For transmission costs, FPL proposed to continue the 12 CP method. (TR 1460)

Witness DuBose summarized each parties' cost of service proposals. (TR 1474) FIPUG, FRF, FEA, Walmart, and FEL advocated for differing cost of service proposals; FIPUG, FRF, and FEA specifically supported a 4 CP production and transmission allocator. (TR 1474) Whereas the 12 CP methodology utilizes the coincident peaks in all 12 months to calculate cost allocation, the 4 CP methodology utilizes the coincident peaks in only four selected months. In rebuttal Testimony, witness DuBose maintained that the cost allocation methodologies chosen by FPL best reflect how the company plans its system. (TR 1476) Witness DuBose asserted that the 12 CP method, which utilizes all 12 months to calculate production demand cost allocation, is the more reasonable and fitting methodology for FPL's system. (TR 1482)

Pursuant to paragraph nine of the 2025 Settlement, effective January 1, 2026, all clause factors shall be allocated using the 4 CP and 12 percent AD methodology for production plant and 4 CP for transmission plant during the term of the Settlement. The Settlement further provides that all parties to the Settlement maintain their full rights in the clause dockets, but shall not oppose the allocation methodology.

Witness Cohen provided several arguments in support of the 4 CP and 12 percent AD methodology included in the 2025 Settlement. First, witness Cohen stated that the 4 CP methodology is recognized in the utility industry as an appropriate cost allocation approach alternative for allocating production and transmission plant costs. Second, it allocates production and transmission plant costs based on each customer class's contribution to the system's peak demand during the four coincident peak hours of the year and the inclusion of the 12 percent energy cost

weighting for production plant recognizes the role that energy plays in the selection of production resources. (TR 4633)

Finally, witness Cohen stated that the 4 CP is an accepted cost allocation method, that other Florida investor-owned utilities employ and this modification was an essential compromise to achieving the broader benefits of the proposed 2025 Agreement. (TR 4636; FPL BR 84) The impact of this change will result in a reallocation of clause costs among customer classes, with some classes seeing increases and others seeing decreases in their allocated share of clause costs. (TR 4636; FPL BR 84)

The four clauses impacted by approval of the Settlement would be the capacity, conservation, environmental, and storm protection plan cost recovery clauses. When comparing clause revenue requirements under the 12 CP and 25 percent methodology as proposed in the original filing to the 4 CP and 12 percent AD method contained in the 2025 Settlement, the RS rate class would be allocated in 2026 an additional $96 million, resulting in an increase of $1.39 (including Gross Receipts Taxes) in a monthly 1,000 kWh bill. Similarly, the GS class would see an increase of $12.1 million in the 2026 clause revenue requirements, while all other commercial/industrial rate classes would see a decrease in the clause revenue requirements. (EXH 1350) The effects of this modification in the calculation of the clause factors would be directionally comparable in each year during the term of the 2025 Settlement.

Witness Cohen compared the 4 CP and 12 percent AD methodology to the current 12 CP and 1/13 AD methodology, and noted that this comparison shows very little incremental bill impact and $0.00 impact for a residential customer using 1,000 kWh in 2026. (TR 5208; EXH 1338)

FEL witness Rábago testified that no party explicitly advocated for a 4 CP and 12 percent AD methodology. He further testified that the application of a 4 CP demand allocation factor favors large, high-load-factor customers, and FPL provided no basis for weighting energy at 12 percent. (TR 5066) Rábago concluded that this outcome is unfair, unjust, and unreasonable, and should be rejected. (TR 5068) FEL, in its brief, asserted that "there is no competent, substantial evidence that 4 CP reflects cost-causation principles." (FEL BR 111) Furthermore, FEL stated that the 4 CP methodology is irreconcilably different than the cost of service methodology FPL claims was adopted in the settlement for base rates, which is the 12 CP and 1/13 AD for generation and 12 CP for transmission. (FEL BR 112)

The NSPs' Proposal preserves the 12 CP and 1/13th AD methodology for production plant and 12 CP for transmission plant for applicable clause proceedings. This 12 CP and 1/13th AD methodology is also used in the NSPs' Proposal for base rate cost allocation. (EXH 1306)

10. Storm Cost Recovery Mechanism

Each utility is required to file a Storm Damage Self-Insurance Reserve Study (Storm Reserve Study) with the Commission at least once every five years or when the utility is seeking a change to its target accumulated balance or annual accrual amount for Account No. 228.1. In its original filing, FPL requested to increase its existing storm reserve of $220 million to $300 million and to increase its surcharge of $4 to $5 per 1,000 kWh. (TR 2307 – 2308) FPL provided a Storm Reserve Study to comply with Rule 25-6.0143(1)(l), F.A.C., and support its request. (EXH 451) FPL's

existing storm reserve amount and existing surcharge were approved as part of its 2021 Settlement Agreement. (TR 2309) This major element of the 2025 Settlement is unchanged from FPL's original filing and allows FPL to increase its existing storm reserve amount of approximately $220 million to $300 million and increase its existing storm surcharge of $4 to $5 per 1,000 kWh. (EXH 129; EXH 1283)

The 2025 Settlement also includes provisions for requesting recovery of storm damage costs. FPL's original proposal and the resulting Settlement are consistent with prior Commission approvals of the SCRM. FPL can seek recovery if the costs are associated with a tropical system named by the National Hurricane Center or its successor and the storm reserve is fully depleted, to the estimate of incremental costs above the level of storm reserve prior to the storm and to the replenishment of the storm reserve to $300 million. (EXH 1345; EXH 1349) FPL's recovery of storm costs on an interim basis will begin 60 days following the filing of a cost recovery petition and tariffs and will be based on a 12-month recovery period if the storm costs do not exceed $5.00/1,000 kWh on a monthly residential bill. Any additional costs exceeding $5.00/1,000 kWh may be recovered in subsequent years(s) as determined by the Commission. All storm related costs subject to interim recovery under the storm cost recovery mechanism will be calculated and disposed of pursuant to Rule 25-6.0143, F.A.C. In the event that FPL incurs an excess of approximately $500 million of qualifying storm costs in a given calendar year, it may petition to increase the initial recovery beyond $5.00/1,000 kWh. (EXH 1283)

FPL indicated that if the surcharge was increased from $4 to $5 per 1,000 kWh, the timing difference for FPL to replenish its storm reserve would be approximately one month regardless of whether the reserve was $220 or $300 million. (EXH 430) Furthermore, FPL argued that limiting storm surcharges to $4 per 1,000 kWh, compared to $5 per 1,000 kWh, extends the effective recovery periods for a future storm charge and would result in higher overall financing costs for FPL's customers. (EXH 430) FPL also asserted that increasing the storm reserve level to $300 million would reduce regulatory lag in recovery compared to keeping the storm reserve at the current level. (EXH 430)

Initially, OPC opposed FPL's requested increase to its reserve, as it believed FPL did not meet its burden of proof. Furthermore, OPC disagreed with the Company's request to increase its reserve but took the position that if the Commission found it legal to implement in the absence of a settlement, it should stay at the Company's current level. (TR 3316 – 3317) However, the NSPs' Proposal agreed to a surcharge of $5 per 1,000 kWh and a reserve level of $300 million, as originally proposed in the Company's initial filing, as the mechanism would reduce risk for the Company, and as such, justifies a lower ROE. (TR 4976; TR 5002; TR 5007; FEL BR 124; FAIR BR 36) Additionally, the NSPs stated that these provisions would further enable the Commission's process for ensuring timely recovery of storm restoration costs and the maintenance of the Company's reserve. (EXH 1297) While the NSPs' Proposal agreed to a storm mechanism as stated above, in its brief, OPC reverted back to its initial position, arguing that there is not sufficient record evidence since this mechanism was originally based on a prior settlement. (OPC BR 53 – 54) FAIR adopted OPC's general position on this element. (FAIR BR 63) Whereas, FEL took the position that the SCRM should be denied; but, if the Commission were to approve it, it should lower FPL's ROE in recognition of the decreased risk. (FEL BR 124)

FPL witness Bores acknowledged that the Company did not have specific support for increasing the surcharge from $4 to $5 per 1,000 kWh, other than it has been in place for a very long time. In addition, he agreed that no actuarial testimony or studies were provided in this case that show that $300 million is the appropriate level for the storm reserve with and without a surcharge mechanism. (TR 2391 – 2392)

By increasing both the storm reserve and the surcharge, FPL enhances its ability to respond promptly to severe weather events, minimize regulatory delays, and stabilize recovery efforts. FPL noted that an increase in the surcharge could reduce financing charges that are paid for by the ratepayers. (EXH 430) Additionally, an increase in the storm reserve will help reduce regulatory lag since more money will be immediately available for FPL to cover storm restoration costs. (EXH 430) Substantially affected customers have the opportunity to intervene and participate in any storm cost proceeding.

11. SoBRA Base Rate Adjustments 2027, 2028, 2029

In FPL's original filing, it proposed a new Solar and Battery Base Rate Adjustment (SoBRA) mechanism that would allow FPL to recover costs associated with the addition of 3,278 MWs of solar facilities (1,490 MW in 2028 and 1,788 MW in 2029) and 1192 MW of battery storage facilities (596 MW in both 2028 and 2029). (EXH 131) To recover costs under the SoBRA mechanism, FPL would be required to demonstrate either an economic or a resource need in a future proceeding. Additionally, FPL would be required to demonstrate that the SoBRA projects were the lowest cost resource available to timely meet the resource need and the cost of the components, engineering, and construction are reasonable. FPL witness Lacey clarified that FPL intends to elect out of normalization and, instead, flow through the full investment tax credits (ITCs) benefit in the first year of all battery storage facilities added during the 2026 through 2029 period, such that the full ITC will flow through to customers as a one-time revenue requirement reduction in the year the facility enters service.[62] (TR 1742) The revenue requirements for the proposed SoBRA mechanism would authorize FPL to reflect the removal of ITCs associated with battery projects in the year following the projects in-service date. (EXH 131)

In the 2025 Settlement, the proposed SoBRA mechanism differs from FPL's original petition in that it includes 2027 solar projects and has alternative requirements for cost recovery. The Settlement SoBRA identifies 1,192 MWs of solar projects in 2027 for a total of 4,470 MW of solar generation between 2027 and 2029, and increases battery projects in 2028 and 2029 from 596 MW to 600 MW. The 2025 Settlement SoBRA mechanism also requires a determination in a future Commission proceeding, but the requirements now vary by resource type. For the solar projects, FPL must demonstrate economic need with the requirement of a CPVRR that shows benefits within 10 years of the project in-service year and a cost benefit ratio of 1.15 to 1 compared to the projected system CPVRR without the solar projects. Staff notes that OPC witness Dauphnais supported the use of a similar CPVRR cost-benefit ratio in the as-filed case. (TR 3013) To demonstrate a resource need, solar and battery projects must demonstrate a reliability need for the incremental capacity, but the 2025 Settlement does not specify the methodology, unlike FPL's initial petition which solely specified the use of FPL's newly proposed SLOLP resource planning

[62]FPL has historically fully amortized the tax benefits of the ITCs spread over the book life of the related depreciable asset - also known as normalization.

methodology. Furthermore, the 2025 Settlement details that the Commission will have an opportunity to review FPL's proposed SoBRA generation projects in a limited proceeding to determine eligibility for cost recovery under the proposed mechanism to determine whether the proposed solar or battery projects meet the economic and reliability criteria defined in the Settlement. All other terms of the 2025 Settlement SoBRA reflect the terms and conditions of FPL's proposed initial SoBRA mechanism. (EXH 1277)

OPC witness Schultz opposed the approval of the proposed SoBRA projects arguing that the cost-effectiveness of the proposed projects was dependent on ITCs that were uncertain due to pending tax law changes. (TR 3319) Similarly, FEL witness Rábago argued that FPL's flow through of ITC benefits should be denied and instead be normalized over the life of the storage facilities. (TR 3878 – 3879) OPC witness Schultz and FRF witness Georgis also asserted that FPL may not have a resource need for the proposed solar and battery projects. (TR 3319; TR 3719 – 3722) Witness, Rábago also criticized the use of the SLOLP methodology as a reliability metric in determining the necessity of the resource needs in the SoBRA mechanism. (TR 3873)

On rebuttal, FPL witness Bores stated that FPL updated the economic analysis required under the proposed SoBRA mechanism accounted for the pending tax law changes. Additionally, FPL witness Whitley rebutted that the use of SLOLP was a methodology adopted by a majority of North American utilities and organizations and allowed FPL the ability to maintain system resource adequacy. (TR 1014 – 1017) Witness Bores also stated that under the terms of the proposed SoBRA mechanism, if FPL failed to demonstrate either an economic or resource need no proposed SoBRA projects could be approved. (TR 4446)

Witness Bores testified that the proposed SoBRA mechanism was modified to apply to the 2027 solar projects, and defined stricter criteria for demonstrating economic need and clarification of land costs components being excluded from the revenue requirement calculation. The witness argued that the proposed 2027 projects would still be subject to the processes and mechanisms that apply to the 2028 and 2029 solar additions, that the additional need criterion would provide greater certainty of savings, and there would be greater clarity that FPL would not receive land costs recovery that was already recovered in base rates. (TR 4617 – 4618) OPC witness Schultz argued that the proposed SoBRA lacks language limiting the MW of SoBRA generation projects, which would make the MWs of proposed SoBRA generation into generation targets to build towards with no restriction on FPL exceeding those projected amounts. Additionally, those projects would then have no cost cap and their need demonstrated after the facilities were constructed, which in turn could circumvent Commission oversight. (TR 4995 – 4997; OPC BR 55 – 57) In rebuttal, FPL witness Bores testified that FPL will not recover costs unless the conditions of the SoBRA were met, which requires Commission approval that would happen prior to the in-service dates of the facilities. Witness Bores further argued that the amount of proposed MW additions set the maximum amount of recovery possible through the SoBRA, which would protect ratepayers from excessive recovery. Last, witness Bores argued that while there is no dollar per kilowatt ($/kW$_{ac}$) installed capacity cost cap, the Settlement included stricter criteria for demonstrating economic need which would protect customers. (TR 5175 – 5178; FPL BR 88 – 90) Staff notes that FPL asserted that the Company was limited to petitioning for up to 1,490 MW of solar generation in 2028 and 1,788 MW of solar generation in 2029 in its post-hearing brief. (FPL BR 88) Additionally, FEIA and Fuel Retailers have adopted FPL's post hearing brief position. (FEIA BR 16; Fuel Retailers BR 5)

As discussed previously, the Commission would not be bound by any particular assumptions or methodologies, including the SLOLP, utilized in FPL's analysis, except that any review of FPL's system CPVRR analysis includes a comparison to a scenario without the proposed solar projects. (EXH 1277) Therefore, the terms of the settlement preserve the Commission's authority and flexibility in assessing FPL's future resource needs. (TR 4939 – 4940)

The Commission has previously approved settlement agreements and/or subsequent year adjustments tying base rate increases to the addition of generation, including natural gas, solar, and battery storage.[63] The proposed mechanism allows FPL to increase solar and battery capacity incrementally over a defined period, with concurrent, gradual increases to rate base provided the additions meet the economic and/or reliability metrics. An increase in solar generation furthers the goals established under Section 366.91(6), F.S., which provides:

> The Legislature finds that it is in the public interest to promote the development of renewable energy resources in this state. Renewable energy resources have the potential to help diversify fuel types to meet Florida's growing dependency on natural gas for electric production, minimize the volatility of fuel costs, encourage investment within the state, improve environmental conditions, and make Florida a leader in new and innovative technologies.

To the extent the proposed mechanism allows FPL the opportunity to add solar generation during the Settlement Term furthers the legislative intent to promote the development of renewable energy resources, to diversify the types of fuel used to generate electricity, and to improve environmental conditions. FPL asserted that the proposed Settlement terms allow it to pursue these stated goals. (FPL BR 148) Last, as noted above, the Commission will have an opportunity to review FPL's proposed SoBRA generation projects in a limited proceeding to determine eligibility for cost recovery to determine whether the proposed solar or battery projects meet the economic and reliability criteria defined in the 2025 Settlement. The limited proceeding also is a point-of-entry for parties or ratepayers to be heard.

12. Federal or State Tax Law Changes

In its as-filed case, the Company included a proposal to address its projected tax expense if changes to the state or federal tax codes occur prior to the conclusion of the hearing. (EXH 132) In general, the process involves FPL recalculating its projected tax expense and amending its requested revenue requirement. This may occur before the Commission votes on final rates if timing permits. If timing does not permit, FPL would file a petition as to address the tax changes within 60 days of a final order or the effective date of such tax law change, whichever occurs later. (EXH 132)

With respect to the 2025 Settlement, if permanent federal or state tax changes are enacted effective for any of the tax years 2026 through 2029, the agreement allows the base revenue requirement to be adjusted for the impacts of those changes. This provision requires FPL to petition the

[63]See Order No. PSC-2025-0038-FOF-EI, issued February 3, 2025, in Docket No. 20240026-EI, *In re: Petition for rate increase by Tampa Electric Company*; Order No. PSC-2024-0472-AS-EI, issued November 12, 2024, in Docket No. 20240025-EI, *In re: In re: Petition for rate increase by Duke Energy Florida, LLC*; Order No. PSC-2021-0446-S-EI, issued December 2, 2021, in Docket No. 20210015-EI, *In re: Petition for rate increase by Florida Power & Light Company.*

Commission within 60 days from the effective date of the law to address the revenue requirement impact of the new tax legislation. The impact will be determined by comparing FPL's revenue requirements utilizing the new tax law against FPL's Commission-approved revenue requirements utilizing current tax law. That difference will constitute the base rate adjustments for 2026 and 2027 as applicable. The adjustment for the 2027 revenue requirement will remain in place for 2028 and 2029. Any effects of tax changes on retail revenue requirements from the effective date of the new tax legislation through the date of the general base rate adjustments discussed above shall be flowed back to, or collected from, customers through the Capacity Cost Recovery Clause.

The language contained in the 2025 Settlement also contemplates how a change in tax law would impact the provisions contained in paragraph 20 of the Settlement, i.e., the "Tax Adjustment Mechanism" (TAM) portion of the "Rate Stabilization Mechanism" (RSM).[64] All else equal, a decrease in the corporate income tax rate will reduce income tax expense as well as change the classification of a portion of the $1.155 billion of deferred tax liabilities (DTLs) included in the RSM amount to excess accumulated deferred income tax liabilities. If the 2025 Settlement is approved, FPL would be authorized to restore the RSM amount utilizing unprotected excess ADIT associated with tax repairs and mixed service costs in an amount equivalent to the reduction of DTLs in the RSM resulting from the tax law change, but in no event shall the total DTL balance in the RSM exceed the original $1.155 billion. (EXH 1277, BSP K19 – K20)

FPL witness Bores testified to a similar procedure as part of his direct testimony. The scope of this procedure, if activated prior to the conclusion of the 2025 rate case proceeding, would encompass tax changes for the 2026 and 2027 test years, the SoBRAs, as well as the effects on the TAM. (TR 2317 – 2320) Witness Bores further addressed the tax change provision in his settlement rebuttal testimony by stating that he believes the only objection to this provision would be based on the inclusion of the language that addresses tax law changes as it relates to the value of the TAM/RSM. (TR 5184 – 5185) The Company claims this is a critical component for committing and operating inside a four-year plan as proposed in the 2025 Settlement. (FPL BR 91) FEIA and the Fuel Retailers adopt FPL's positon on this provision. (FEIA BR 15; Fuel Retailers BR 5)

The NSPs' Proposal included a similar provision related to tax law changes. However, this document did not include language related to how any potential tax law change would affect the proposed TAM portion of the RSM. (EXH 1312, BSP L13-596) Regardless of the fact that tax law change language is contained in the 2025 Settlement and Exhibit 1312, the OPC believes it "should not be bound by the terms of a settlement that was signed by parties who lacked authorization to settle on behalf of all customer interests." (OPC BR 58) FAIR is generally supportive of OPC's position on this matter. (FAIR BR 64) FEL believes the tax law change provision is an attempt by FPL to remove Commission oversight than to self-regulate. Further, the contents of this provision are counter to the regulatory compact in general and violate Chapter 366, Florida Statutes in particular. (FEL BR 124)

The main contention or difference between the tax change provision shown in Exhibit 1312 and the 2025 Settlement appears to be with the inclusion of language addressing tax law changes with respect to revaluing the TAM portion of the RSM. There is also variation in the specified time periods for amortizing unprotected excess accumulated deferred income taxes. (EXH 1312, BSP

[64]The TAM and RSM are further discussed below in Major Element No. 16.

L13-596; EXH 1277, BSP K19 – K20) Allowing an adjustment to the revenue requirement to account for a tax change can create efficiencies. Any decrease can be quickly flowed to the ratepayers. Any upward adjustment allows FPL to avoid an earnings decrease associated with a higher tax rate. The Commission would review any such changes and corresponding adjustments when FPL files a petition seeking approval for its proposed treatment of tax changes. Those substantially affected would have a point-of-entry at that time to present any evidence and argument regarding the proposed treatment. As indicated by previous Commission decisions, the ability to adjust service rates due to changes in corporate income tax law is reasonable as it will - all else equal - help ensure service rates will remain appropriately compensatory.[65] Overall, the tax change provisions contained in the Settlement help ensure administrative efficiency and protect FPL and its customers when there are unexpected tax changes.

13. Capital Recovery Schedules

In its original filing, FPL proposed a group of capital recovery schedules for assets that have been retired or are expected to not be fully depreciated at the planned retirement date. These unrecovered investments include: (i) 500 kV Transmission Rebuild Project (Years 2024 and 2025), (ii) 500 kV Transmission Rebuild Project (Years 2026 and 2027), (iii) Plant Daniel Units 1 and 2, and (vi) Customer Information System and Integrated Systems. The total amount of the unrecovered cost for recovery in base rates is $256.9 million. FPL requested this cost be recovered over a period of 10 years, which would result in a rate base amortization expense of $18.9 million in 2026 and $23.7 million in 2027, respectively. (EXH 90, BSP C10-1758 – C10-1763)

The 2025 Settlement proposes to extend the amortization period of these capital recovery schedules to 20 years. (EXH 1277, BSP K20) The proposed extension of the amortization period of the capital recovery schedules under the 2025 Settlement relative to the original filing from 10 years to 20 years results in a reduction to base rates amortization expense of $9.4 million in 2026 and $11.9 million in 2027. (TR 4612) Details of the SPs' agreed-upon capital recovery schedules are set forth in Exhibit D of the 2025 Settlement. (EXH 1281, BSP K1898 – K1902)

Defending the 20-year capital recovery schedule, FPL witness Bores testified that future customers receive tangible benefits from the early retirement of the identified assets. Future customers benefit from avoiding the costs and service disruptions that would have occurred if the identified assets were not retired. (TR 5181) Witness Bores also asserted that the overall system improvements, enhanced reliability, and operational efficiencies that result from strategic asset replacements enabled by the extended capital recovery schedules provide value that extends well beyond the original asset's planned life. (TR 5181) Witness Bores further testified that the matching principle in a regulated environment is not rigid; it allows for Commission discretion in balancing multiple factors, including rate stability, intergenerational equity concerns, and the overall public interest. (TR 5180)

Witness Bores asserted that both the 10-year and 20-year amortization periods used for establishing capital recovery schedules can be reasonable depending on the circumstances and the overall settlement context. (TR 5180) Finally, witness Bores testified that "the longer schedule

[65]Order No. PSC-2024-0078-FOF-EI, Docket No. 20210015-EI, issued March 25, 2024, *In re: Petition for rate increase by Florida Power & Light Company*; and Order No. PSC-2024-0472-AS-EI, in Docket No. 20240025-EI, issued November 12, 2024, *In re: Petition for rate increase by Duke Energy Florida, LLC.*

enables a comprehensive four-year settlement agreement that provides rate certainty and avoids multiple costly rate proceedings." (TR 5180)

The NSPs proposed that these capital recovery schedules should be amortized over 10 years, as filed in FPL's original case. NSPs claim that the shorter amortization recovery period provision can avoid the increased accumulation of carrying costs associated with a longer amortization period and minimizes intergenerational inequity. (EXH 1297, BSP L8-283) FEL witness Rábago further contended that the recovery period extension makes future customers pay for assets that never served them, which violates the matching principle. (TR 5048; TR 5070)

14. Depreciation and Dismantlement

FPL filed its 2025 Depreciation Study and 2025 Dismantlement Study in conjunction with the Company's petition for base rate increase on February 28, 2025. (EXH 84, BSP C1-61 – C1-1140; EXH 85, BSP C1-1141 – C1-1255) The 2025 Depreciation Study proposes to revise the depreciation parameters and the corresponding depreciation rates for various production, transmission, distribution, and general plant accounts. Based on the study, FPL proposed an annual depreciation expense of $2,641 million as of January 1, 2026. (EXH 84, BSP C1-130) This represents an increase of approximately $171 million, compared with the expense calculated by using the existing depreciation rates. (EXH 84, BSP C1-139)

The 2025 SSA differs from the depreciation study in one way: the estimated retirement date of Scherer Unit 3 generating plant is extended from 2035 as filed in the original case to the currently approved retirement date of 2047. (EXH 1277, BSP K20) With this modification, the SPs believe that FPL's 2025 Depreciation Study satisfies Rule 25-6.0436, F.A.C. The 2025 SSA's agreed-upon depreciation parameters and resulting rates are set forth in Exhibit E of the SSA and show a total annual depreciation expense of $2,626 million as of January 1, 2026. (EXH 1282, BSP K1903 – K1912)

FPL filed its 2025 Dismantlement Study as part of FPL witness Allis's direct testimony. (EXH 85, BSP C1-1141 – C1-1255) Using witness Allis's dismantlement study, FPL witness Ferguson calculated an annual dismantlement accrual of $106 million and associated reserve of $340 million as of January 1, 2026. (EXH 91, BSP C10-1764) This accrual represents an increase of approximately $59 million compared with the currently approved dismantlement accrual. (EXH 91, BSP C10-1764)

While the 2025 SSA differs from FPL's depreciation study as regards to the estimated retirement date for Scherer Unit 3 generating plant, no corresponding adjustments were made to the dismantlement study. The dismantlement accruals in the 2025 SSA are the same as those listed in the dismantlement study (EXH 1277, BSP K21)

Rules 25-6.0436 and 25-6.04364, F.A.C., require electric utilities to provide depreciation and dismantlement studies at least every four years or within a time frame ordered by the Commission. The 2025 SSA provides that this general rule requirement pertaining to filing the Company's next depreciation study within four years will not apply to FPL in this case. Instead, the 2025 SSA provides that depreciation rates and dismantlement accruals in effect as of the implementation date of the 2025 SSA shall remain in effect until FPL's base rates are next reset in a general base rate

proceeding. At that time, FPL must simultaneously file new depreciation and dismantlement studies and propose to reset depreciation rates and dismantlement accruals in accordance with the results of those studies. (EXH 1277, BSP K21) This provision is consistent with Rules 25-6.0436 and 25-6.04364, F.A.C., which allow the Commission to set the filing timeframe by order.

FPL witness Bores stated that adjusting the estimated retirement date of Scherer Unit 3 from the Company's originally proposed retirement date of 2035 back to the currently approved 2047 retirement date reduces depreciation expense for customers. (TR 4611) Specifically, witness Bores testified that keeping the estimated retirement date of Scherer Unit 3 at 2047 results in a reduction to base depreciation expense of $6.7 million in 2026 and $6.8 million in 2027 relative to the amounts included in FPL's original filing. (TR 4611) FPL witness Bores confirmed that:

> FPL will file a comprehensive depreciation study as part of its next base rate case, which is anticipated to occur in approximately four years. At that time, all depreciation parameters, including estimated service lives and net salvage rates, will be reviewed and updated based on the most current information available. (TR 5179)

Regarding any effect on the Dismantlement Study due to the modified retirement date of Scherer Unit 3, FPL stated that no adjustment should be made to the dismantlement accrual amount, explaining that the 2025 SSA represents "a negotiated resolution pursuant to which the dismantlement accrual amounts…remain as originally filed." (EXH 1347, BSP N142)

The NSPs contested the 2025 SSA updated depreciation study. The NSPs not agree that 2047 is an appropriate estimated retirement date for Scherer Unit 3. NSPs witness Rábago asserted that there is no indication that Scherer 3's retirement date has moved to 2047 in reality. (TR 5047) Additionally, in its post hearing brief, the NSPs resumed its initial assertion that a dismantlement expense reduction of approximately $52.9 million (jurisdictional) in 2026 and 2027, from FPL's requested annual accrual of $106 million is appropriate, as described in NSPs witness Dunkel's testimony. (OPC BR 59; TR 3304)

15. Sale of Excess ITCs and PTCs

The 2025 Settlement includes approval for FPL to sell excess Investment Tax Credits (ITCs) and Production Tax Credits (PTCs) to third parties at a discount as described in its filed petition. Internal Revenue Code (IRC) Section 6418, Transfer of Certain Credits, allows a taxpayer such as FPL to transfer all, or a portion of the ITCs and PTCs to unrelated taxpayers for cash up to 75 percent of its standalone federal income tax liability. (FPL BR 100; TR 1743) If approved, FPL will transfer tax credits generated in the current test year but not used on its standalone Federal income tax return and be reimbursed at a discounted value for the tax credits. (FPL BR 100; TR 1743) Any portion of an eligible tax credit that is not transferred will remain as a deferred tax asset and will be applied to the subsequent years' standalone federal income tax liability. (TR 1745)

FPL argued that selling the excess ITCs and PTCs at a discount provides a net benefit to customers on a cumulative basis over the 2026 and 2027 projected test years by mitigating FPL's deferred tax asset balance. Without transferring the tax credits, FPL asserted it will exceed the 75 percent cap imposed by the IRC and that will result in a tax credit carryforward balance that is projected

to grow to $324 million in 2026 and to approximately $1.2 billion in 2027. (FPL BR 100; TR 1744) FPL argued transferring the ITCs allows FPL to receive cash for credits that are not utilized in the current period and would otherwise be carried on the balance sheet as a deferred tax asset and have an upward impact on revenue requirements. (FPL BR 101; TR 1816) FPL proposed to eliminate the carryforward by selling any excess tax credits to third parties at a discount and applying the proceeds against the tax credit carryforward balance. FPL explained the excess ITCs would be sold at an eight percent discount, and the excess PTCs would be sold at a five percent discount. In determining the discount rate, FPL relied on an independent third party's tax credit market analysis. (FPL BR 100 – 101; TR 1744) The higher market sales discount percentage on the ITC as compared to the PTC is due to the inherent uncertainty with final construction costs and in-service dates on ITC eligible projects such as battery storage, whereas the PTC is based on actual production volumes for projects already in-service. (TR 1745) FPL argued the NSPs' position to change FPL's proposed flow-through accounting method for the ITCs and normalize the tax credits over four years. The SPs argued that as part of the NSPs' overall revenue requirement position, not transferring the tax credits would reduce FPL's financial integrity and ultimately harm customers. (TR 5181)

The NSPs argued the transfer of PTCs and ITCs to third parties as proposed in the 2025 Settlement harms customers in the long run by creating a greater revenue requirement in 2030 and beyond. FEL witness Rábago asserted FPL's proposal to amortize ITCs in a single year and sell excess ITCs and PTCs at a discount would deprive customers of the rate impact mitigation effects of the tax credits they ultimately pay for through rates. (TR 5070 – 5071) FEL witness Rábago opined that amortizing the ITCs in a single year through flow-through accounting creates a Ponzi-like scheme that will greatly burden customers with a rate shock in later years should FPL ever stop constructing ever-larger battery projects. (FEL BR 103; TR 5071)

FEL argued the 2025 Settlement sets up a massive revenue deficit that will need to be collected in 2030 through an even larger rate increase in 2030. (FEL BR 101) The 2029 batteries are expected to be only slightly more expensive than the 2028 batteries. (TR 5071) The 2028 batteries create a $303 million deficit that would need to be filled in 2029. Due to the timing of when they are placed in service in 2028 and the lagging effect of the averaging for rate base calculations, the 2028 solar facilities create a hole of $29 million in 2029. (TR 5071; EXH 1345) The $303 million amount will be higher in 2030 due to the increased cost of the batteries, and the $29 million figure will be higher by about 15 percent in 2030 (roughly $33 million) due to the impacts of the larger solar facilities entering service later in the year. (TR 5071) The NSPs argued a conservative estimate of a revenue requirement deficit in 2030 of $336 million is appropriate as being caused by the SoBRA's authorized in the 2025 Settlement. The NSPs contended that in combination with having to pay back the deferred tax liabilities (as discussed in the RSM Element), a large rate increase in 2030 is all but guaranteed by the 2025 Settlement. (TR 5071) OPC argued FPL's proposed flow-through amortization of the non-excess ITCs in one year instead of over the remaining lives of the assets will negate the potential benefit of the sale of the ITCs. (OPC BR 69) FAIR supported OPCs argument. (FAIR BR 64)

In support of its proposal, FPL has compared the return on the lower deferred tax balance plus the valuation allowance expense against the return on the higher deferred tax balance that would result from a tax credit carryforward without selling the excess credits. Selling the tax credits at discount in 2026 and 2027 results in a $39 million lower cumulative revenue requirement for customers by

the end of 2027 as a result of a lower deferred tax asset balance. (FPL BR 100; TR 1816; EXH 106) FPL witness Laney stated that FEL witness Rábago incorrectly suggested that the sale of tax credits is related to the one-year flow-through accounting treatment. (TR 1816) As explained by FPL witness Laney, all tax credits are eligible to be transferred, regardless of the accounting treatment elected. (TR 1816) The sale of tax credits may mitigate upward pressure on revenue requirements during the term of the settlement that would otherwise result from deferring the tax credits. (TR 1816) While normalization of the ITCs would create less year-to-year volatility as argued by the NSPs, it would delay passing the benefits of lower income tax expense to customers. (FPL BR 101; TR 1815)

16. Rate Stabilization Mechanism

The 2025 Settlement establishes a Rate Stabilization Mechanism (RSM) that replaces the originally proposed Tax Adjustment Mechanism (TAM) contained in FPL's as-filed case. The RSM is contemplated to operate during the Term of the 2025 Settlement and functions as a regulatory accounting mechanism intended to avoid rate cases in 2028 and 2029 as well as stabilize customer rates and book earnings over the years 2026 through 2029. FPL initially requested approval of a $2 billion TAM in its as-filed case. (TR 2313) This amount was later revised to $1.717 billion and further revised by the 2025 Settlement as detailed below. (TR 1871; EXH 113)

The RSM is modeled after the previously approved Reserve Surplus Amortization Mechanism (RSAM) included in FPL's 2021 Settlement Agreement.[66] (TR 4406) The RSM contemplates combining any remaining RSAM funds with two additional funding sources. Specifically, the RSM will be funded in the estimated amount of $1.452 billion using the following:

1. $1.155 billion of unprotected deferred tax liabilities (DTLs);
2. Any remaining balance in FPL's existing RSAM as of January 1, 2026, estimated to be $153.5 million;
3. Investment Tax Credits (ITCs) associated with the 522 MW Northwest Florida battery storage project added during 2025, estimated at $143.4 million.

(EXH 1277, BSP K22 – K25)

The $1.155 billion of unprotected deferred income taxes represent funds customers have provided to FPL to pay future income tax liabilities associated with tax repairs and mixed service costs. (TR 1767-1770; TR 1876; EXH 1277, BSP K22 – K25) The Commission's approval of the RSM is required for the Company to create an offsetting regulatory asset and regulatory liability in the amount $1.155 billion. (TR 1768) The regulatory liability can be used over the term of the settlement to enhance earnings. (TR 1772) The regulatory asset will be amortized and charged to customers over the next thirty years. (TR 1876) The tax liabilities associated with tax repairs and mixed services costs arose because (TR 1769-1770) Once the unprotected deferred income taxes are used to enhance earnings, they will be recollected from customers through the amortization of the regulatory asset. ((TR 1766-1767; TR 1772; TR 1876; TR 2313-2314)

[66]Order No. PSC-2024-0078-FOF-EI, Docket No. 20210015-EI, issued March 25, 2024, *In re: Petition for rate increase by Florida Power & Light Company.*

For accounting purposes, new accounts will be established for the $1.155 billion regulatory asset and ($1.155) billion regulatory liability as demonstrated on EXH 112 (pre-settlement amounts). For regulatory purposes, the regulatory asset and regulatory liability will be combined and initially cancel each other out in the capital structure. (TR 4615 – 4616) Amortization of the regulatory asset will begin when the associated regulatory liability is first utilized and will be spread over a thirty-year period. (TR 4615 – 4616; FPL BR 105) The DTLs are currently included the capital structure at a zero percent cost rate. Thus, amortization of the DTLs through the RSM will reduce the amount of zero cost capital in the capital structure thereby increasing the weighted average cost of capital. (TR 1895)

The remaining RSAM amount was originally assumed to be fully exhausted in 2025 as part of the original petition. (TR 4945 – 4946) Any RSAM funds amortized to earnings during the settlement period will be re-collected from customers over the remaining life of the underlying plant assets. (TR 2362 – 2364; TR 4923)

The 2025 Northwest Florida battery storage-related ITC was originally booked in 2025 as part of the Company's as-filed case. If the 2025 Settlement is approved, this entry will be reversed. (EXH 1493) However, FEL believes the proper treatment for this ITC should be that it is normalized over the life of the asset and not be included in the RSM. (FEL BR 104)

The RSAM and ITC components of the RSM must be utilized first - to the extent they are available - prior to FPL amortizing the unprotected DTLs. (TR 4616)

As contemplated, the RSM framework allows for FPL to both debit and credit the mechanism in the same manner as approved for the RSAM. (TR 4616) This will allow the Company to either decrease or increase current period income tax expense and depreciation expense, thereby correspondingly affecting its earnings level. (TR 1905; TR 1769) FPL must amortize the RSM if its earned ROE falls below the low end of its (proposed) authorized earnings range. The Company may not amortize the RSM in an amount that causes earnings to exceed the upper end of the range. (TR 4617) Further, FPL will not be allowed to exceed the initial or approved RSM amount. In the event of a potential over-earnings scenario, FPL will debit expense and credit the corresponding balance sheet line item as they relate to the specific components of the RSM until the initially approved amounts are attained, i.e., the funding sources are capped at their January 1, 2026 amounts. If necessary, any remaining amount as to not exceed the top end of the authorized ROE range will be credited to the storm reserve as an unfunded amount (increasing the reserve). Any unfunded storm reserve balance must be depleted prior to using the funded reserve to recover storm costs. (TR 4617)

If the 2025 Settlement is approved, FPL will file an attachment to its monthly earnings surveillance report for December 2025 showing the final RSAM amount that will carry over to the RSM as well as the amount associated with the 2025 battery storage-related ITC. (FPL BR 106) The sum of the $1.155 billion unprotected deferred tax liability, the final RSAM residual amount and the final amount of the 2025 ITCs shall constitute the "RSM amount." (TR 4615)

The RSM is a non-cash mechanism similar to the RSAM approved by the Commission in the past that allows FPL to manage its earnings without seeking additional cash from customers. It will allow FPL to address unexpected expense and revenue impacts without seeking a rate increase in 2028 and 2029; and will provide customers with long-term bill and economic stability. The lower

amount of base rate revenue increases over the settlement term enabled by the RSM provide significant benefits to customers through lower rates. (TR 4614 – 4617)

The flexibility of the RSM allows FPL to commit to the term of the proposed 2025 Settlement without requesting additional revenues in 2028 and 2029, while also offsetting unexpected expenses. (FPL BR 104) These unexpected expenses could include, but are not limited to, interest rate volatility, inflation, trade policy impacts, geopolitical uncertainties, and associated market disruptions. Additionally, as contemplated, the RSM eliminates the need for costly and procedurally intensive base rate proceedings during the settlement term, thereby providing administrative efficiency. Further, the four-year period of rate certainty may enable FPL to continue to improve its customer value proposition through lower operating costs, improved service reliability and the delivery of superior customer service. (TR 4614) FPL's position is that non-cash mechanisms - subject to limitations - have proven to be extremely effective in its ability to keep multi-year rate periods intact. (TR 2315)

FPL witness Bores asserted that, per FPL's budget expectations, the Company does not have sufficient amounts in the RSM to achieve the mid-point ROE over the entire settlement term, therefore it will be incumbent upon the Company to manage the RSM and generate efficiencies if it wishes to earn at or above the mid-point for all four years. (TR 5168) More specifically, witness Bores explained the RSM will be used to cover the revenue requirements related to planned future investments, however FPL's current budget expectation of the RSM amount, inclusive of all components is several hundred million dollars less than what it needs to achieve earnings at the mid-point ROE. (TR 5164) Therefore, according to FPL's budget expectations, the RSM alone would not be enough to cause FPL to reach the top-end of the range over the four-year period. FPL would have to achieve such earnings through other means, namely the creation of business efficiencies. (TR 5163) FPL asserts that this deficit also further disproves the NSPs' claim that FPL did not make any concessions. (TR 5164)

In summary, FPL argued the four-year plan would allow it "to continue the tradition of service and excellence, avoid the need for multiple rate cases, minimize the impacts on customer bills, and ensure [the Company's] ability to meet customer demand in a rapidly growing state." (TR 70) Further, the RSM provides FPL the flexibility needed to commit to a four-year rate plan while managing various risks and uncertainties. The Company is requesting the RSM be approved as proposed. The Company believes restricting its use would undermine its effectiveness, dampen the built-in incentives and potentially compromise FPL's ability to attract capital and maintain financial stability throughout the four-year period. (TR 5168) FEIA and the Fuel Retailers adopt FPL's position on this element. (FEIA BR 16; Fuel Retailers BR 5)

The NSPs are not in support of the RSM. NSPs witness Herndon contended the RSM would allow FPL to unjustly take cash already paid by its customers for covering future tax obligations and instead use it for the purposes of enhancing earnings. FPL would then effectively have future customers pay back the money that it used to enhance earnings. (TR 2579) Further, witness Herndon stated it appears that FPL intends to use the RSM exactly as it has used the RSAM, to achieve returns that violate basic standards of fair, just, and reasonable rate setting. (TR 2591) Witnesses Herndon also asserted that FPL intends to use the RSM to maximize its earnings up to and including achieving ROEs at or near the top of its range. (TR 2577) NSPs witness Rábago concurs with witness Herndon's assertion. (TR 5055) NSPs witness Devlin also shares in witness Herndon's position regarding potential use of the TAM component of the RSM. (TR 2932)

Approval of any given mid-point ROE in combination with the RSM would effectively be giving FPL a license to over-earn and overcharge its customers by up to 100 basis points per year up to the total amount of the RSM. (TR 2574) Witness Herndon contended that FPL does not need the RSM in order to earn a reasonable return or realize all the benefits it claims the RSM would provide.

Witness Herndon believes FPL can still meet its stated objectives for the RSM if it were to be approved, but limited to the approved mid-point ROE. In support, witness Herndon quotes a series of responses to questions posed to FPL witness Bores during his September 5, 2025 deposition. Witness Bores agreed that if FPL's use of the RSM "were limited to the ROE mid-point," the Company would "still be able to address unexpected expenses and revenue impacts without seeking a rate increase," but qualified this response by saying that that is "not the construct" that FPL "agreed to as part of the settlement agreement with the RSM." Witness Bores agreed that if the use of the RSM were limited to the mid-point ROE that it would still "provide FPL's customers long-term bill and economic stability," but again qualified his response as not what FPL is proposing with respect to the RSM. Witness Bores also agreed that if "the RSM were limited to the mid-point ROE," the RSM would "still provide significant benefits to customers through lower rates." Witness Bores further agreed that "if the RSM were limited to the mid-point ROE and FPL were to earn at the mid-point through 2030," the Company would still be "able to address both the additional revenue needed in 2028 and 2029, as well as any factors beyond the company's control," but again stated that limiting the use of the RSM to the mid-point ROE "is not the design or ultimately what was agreed to" in the 2025 Settlement. Witness Bores further agreed that if FPL's use of the RSM were limited to the ROE mid-point, it would "eliminate the necessity for costly and procedurally intensive rate base proceedings during the [2025 Settlement] term" and that such limitation would also provide "the same administrative efficiency benefits, but quickly added "same prior caveat" (of not being the proposed and agreed to design of the RSM). Lastly, when asked if FPL could commit to a four-year settlement agreement if the RSM were limited to the mid-point ROE, he stated that "that is not our proposition." (TR 2575 – 2577)

NSPs witness Schultz stated the SPs refer to the RSM as a non-cash accounting mechanism which in effect is misleading. (TR 5001) While the RSM mechanism involves shifting credit from the balance sheet to the income statement for the purposes of adjusting earnings, there is a cash effect on customers at some point in time. NSPs witness Herndon shares in this view. (TR 2576; TR 2579) If the credit was not utilized to adjust earnings, it would at some point in the future impact (offset) expenses that would otherwise be borne by customers. According to witness Schultz, "absent the needless earnings enhancement diversion to shareholders through the RSM, these credits would result in a cost savings to customers and reduce the cash requirement for paying their utility bill." (TR 5001)

The NSPs witnesses also claim that authorizing the RSM will result in double recovery of expenses, or that essentially two dollars will be collected for a single dollar of expense. (OPC BR 98 – 101; FEL BR 92 – 93) The NSPs witnesses contend that it is excessive and not in the public interest. (TR 2577; TR 2925; TR 5020 – 5021; TR 5057 – 5060) The NSPs overall positon on the RSM is that it must be rejected by the Commission. (OPC BR 69; FEL BR 92; FAIR BR 49) FPL countered that it only recovers "the tax amount due - dollar for dollar - not twice the amount of the obligation." Further, "FPL has recovered the amounts due, but no payments are yet due to the IRS. From 2026 through 2029, FPL will repurpose those dollars to offset incremental costs prudently

incurred for customers in lieu of additional cash increases. The customers are thus at 'zero' in terms of contributions towards the subject tax obligations." (FPL BR 103 – 104)

As offered, the central purpose of the RSM is to maintain base rate stability while keeping FPL's earned ROE within the Commission authorized range throughout the settlement term, thereby avoiding the need to file for general base rate increases in 2028 and 2029. FPL stated that, absent approval of the RSM, the Company would likely need to file new base rate increase requests of approximately $606 million in 2028 and $562 million in 2029. (EXH 1495) Whether these incremental costs ultimately materialize, and if so, whether additional revenue (i.e., increased rates) is ultimately required to cover such costs remain open questions. FPL's claim that the RSM is needed to achieve the mid-point in 2028 and 2029 is based on its budget. As indicated by witness Bores, FPL's budget is based on estimates of revenues and expenses and those estimates may not be what actually happens. (TR 2455 – 2456) If additional revenue is needed in 2028 and 2029 as currently contemplated, then the RSM should provide a bridge between the two test years (2026 and 2027) and potential new base rates which are currently contemplated as commencing no earlier than January 1, 2030. However, as pointed out by witness Bores, a rate case would still be avoided if the RSM were set at the mid-point ROE. (TR 2576 – 2577) The RSM effectively provides an opportunity for the Company to adjust its earnings profile across the 2025 Settlement period. The Company has generally earned at or near the upper-end of its authorized range over the majority of the prior settlement period of January 2022 through July 2025 when the RSAM has been in place. (EXH 1308)

Witness Herndon estimates the value of earning from the mid-point to the upper end of FPL's proposed ROE range over the 2025 Settlement term would be $2 billion. (TR 2578) Consequently, because the full amount of the RSM is $1.452 billion, the potential exists that customers could incur $1.452 billion in additional costs (the mid-point to the top of the range). Witness Herndon implies that, if the RSM is approved, the Commission should not allow its use to achieve earnings at or near the top of the range as it would be contrary to public interest. (TR 2576; TR 2578) If a rate case were to occur in 2028 or 2029 in lieu of use of the RSM to provide additional revenues in those years, rates would be set at the mid-point ROE.

Concerning the testimony describing the RSM as a non-cash accounting concept, witness Bores recognized that the RSM is a non-cash mechanism, and that FPL is able to make non-cash accounting entries to the RSM associated with the deferred tax liabilities and depreciation reserve surplus "because FPL has already collected cash from customers regarding those two items." (TR 2576) Further, any credit removed from these accounts through the RSM will be re-collected in cash. Thus, the distinction between "cash and non-cash" is simply a matter of the time period(s) being discussed.

17. Asset Optimization Program

On February 12, 2025, Docket No. 20250032-EI was opened to review the current Asset Optimization Programs of all investor-owned electric utilities. A staff workshop was originally scheduled for October 14, 2025, but was subsequently cancelled due to scheduling changes related to the instant docket.

The Asset Optimization Program element of the 2025 Settlement, which was not part of FPL's as-filed case, has two components. The first component shifts the recovery of the customer's share of

the first $150 million in benefits during the settlement term into base rates instead of the Fuel Cost Recovery Clause. This has a net effect of increasing costs to be recovered in the Fuel Clause, up to $90.5 million annually. The second component adds an additional threshold, with all benefits above $150 million to be provided to customers through the Fuel Clause. The Asset Optimization Program savings thresholds were already considered to be 'adjustable parameters' that were subject to Commission review and modification periodically pursuant to the 2021 FPL Settlement.[67] (EXH 1277, BSP K23) This has the net effect of the amount of increasing the revenue requirement of the Fuel Cost Recovery Clause by the amount shifted to base rates, estimated at $0.53/mo. for a typical residential customer (1,000 kWh/mo.) in 2026. (EXH 1277, BSP K23)

In his settlement testimony, FPL witness Bores claimed that the changes to FPL's Asset Optimization Program are to assist the RSM in avoiding general base rate increases in 2028 and 2029 which will provide customers economic stability through lowered rates. (TR 4608; TR 4614; FPL BR 112) FEL witness Rábago opposed the modifications, believing that the movement of customer's share of gains into base rates is another method for FPL to gain the as-filed amount requested for the 2026 revenue requirement of the original filing despite the reduction found in the 2025 Settlement. (TR 5046; FEL BR 104 – 105) He stated that this change allows all $150 million to go to FPL in one form or another, even though the assets generating those funds are paid for by customers. (TR 5064) Rábago further claimed that, because all $150 million will be going to FPL, all of it should be considered as going towards the revenue requirement. FPL has generated between approximately $123 million and $130 million using this mechanism in recent years. Witness Rábago expects these gains to increase alongside FPL's additional renewable energy credit sales as it brings additional solar facilities online in the coming years. (TR 5065; FEL BR 104; OPC BR 82) OPC witness Schultz also opposed the changes to the Asset Optimization Program, arguing that these changes, along with others, such as the change in the ROE and the rate stabilization mechanism, counteract the concession made to reduce FPL's 2026 revenue requirements by gaining the funding through other stipulations and essentially allowing 100 percent of customer gains to flow through to shareholders is problematic. (TR 4987; TR 5002; OPC BR 82)

In his settlement rebuttal testimony, FPL witness Bores claimed that there is no support to witness Rábago's argument that future Asset Optimization gains will exceed previous years due to renewable energy credit sales and that such gains are not guaranteed. (TR 5171; FPL BR 110-111) Bores further claimed that Rábago's suggestion that all optimization gains should count toward FPL's revenue requirements is contrary to the Commission's approval of the 2021 Settlement and the Florida Supreme Court's affirmation that it, including the Asset Optimization Program, is in the public interest. (TR 5172; FPL BR 112) Witness Bores did not address the shift of the customer benefits to base rates and resulting increase to the Fuel Clause revenue requirement. In its brief, OPC opposed the modifications as neither benefit residential or small business customers and that both classes would experience an increase in rates without a historical likelihood of FPL achieving gains above the $150 million threshold without the sale of renewable energy credits. OPC further argued that the move to recognize the customers' share in base rates shifts all potential benefits previously used to offset customer rates in the annual fuel clause to FPL. (OPC BR 81) FEL also

[67]See Order Nos. PSC-2021-0446-S-EI, issued December 2, 2021, and PSC-2024-0078-FOF-EI, issued March 25, 2024, in Docket No. 20210015-EI, *In re: Petition for rate increase by Florida Power & Light Company.*

opposed the modifications in its brief, stating that customers will only see gains if more than $150 million is generated in a year and that the modified Asset Optimization Program allows FPL to inflate its profits. (FEL BR 104 – 105)

18. Long Duration Battery Storage Pilot

In its original filing, FPL proposed a new Long Duration Battery Storage Pilot Program for the purpose of studying large-scale energy deployment and evaluating alternative storage technologies beyond lithium-ion batteries. This pilot will consist of two long-duration battery storage systems capable of dispatching 10 MW of power and storing a total of 100 megawatt-hours of energy. The estimated total cost for this pilot is $78 million. (TR 1235 – 1237) The 2025 Settlement proposed no changes to the pilot or the associated costs from FPL's original filing, but noted that the associated costs are not incremental to the revenue requirements set in paragraph four of the settlement. (EXH 1277, BSP K25 – K26)

In his prefiled testimony, FPL witness Oliver described the original proposal and argued that the pilot program will allow FPL to gain experience with advanced battery storage technologies and diversify its supply chain. (TR 1235 – 1237; FPL BR 112 – 113) There was no intervenor testimony with regard to the pilot program.

In its brief, OPC argued that the pilot program is not in the public interest and that there is no need or measurable benefit demonstrated by FPL. OPC further argued that the $78 million in pilot costs, even if slightly offset by ITC credits, should not be forced on ratepayers for only "expected learnings" in addition to the already excessive ask of the 2025 Settlement. Furthermore, OPC asserted that FPL can rely on others for research on long-duration batteries or, if FPL wishes to pursue the pilot, it should be funded by shareholders instead of ratepayers. (OPC BR 82) FEL, in its brief, agreed with OPC and stated that FPL does not need to be performing research and development with ratepayer money while any potential benefit from the technology could be years from being fully developed. (FEL BR 79)

While there is no settlement testimony on this pilot program, FPL presented testimony in its as-filed case. (TR 1235 – 1237) Moreover, no intervenor opposed the pilot in settlement testimony. However, the NSPs' Proposal stated that the pilot, as described in witness Oliver's direct testimony, is prudent and the NSPs agreed to its implementation as part of the overall NSPs' Proposal. (EXH 1297, BSP L8-318 – L8-319; TR 4977; FPL BR 113)

Energy storage is becoming a more economical alternative to meet customer load. FPL is investing in and deploying current generation battery technologies. This pilot program appears to allow FPL a reasonable opportunity to test next generation battery technologies to gain information on the potential for these resources.

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

In FPL's as-filed case, MFR Schedule B-15 reflected a total amount of $1.475 billion in property held for future use (PHFU) in the 2026 test year, of which $1.241 billion was allocated for renewable energy use. For the 2027 test year, MFR Schedule B-15 reflected a total amount $1.533 billion; of which $1.319 billion was allocated for renewable energy use. In the 2025 Settlement, the SPs agreed that FPL would avoid purchasing any new land used exclusively for solar projects

during the minimum term of the agreement, with the exception of the Duda property (TR 4644 – 4645; EXH 1277; EXH 295) FPL is under a purchase option agreement for the Duda property and has plans to construct four solar plants (Grapefruit, Mango, Redroot, and Waxweed), which will be placed in-service July 2029 (TR 4644 – 4645) In FPL witness Oliver's settlement testimony, he clarified that FPL would commit to not purchasing land for solar and hybrid solar and battery storage projects during the minimum term or enter into any land acquisition contracts. Furthermore, FPL stated it will commit to sell a total amount of $200 million in property at fair market value from PHFU. Any gains or losses from the sales of PHFU will be treated in accordance with Commission policy. (TR 4645)

FPL defended its land management practices as strategic investments rather than speculative stockpiling. FPL cited Order No. PSC-93-0165-FOF-EI, where the Commission stated that a Company has the burden to meet the growth rate of its service area and to consider the expenses if the properties were sold and then had to be replaced in the future at a higher cost. Furthermore, FPL argued that early acquisition provides substantial customer benefits by securing optimal sites before property values escalate further. (TR 1254) Witnesses Oliver and De Varona, provided in-service dates and clarifying information on all properties listed in PHFU. (EXH 288; EXH 295) FPL opposed the NSPs' Proposal to record land acquired before the next base rate proceeding below the line, pending a prudence determination, deeming it an unworkable constraint. (TR 5233) FPL noted that the 2025 Settlement does not prevent land acquisition for other utility purposes such as transmission and distribution. OPC witness Schultz argued that the 2025 Settlement provides a loophole which allows FPL to still be able to purchase and stockpile land. (TR 4990) FPL witness Oliver acknowledged OPC's concern, but asserted that is was not FPL's intention. (TR 4658 – 4659) Furthermore, FPL stated that they must have the ability to prudently acquire land for other purposes. (TR 5235) FPL argued that the contention on the long-held properties disregards the evidence that all properties identified by OPC witness Schultz that have been held for more than 22 years have defined planned uses within the next ten years. (FPL BR 118)

In the as-filed case, OPC witness Schultz contested that the amounts, $1.475 billion for 2026 and $1.533 billion, allowed for PHFU should be significantly reduced due to the length of FPL's ownership, the properties not being shown as going into service within ten years, or that FPL did not own the some of the properties at the time of filing. (TR 4990) Additionally, Schultz characterized FPL's land management as stockpiling and noted the speculative nature of land acquisition. (TR 5004) As such, he determined the reduction of PHFU in 2026 should be $931.8 million resulting in a total amount of $543 million and a reduction of $1.153 billion resulting in a total of $380 million for 2027. (TR 5003)

Witness Schultz contested that the provisions concerning acquiring land for solar projects and the sale of PHFU in the 2025 Settlement provided a loophole for FPL to still acquire land during the minimum term, and that the promised sale of $200 million from PHFU is insufficient considering the entirety of FPL's PHFU portfolio. (TR 5004) As stated by FPL witness Oliver, according to the 2025 Settlement, FPL could purchase a parcel of land intended for a solar project, and as long a one percent was allocated to transmission use, FPL would not be breaching the settlement. (TR 4658) Furthermore, FPL currently holds enough land in PHFU for all planned solar and battery storage through 2034. (TR 1257) Witness Schultz argued that FPL did not adequately justify holding these properties and should not be able to earn a return on them without them being in service. (TR 5005; OPC BR 84) As such, the commitment to sell $200 million does not affect the

current balance in PHFU account and still allows FPL to earn a return on that amount until it sells. Additionally, witness Schultz proposed that if the 2025 Settlement were to be approved by the Commission, the $200 million should be removed from the balance of PHFU and not used in the determination of the revenue requirement. (TR 5005)

The PHFU provisions in the 2025 Settlement offer mitigated measures that allow FPL to continue to prudently acquire land for other utility purposes, while reducing the balance by divesting in land allocated to solar. However, the NSPs propose an adjustment in this proceeding to account for the divesture impact by removing the total amount from base rates at this time, instead of upon the sale of the properties in 2026.

20. Vandolah

FPL has applied to the Federal Energy Regulatory Commission (FERC) for approval to acquire the Vandolah Power Company's (Vandolah) 660 MW natural gas/oil-fired generating facility. The 2025 Settlement provides that if the FERC approves the acquisition, then FPL shall not exclusively use the capacity from Vandolah to serve data center or hyperscaler customers. While FPL's as-filed case did not include the acquisition of the Vandolah, the treatment of the acquisition was introduced during the intervening party's rebuttal testimony in response to FPL's application before the FERC. OPC witness Dauphinais stated that acquisition of Vandolah could change the Company's resource needs in 2028, which would necessitate a change in FPL's requested projects and associated revenue requirement. (TR 3003) In its rebuttal testimony, FPL witness Whitley confirmed that FPL intends to acquire Vandolah, which is currently exclusively interconnected with Duke Energy Florida through May 2027. (TR 1037) As such, the capacity provided by Vandolah would be available for FPL no earlier than June 2027, but would displace 400 MW of battery generation and 475 MW of gas combustion turbines that are scheduled to enter service in 2028 and 2032, respectively. (TR 1038)

In its Settlement testimony, FPL witness Bores clarified that upon the successful acquisition of Vandolah the capacity the facility provides would not be exclusively used to serve large load customers, such as data centers or hyperscaler customers. (TR 4606) OPC argued that due to Vandolah's projected June 2027 acquisition date, FPL's 2027 battery generation projects could be offset or delayed. (OPC BR 20 – 21) Similarly, FEL asserted that FPL did not provide proper analysis of the impact that Vandolah would have on the 2027 through 2029 battery generation additions. (FEL BR 73 – 74) However, FPL argued that due to the uncertainty of both the FERC approval and in-service date of the unit that FPL must still have its planned solar and battery generation additions in 2027. FPL further argued that resource planning predicated on the uncertainty of the Vandolah acquisition would place ratepayers at risk. Additionally, the Company noted that the NSPs supported the acquisition of Vandolah as an asset that would serve all customers and benefit the general body of ratepayers. (FPL BR 119 – 120) Staff notes that FPL has not requested cost recovery associated with the Vandolah acquisition in either its original filing or Settlement.

21. Natural Gas Hedging

Pursuant to the 2025 Settlement, FPL agrees not to financially hedge natural gas during the Term. FPL shall not be prohibited from filing a petition and proposed risk management plan with the Commission to address natural gas financial hedging following expiration of the Term or any extensions thereof. This provision was not a part of the as-filed case. However, this provision is essentially a continuation of the hedging moratorium FPL is currently operating under as approved in the Company's prior 2021 rate case settlement.[68] A similar provision has been approved through rate case settlements for other utilities, most recently Duke Energy Florida, LLC.[69] Thus, FPL believes this agreed-upon provision has been found to be in the public interest within the totality of other settlements. (FPL BR 121) FEIA and the Fuel Retailers adopt FPL's position on this element. (FEIA BR 16; Fuel Retailers BR 6)

FPL witness Bores testifies that the Company believes there is a benefit to customers in reducing fuel price volatility through financial hedging however, in consideration of the overall settlement, it is reasonable to continue the moratorium on hedging. (TR 4606)

FEL witness Rábago testifies that there is a possibility for this provision to place additional costs on customers by losing the ability or option to alleviate the impacts of potential future natural gas price spikes. (TR 5073 – 5074) Witness Rábago references the fuel price spike following the COVID-19 pandemic as an example of where FPL could have potentially mitigated higher fuel costs through financial hedging had the 2021 moratorium not been in place. (TR 5073 – 5074) FEL further believes this provision leaves customers vulnerable to volatility and price shock and that no testimony was provided explaining why this is in the public interest. (FEL BR 124 – 125) The OPC and FAIR generally support this provision. (OPC BR 88; FAIR BR 65)

FIPUG supports the inclusion of this provision as it believes it is best to pay prevailing fuel prices rather than financially hedge or speculate on the level of future fuel prices. (FIPUG BR 19)

Outside of the normal "give and take" that underlie settlement provisions amongst the parties, the Commission currently has an open docket to investigate the hedging practices of Florida's investor-owned electric utilities.[70] Staff understands this to be an ongoing matter where the Commission has yet to finalize its forward directives on hedging. Given this posture, a moratorium on financial hedging of fuel purchases is consistent with awaiting direction from the Commission.

22. Disconnection Policy

Pursuant to paragraph 26 of the 2025 Settlement, for the duration of the settlement term, FPL will not disconnect residential customers for nonpayment of bills with either (1) a forecasted temperature of 95 degrees or greater or where a heat advisory is issues by the National Weather Service; or (2) a forecasted temperature of 32 degrees or lower for that day. The forecasted temperature will be based on FPL's meteorological forecasts. (EXH 1277) The extreme weather disconnection provision was not included in the original filing. FPL witness Bores testified that

[68]Order No. PSC-2024-0078-FOF-EI, Docket No. 20210015-EI, issued March 25, 2024, *In re: Petition for rate increase by Florida Power & Light Company.*
[69]Order No. PSC-2024-0472-AS-EI, in Docket No. 20240025-EI, issued November 12, 2024, *In re: Petition for rate increase by Duke Energy Florida, LLC.*
[70]Docket No. 20170057-EI, *In re: Analysis of IOUs' hedging practices.*

suspending disconnections in challenging temperature conditions helps protect customers and "adds to the 2025 Settlement as being in the public interest." (TR 4606)

In his testimony, FEL witness Marcelin stated that FPL's extreme weather disconnection policy is not protective enough of for Floridians who experience the summer heat. (TR 5028) Witness Marcelin stated that FPL's policy does not account for humidity or for the increasing temperatures and humidity every year. (TR 5028) Witness Marcelin also stated that FPL's own data supports a summer disconnection policy. In 2024, a residential customer was more likely to be without power for disconnection for nonpayment than from a system reliability issue and that 1,229,818 customers were disconnected in 2024, with 376,274 being disconnected during the months of June through September. (TR 5020) Witness Marcelin pointed to Arizona for pausing disconnections from June 1st till October 15th and northern states for having disconnection protections during freezing temperatures. (TR 5029) Finally, in its brief, FEL stated that "[the] disconnection policy included in the settlement, codifying a policy already codified, should be given no weight…" (FEL BR 121)

OPC stated that the proposed disconnection policy has been in place at FPL for at least one year prior to the 2025 Settlement. (OPC BR 88 – 89) OPC further stated, "FPL is cynically using this worthy provision as a reason why the overall settlement is in the public interest despite the fact it was already informal FPL policy." (OPC BR 89) Furthermore, OPC notes that there is nothing that would compel the continuation of the disconnection policy beyond the expiration of the 2025 Settlement term, given that Paragraph 31 of the 2025 Settlement provides that none of the terms of the Settlement shall have any precedential value, expect to enforce the provisions of the Settlement. (OPC BR 89 – 90)

FPL rebutted the testimony of the NSPs. Witness Bores responded in settlement rebuttal testimony by stating that this particular provision is a voluntary program by FPL and that this is meant to protect customers from being without electricity during certain extreme weather conditions. Witness Bores also stated that FEL's statement that FPL does not account for humidity was unfounded as under the 2025 Settlement, disconnections are prohibited when the National Weather Service issues heat advisories. The National Weather Service's heat advisories take into account heat index values, which accounts for the effects of humidity. (TR 5174 – 5175) Witness Bores stated that FPL's 2025 Settlement policy is similar to the disconnection policies adopted by Arizona and the northern states. (TR 5175) Arizona allows a utility to choose between not disconnecting between the months of June 1st to October 15th or a policy based on 95- or 32-degree temperatures. Likewise, the northern states have either a suspension policy based on 32 degrees or a winter month suspension policy. (TR 5175) FPL asserts that this policy will benefit customers by protecting them from disconnection due to challenging temperature conditions. (FPL BR 122)

23. Payment Assistance Contribution

Pursuant to paragraph 27 of the 2025 Settlement, FPL will provide a one-time funding of $15 million during the term of the settlement to provide residential customers payment assistance. The payment assistance contribution was not proposed in the original rate case.

FEL witness Marcelin stated that FPL's one time $15 million is less than one percent of the over $1.6 billion in extra charges from the 2025 Settlement. (TR 5024) Witness Marcelin stated that the $15 million pledge is not enough for customers that already have high energy burdens from their FPL bills and that FPL should have funded the payment assistance program with more money and should have funded the program from its profits. (TR 5024) In its brief, FEL stated that "the payment assistance contribution of $15 million amounts to less than one (percent) of the incremental rate increase onto low-income Floridians." (FEL BR 121) OPC stated that payment assistance program is not in the public interest because it is paid for by the general body of rate payers, many of whom already need help to pay their current bills. (OPC BR 93)

FPL witness Bores refuted the testimony of witness Marcelin stating that the $15 million allocated for customer assistance is estimated to support tens of thousands of customers. (TR 5173) The funding would be incremental to governmental support as well as the voluntary contributions from customers, employees and shareholders that helped more than two hundred thousand customers during the current four-year settlement term (2022-2025) alone. (TR 5173) Witness Bores further stated that the suggestion that shareholders should fund the assistance program has no place in the proceeding because the Commission lacks jurisdiction to dictate a utility's charitable donations. (TR 5173 – 5174)

The NSPs' Proposal states that FPL shall accrue and provide a one-time funding of $15 million to provide payment assistance. (EXH 1306) The NSPs further stated that "this funding is in addition to FPL's Care to Share Program, which FPL states is funded from voluntary contribution by shareholders, employees, and customers." (EXH 1306)

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

Pursuant to Paragraph 28 of the 2025 Settlement, FPL agrees that in a future proceeding, it will support a proposal requesting Commission approval for allowing commercial and industrial (C/I) customers to opt out of participating in the Energy Conservation Cost Recovery (ECCR) clause programs and measures and instead substitute the deployment of their own self-funded energy efficiency programs and measures. (EXH 1277) Specifically, this would apply to customers with a combined total annual average usage greater than 15 million kilowatt-hours. FPL states that there are currently 361 such C/I customers. (EXH 1349) This subject matter was not addressed in FPL's original petition.

The 2025 Settlement includes the provision that C/I customer ECCR opt-outs must not be subsidized by the general body of FPL's customers. Additionally, verification measures must be in place that would allow FPL to document the energy efficiency savings generated by opt-out customers. Upon verification, FPL would be allowed to reduce its C/I energy efficiency goal under the Florida Energy Efficiency and Conservation Act (FEECA) equal to the amount of energy savings obtained by the opt-out customers. (EXH 1277) Under FEECA, goal amounts are established in annual increments, so any such verification measures and associated energy reductions would take place on a calendar year basis.[71]

[71]By Order No. PSC-2025-0368-PCO-EI, issued October 6, 2025, in Docket No. 20250011-EI, *In re: Petition for rate increase by Florida Power & Light Company*, the Commission officially recognized the 5 most recently published FEECA Reports (2020-2024). Page 13 of the 2024 FEECA Report discusses annual goal-setting under FEECA.

FPL witness Bores states that an opt-out provision "enhances the public interest if large customers who are naturally incented to perform expensive energy efficiency measures on their own are encouraged to do so, at their cost, without being subsidized by the general body of FPL's customers." (TR 4607; FPL BR 124) OPC witness Wilson briefly testified about ECCR opt-out, but did not offer a challenge to this provision of the 2025 Settlement, nor did any other NSPs. (TR 4828) In its brief, OPC describes this support proposal as a program that would be contrary to Section 366.03, F.S.OPC asserts that the opt-out provision is not in the public interest and urges the Commission to reject the 2025 Settlement. (OPC BR 95)

Currently, ECCR programs are offered to all customer classes on a voluntary basis and the costs for such programs are distributed across all classes. No customers or customer classes are currently permitted to opt out of participating in any utility's ECCR programs, including FPL's.[72]

FPL's commitment to support a future proposal for ECCR opt-out by C/I customers is non-binding upon the Commission, and any such petition would be subject to consideration by the Commission in a future proceeding. FPL's agreement of support has no effect on any of the other major elements of this rate-setting proceeding. Additionally, FPL's agreement to support a future opt-out petition has no impact on its recently-set energy goals for the 2025-2034 period or ECCR clause.

25. Minimum Bill

The minimum monthly bill is the minimum amount a customer will be charged for their consumption and applicable surcharges, prior to any applicable gross receipts taxes, municipal fees, or regulatory assessment fees. For RS and GS rate classes, the current minimum monthly bill of $25 was previously approved in the 2021 Settlement.[73] For all other rate classes, the minimum monthly bill equals the base charge identified in the respective classes' tariff schedules.

FPL proposed in its as-filed case to increase the minimum monthly bill for RS and GS rate classes from the current $25 to $30. Witness Cohen explained in direct testimony that the objective of this minimum bill is to ensure that all RS and GS customers contribute towards their fair share of fixed system costs which do not vary with usage. (TR 2620) These fixed system costs are incurred by FPL to connect and serve a customer, even if that customer's usage is low or zero. (TR 2620)

Cost support and calculation details are provided by FPL in MFR No. E-14, Attachment 15, and shows that the customer-related and fixed demand-related distribution revenue requirements are $33.27 per customer per month for a residential customer and $38.38 for a general service customer. (EXH 8) FPL's calculations further show that the total costs (including production and transmission costs) per residential customer per month are $69.71 and $80.79 for a GS customer. (EXH 8) Based on those costs per customer per month, FPL proposed $30 for the minimum bill.

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[72]By Order No. PSC-2016-0011-FOF-EI, issued January 5, 2016, in Docket No. 20140226-EI, *In re: Petition to opt out of cost recovery for investor-owned electric utility energy efficiency programs by Wal-Mart Stores East, LP and Sam's East, Inc., and Florida Industrial Power Users Group*, the Commission denied a request for an opt-out policy, and affirmed its long-held policy that since all ratepayers benefit from cost-effective DSM measures, all ratepayers shall share in the costs (Page 13).

[73]Order No. PSC-2024-0078-FOF-EI, issued March 25, 2024, in Docket No. 20210015-EI, *In re: Petition for rate increase by Florida Power & Light Company.*

Witness Cohen asserted that the proposal aims to continue moving the minimum bill toward a cost-based rate. (TR 2620)

Witness Cohen stated that a minimum base bill is preferable to a general increase in the residential base charge. FPL notes that its proposed residential base charge in 2026 will be $10.92, which is the lowest among all Florida investor-owned utilities and below the Florida average. (TR 2620) Witness Cohen testified that a higher general base charge impacts all customers, including low-income customers, not exclusively those customers with low or zero usage. (TR 2620)

In 2026, FPL projects that approximately 370,000 residential customers and 110,000 general service customers will be expected to have a base bill less than $30 per month. (TR 2621) This low usage is defined as using less than 233 kWh (residential) or 224 kWh (general service) per month. (TR 2621) The additional revenues received from the proposed increase in the minimum bill are used to offset the revenue requirement to calculate the base charge. If the minimum bill would remain at $25, the base charge accordingly would increase approximately by $0.32 for RS customers and $1.02 for GS customers. (EXH 436)

FEL witness Rábago testified against the minimum bill and recommended that the Commission should deny FPL's proposal and further direct FPL to eliminate the minimum bill, beyond a reasonable fixed customer charge. (TR 3880 – 3883) Witness Cohen responded in rebuttal testimony that the minimum bill is a fair measure to recover fixed costs equitably across all customers. (TR 2625)

Pursuant to the 2026 Tariffs, attached as Exhibit B of the 2025 Settlement, the $30 minimum bill for RS and GS remains as proposed in the original filing. The minimum bill is not specifically addressed as a provision in the 2025 Settlement.

The NSPs disagreed with FPL's proposal. Specifically, the NSPs' Proposal maintains the current minimum bill for RS and GS rate classes at $25. (EXH 1306) FEL stated in its brief that the existing minimum bill already hits low-income and hard-working Floridians and that increasing the minimum bill to $30 will "only make a bad situation worse." (FEL BR 122) OPC is generally supportive of the position adopted by FEL on this element. (OPC BR 95)

FPL states that the minimum bill ensures that all RS and GS customers contribute to their share of fixed system costs which do not vary with usage. (FPL BR 127) FPL further references the Commission's approval of the minimum bill in the 2021 Settlement.[74] (FPL BR 127)

Issue 7: Should this docket be closed?

After the final order is issued, this docket should be closed.

[74]Order No. PSC-2024-0078-FOF-EI, issued March 25, 2024, in Docket No. 20210015-EI, *In re: Petition for rate increase by Florida Power & Light Company.*