BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Determination of Need for Andytown-Oasis Transmission Lines Project in Broward and Miami-Dade Counties, by Florida Power & Light Company	DOCKET NO. 20260020-EI DATED: April 7, 2026

THE ENVIRONMENTAL DEFENSE FUND'S RESPONSE IN OPPOSITION TO FLORIDA POWER & LIGHT COMPANY'S MOTION IN LIMINE AND TO STRIKE CERTAIN PORTIONS OF THE TESTIMONIES AND EXHIBITS OF THE ENVIRONMENTAL DEFENSE FUND, INC. WITNESSES CRANSTON AND THOMAS

The Environmental Defense Fund, Inc. ("EDF"), by and through its undersigned counsel, pursuant to Rule 1.140(f), Florida Rules of Civil Procedure, Rule 28-106.206, Florida Administrative Code, and the Florida Public Service Commission ("Commission" or "FPSC") Order Establishing Procedure, Order No. PSC-2026-0056-PCO-EI ("OEP"), hereby files this Response in Opposition to Florida Power & Light Company's ("FPL") Motion in Limine and to Strike ("Motion") certain portions of the direct testimonies and exhibits of David Cranston and Ted Thomas submitted on behalf of EDF in this proceeding. In support thereof, EDF states:

SUMMARY OF THE ARGUMENT

1. FPL's Motion is an extraordinary overreach that asks this Commission to take the unprecedented step of excising the vast majority of two intervenor witnesses' testimony before the hearing even begins—and then to impose a blanket gag order barring EDF and its counsel from even mentioning entire subject areas during the proceeding. If granted, FPL's Motion would deprive the Commission of access to the very information it needs to

fulfill its statutory mandate under the Transmission Line Siting Act ("TLSA"), and the Florida Grid Bill, to determine whether FPL's proposed Andytown-Oasis Project ("AOP") is needed "to assure the economic well-being of the residents of the state", to provide access to "abundant, low-cost electrical energy", (section 403.537(1)(c), Florida Statutes), and to "assure . . . the avoidance of further uneconomic duplication of generation, transmission, and distribution facilities." § 366.04(5), Fla. Stat.

2. At its core, FPL's Motion rests on a fundamental error: it asks this Commission to apply the strict evidentiary rules of courtroom litigation—the Florida Evidence Code, the Florida Rules of Civil Procedure, and standards drawn from criminal and civil trial practice—to an administrative proceeding in which those rules do not govern. The Florida Supreme Court has squarely held that "the formalities in the introduction of testimony common to the courts of justice are not strictly employed" in administrative proceedings. *De Groot v. Sheffield*, 95 So. 2d 912, 916 (Fla. 1957); *see also Fla. Indus. Power Users Group v. Graham*, 209 So. 3d 1142 (Fla. 2017) (confirming that section 120.569(2)(g), Florida Statutes, "exemplifies the longstanding general rule . . . that the rules of evidence do not strictly apply in administrative proceedings"). FPL's own Motion concedes as much, acknowledging in footnote 2 that "the Florida Rules of Civil Procedure do not control in administrative proceedings." That concession undermines the entire analytical framework upon which FPL relies.

3. The Commission's well-established practice is not to exclude testimony wholesale through pre-hearing motions, but rather to admit testimony and assign it the weight it deserves. The very FPSC order that FPL cites in its own footnote 1—*In re:*

Request for arbitration concerning complaint of American Communication Services of Jacksonville, Inc., Docket No. 981008-TP, Order No. PSC-99-0099-PCO-TP (FPSC Jan. 20, 1999)—expressly recognizes that "the Commission has the discretion to allow testimony and simply give it the weight it is due." FPL has not demonstrated any extraordinary circumstance that would justify departing from this settled practice.

4. This Commission's statutory mandate is to protect the public interest. *See* § 366.01, Fla. Stat. That mandate requires the Commission to gather and consider all relevant information necessary to render an informed decision on whether the AOP—a multi-billion-dollar, decades-long transmission investment—is in fact needed and cost-effective.

5. EDF's witnesses provide precisely the kind of relevant testimony this Commission needs: evidence regarding the adequacy of FPL's planning process, the existence of alternative technologies, the evolving regulatory landscape, and the potential impact on ratepayers. Instead, FPL insists that the Commission only hear cabined testimony that promotes an inefficient and uneconomical method of planning for transmission facilities using a siloed, utility specific approach which all but ensure that the transmission facilities built will not be the most cost-effective option.[1] FPL's attempt to silence EDF's testimony before it can even be heard should be rejected.

[1] *See generally Building for the Future Through Electric Regional Transmission Planning and Cost Allocation*, Order No. 1920, 187 FERC ¶ 61,068, at P 85 (May 13, 2024) ("We find that this status quo causes transmission providers to undertake relatively inefficient investments in transmission infrastructure, the costs of which are ultimately recovered through Commission-jurisdictional rates. This dynamic results in, among other things, transmission customers paying more than necessary or appropriate to meet their transmission needs and forgoing benefits that outweigh their costs, which results in less efficient or cost-effective transmission investments.").

RELEVANT LAW

6. Administrative proceedings are governed by chapter 120, Florida Statutes, the Administrative Procedure Act ("APA").

7. The evidentiary rules for administrative hearings are liberal. The APA sets forth its own guidance for the admissibility of evidence, and states that "[i]rrelevant, immaterial, or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of Florida. . . ." § 120.569(2)(g), Fla. Stat. The Florida Supreme Court has held that in administrative hearings, including Commission proceedings, the Florida Rules of Evidence do not strictly apply, but that agencies can, in their discretion, apply them. *Fla. Indus. Power Users Group v. Graham*, 209 So. 3d 1142 (Fla. 2017) (finding that the Florida Evidence Code is not applicable to administrative proceedings and that the Commission had the discretion to refuse to apply the rule of sequestration, codified in § 90.616, Florida Statutes, during its proceedings); *see also In re: Review of coal costs for Progress Energy Florida's Crystal River Units 4 and 5 for 2006 and 2007,* Docket No. 20070703-EI, Order No. PSC-09-0226-PCO-EI (FPSC April 10, 2009); *In re: Petition on behalf of Citizens of the State of Florida to require Progress Energy Florida, Inc. to refund customers $143 million,* Docket No. 20060658-EI, Order No. PSC-07-0270-PCO-EI (FPSC March 30, 2007).

8. The Commission's longstanding and well-established practice of accepting

evidence for consideration in its decision-making, rather than excluding presented evidence, is fully consistent with the evidentiary standard described in the APA. § 120.569(2)(g), Fla. Stat. The Commission has and exercises the judgment to weigh the evidence presented and accord it the weight that it is due, if any. *See e.g. In re: Petition for arbitration of unresolved issues resulting from negotiations with Sprint Florida, Incorporated for interconnection agreement, by AT&T Communications of the Southern States, LLC d/b/a AT&T and TCG South Florida,* Docket No. 20030296-EI, Order No. PSC-03-1014-PCO-TP (FPSC September 9, 2003); *In re: Joint petition of US LEC of Florida, Inc., Time Warner Telecom of Florida, L.P., and ITC DeltaCom Communications objecting to and requesting suspension of proposed CCS7 Access Arrangement tariff filed by BellSouth Telecommunications, Inc.* Docket No. 030296-TP, Order No. PSC-02-0876-PCO-TP (FPSC September 9, 2003).

9. The Commission must consider a broad set of inputs when making a determination of need for a transmission infrastructure project under the TLSA. Florida Statutes section 403.537(1)(c), broadly provides that "[i]n the determination of need the [C]ommission shall take into account the need for electric system reliability and integrity, the need for abundant, low-cost electrical energy to assure the economic well-being of the residents of this state, … [and] other matters within its jurisdiction deemed relevant to the determination of need." Thus, in addition to requiring that the Commission consider the impacts of a transmission line proposal on reliability and on ratepayer impacts, this legislative mandate specifically grants the Commission the authority to consider other relevant matters in determining need for a project pursuant to the TLSA.

10. The Florida Grid Bill also provides the Commission with jurisdictional authority "over the planning, development, and maintenance of a coordinated electric power grid throughout Florida to assure an adequate and reliable source of energy for operational and emergency purposes in Florida and the avoidance of further uneconomic duplication of generation, transmission, and distribution facilities" pursuant to section 366.04(5), and other sections of its "grid bill authority." *See* §§ 366.04(2)(c), 366.05(7), 366.05(8), 366.055(1) and 366.055(3), Fla. Stat. *See also Fla. Power & Light Co. v. Nichols*, 516 So. 2d 260, 261 (Fla. 1987); *In re: Petition of Florida Power and Light Company for a Declaratory Statement Regarding Request for Wheeling*, 1989 Fla. PUC LEXIS 341, *12-15 ("The Commission and the Florida Supreme Court have long recognized the value of territorial agreements because the agreements best serve the public interest in preventing duplication of facilities between electric utilities, and allow the utilities to make economical long-range plans for expansion of electric facilities necessary to serve customers in a geographically defined area.").

11. Florida law requires that statutes relating to the same subject matter be read in pari materia and harmonized to give effect to each provision. *See Zold v. Zold*, 911 So. 2d 1222, 1229 (Fla. 2005). *See also McGhee v. Volusia Cty.*, 679 So. 2d 729, 730 n.1 (Fla. 1996) ("The doctrine of in pari materia requires the courts to construe related statutes together so that they illuminate each other and are harmonized."). Because both the Grid Bill and the TLSA address the same subject — the planning and regulation of the state's electric transmission infrastructure — they must be construed together. The FPSC cannot evaluate a transmission line application under section 403.537, Florida Statutes, in a

vacuum; it must apply the full body of statutory authority governing its jurisdiction over the electric grid, including the Grid Bill's requirements for coordination, reliability, and the avoidance of uneconomic duplication.

ARGUMENT

A. EDF's Testimony and Exhibits Regarding FERC Order No. 1920 are Relevant and Material to the Issues in this Case

12. EDF offers testimony demonstrating that FPL has repeatedly failed to conduct true regional planning as required by applicable orders of the Federal Energy Regulatory Commission ("FERC") and principles of prudent utility practice, including FERC Order No. 1920, which is relevant and material to matters in this proceeding.

13. The TLSA requires the Commission to determine whether a proposed transmission infrastructure project is needed to ensure "abundant, low-cost electrical energy", "economic well-being" of the state's residents, while considering "other matters within [the Commission's] jurisdiction." *See* § 403.537(1)(b)-(c), Fla. Stat. Evidence that FPL's planning process was conducted under an approach that FERC itself has found to be "unjust and unreasonable"—and that a new federal planning framework will require consideration of cost-effective alternatives, right-sizing, and advanced transmission technologies—is directly relevant to whether FPL has demonstrated that the AOP represents a cost-effective transmission solution.

14. Moreover, Florida's Grid Bill grants the Commission the authority "over the planning, development, and maintenance of a coordinated electric power grid throughout Florida to assure an adequate and reliable source of energy for operational and emergency

purposes in Florida and the avoidance of *further* uneconomic duplication of generation, transmission, and distribution facilities". § 366.04(5), Fla. Stat. (emphasis added).[2] *See also* §§ 366.04(2)(c), 366.05(7), 366.05(8), 366.055(1) and 366.055(3), Fla. Stat.

15. EDF's witnesses utilize FERC Order 1920[3] because it is directly relevant to the TLSA's approval standards, and provides valuable insight into whether uneconomic, and duplicative transmission facilities are being developed, consistent with the Grid Bill. Order 1920 discusses important principles and standards applicable to efficient, cost-effective and reliable regional utility transmission planning. As discussed in the testimony of EDF's witness David Cranston, Order 1920 contains three critical mandates designed to ensure that ratepayers are not funding sub-optimal, fragmented grid expansions. First, it requires transmission providers to develop comprehensive, 20-year regional planning scenarios that proactively account for long-term load growth and shifting generation resources, rather than reacting to short-term, localized bottlenecks. Second, it specifically requires transmission providers to evaluate whether local transmission projects can be "right-sized" — meaning expanded or modified in scale — to address broader regional needs as a single, slightly larger line can solve regional constraints more cost-effectively than building multiple smaller, siloed local lines over time. Third, it explicitly mandates the evaluation of Advanced Transmission Technologies ("ATTs"), sometimes called Grid-

[2] The legislature's use of the word "further" underscores a critical objective of the Florida Grid Bill: to shine a light and remedy the uncoordinated ad-hoc utility planning practice which was already leading to uneconomic outcomes in Florida.

[3] *Building for the Future Through Elec. Reg'l Transmission Planning & Cost Allocation*, Order No. 1920, 187 FERC ¶ 61,068 (May 13, 2024) (hereinafter "Order 1920")

Enhancing Technologies ("GETs"), before defaulting to expensive new conventional line construction.

16. These reforms in Order No. 1920, according to FERC were "intended to ensure continued electric service in the face of growing reliability challenges and greater access to lower-cost generation supplied by a wide range of resources." *See* FERC, Office of Public Participation, *Explainer on the Transmission Planning and Cost Allocation Final Rule*, (May 1, 2025), https://cms.ferc.gov/explainer-transmission-planning-and-cost-allocation-final-rule.

17. The principles and practices of Order No. 1920 are not new. The Order builds upon electric transmission planning and cost allocation requirements developed over the last several decades in Order No. 888, Order No. 890, and Order No. 1000. These principles and practices, therefore, should already have been implemented and incorporated into the transmission planning processes of the Florida utilities.

18. FPL misrepresents that EDF witnesses improperly seek to convert this TLSA proceeding into a collateral forum for litigating whether FPL and the Florida Reliability Coordinating Council ("FRCC") have complied, or will comply, with FERC Order 1920. EDF's witnesses do not ask the Commission to enforce FERC Order 1920, adjudicate compliance with it, or direct how Florida's future regional planning process should operate. Instead, EDF's witnesses use the standards and analytical framework of Order 1920 as a benchmark against which to evaluate the adequacy of FPL's planning process. This is no different from a witness testifying about industry best practices, engineering standards, or evolving regulatory requirements as context for evaluating a utility's conduct. Such

testimony is plainly of the type "commonly relied upon by reasonably prudent persons in the conduct of their affairs." § 120.569(2)(g), Fla. Stat. EDF witnesses highlight the principles and standards embodied in Order No. 1920 because they are the same principles and standards that prudent utilities should already be implementing to comply with the TLSA, not because they seek to convert this proceeding into a FERC enforcement action.

19. FPL argues that EDF's testimony and exhibits mentioning FERC Order No. 1920 are irrelevant, immaterial, premature, and beyond the Commission's jurisdiction because (1) this is a narrow TLSA need determination, (2) the Commission lacks jurisdiction over FERC Order 1920 implementation, and (3) the first Order 1920 compliance filing is not due until June 2026. FPL cites *New York v. FERC*, 535 U.S. 1 (2002*); Mississippi Power & Light Co. v. Mississippi ex rel. Moore*, 487 U.S. 354 (1988); *Nantahala Power & Light Co. v. Thornburg*, 476 U.S. 953 (1986), for the proposition that state commissions cannot intrude on FERC's exclusive jurisdiction.

20. FPL's federal preemption authorities are inapposite to this proceeding. Each of the cited cases involves a specific and narrow factual scenario: a state commission's attempt to modify, reject, or set retail rates that effectively altered a FERC-approved wholesale rate.

21. In *Nantahala Power & Light Co. v. Thornburg*, 476 U.S. 953 (1986), the Supreme Court held that a FERC-approved wholesale rate was entitled to deference under the federal Supremacy Clause, and it could not be changed or modified by a state agency. *Id*. at 963-64. The dispositive issue in *Nantahala* was the state utilities commission's declaration that a FERC-approved wholesale allocation agreement was "unfair" and its

attempt to set a different wholesale rate, despite this authority being reserved exclusively for FERC. *Id.* at 958. That is a far cry from what EDF's witnesses are doing here. EDF is not asking this Commission to modify, reject, or alter any FERC-approved rate, tariff, or allocation. EDF is presenting evidence about the existence and requirements of FERC Order 1920 as context for evaluating whether FPL's planning process adequately considered cost-effective alternatives—a quintessentially state-law inquiry under the TLSA, and consistent with the Florida Grid Bill.

22. Similarly, *Mississippi Power & Light Co. v. Mississippi ex rel. Moore*, 487 U.S. 354 (1988), held that state tribunals may not "collaterally attack" FERC-approved wholesale rate allocations. *Id.* at 375. But there is no FERC-approved rate or tariff at issue in this proceeding. EDF is not asking the Commission to second-guess any FERC determination. In fact, FPL has not identified a single FERC determination that EDF's testimony purportedly attacks.

23. *New York v. FERC*, 535 U.S. 1 (2002), addressed whether FERC had jurisdiction to regulate the transmission of electric energy in interstate commerce under the Federal Power Act. The decision recognized the Federal Power Act's division of state and federal authority over electric regulation but did not hold—and could not hold—that state commissions are barred from considering the existence of federal regulatory requirements as informational context when exercising their own independent state-law authority. *Id.* A state commission that considers evolving federal planning requirements when evaluating whether a utility's planning process was adequate is not exercising FERC's jurisdiction; it is exercising its own.

24. FPL also argues that consideration of Order 1920 is premature and not ripe because FPL has until June 12, 2026 to file its compliance tariff, and until June 12, 2028, to begin its first Order No. 1920 long-term regional transmission planning cycle.[4] This argument confuses prematurity of compliance with relevance of information. The question before the Commission is whether, as of the date of its decision, FPL has demonstrated that the AOP is needed and cost-effective. A reasonably prudent person evaluating a decades-long, multi-billion-dollar infrastructure investment would certainly consider that the regulatory landscape governing transmission planning is about to change fundamentally. To ignore that information would be imprudent. The fact that formal compliance filings have not yet been submitted does not render the requirements of Order 1920 unknowable or irrelevant—those requirements have been published since May 2024 and are well understood by all participants in this proceeding.

25. Moreover the principles and standards embodied in Order 1920 date back to 2011 and FERC Order 1000, while the TLSA's standard to take into account the need for electric system reliability and integrity and the need for abundant, low-cost electrical energy to assure the economic well-being of the residents of this state, and the Grid Bill's grant of authority to oversee planning a coordinated Florida grid have been in place for more than four decades.

26. FPL's assertion that regional transmission planning and federal planning mandates are "beyond the Commission's jurisdiction" is directly contradicted by FPL's

[4] FPL asserts that it will begin the Order No. 1920 Long-Term Regional Transmission Planning cycle on Jan. 1, 2028.

own federal tariff and financial disclosures. In its Open Access Transmission Tariff filed with FERC, FPL explicitly states that the FPSC is an "integral part of the planning process" with "regulatory oversight and decision-making" authority. FPL, OATT, Attachment K, FERC (2021). Furthermore, FPL routinely discloses to its investors in its SEC Form 10-K filings that it is subject to the FPSC's jurisdiction over the "planning, construction and operation" of its transmission facilities. NextEra Energy, Inc., Florida Power & Light Company, Annual Report (Form 10-K), at 23 (Feb. 13, 2026). FPL seeks to have it both ways, formally representing to the federal government and the financial markets that the FPSC possesses jurisdiction over its transmission planning, while simultaneously arguing to this Commission that it lacks the jurisdiction to review whether that exact planning process complies with modern, cost-saving regional mandates.

27. FPL has made similar assertions of Commission authority in other filings. In its 2012 Order 1000 compliance filing, FPL reiterated to FERC that "the FPSC has significant jurisdictional authority over the transmission grid." *FPL Order No. 1000 Compliance Filing Transmittal Letter*, Docket No. ER13-80, FERC Accession No. 20121011-5185 at 6 (Oct. 11, 2012).

28. In the same docket, FPL also stated that "[t]here cannot be serious dispute that the FPSC has plenary oversight over the transmission grid in Florida and expansions of the grid." *Answer of Florida Sponsors to Protests* at 20, Tampa Elec. Co., Docket No. ER13-80, FERC Accession No. 20130110-5145 at 20 (Jan. 10, 2013).[5]

[5] FPL goes on to state that "FMPA/Seminole appear to be dissatisfied with what the FPSC does with its broad statutory authority. But that is a matter for them to take up with the FPSC, not a gap in Florida's statutory framework for oversight of transmission planning in Florida."

29. FPL and Florida utilities also decided to forgo joining a Regional Transmission Organization, or establish an Independent System Operator, expressly retaining state jurisdiction over transmission planning, meaning that Florida utilities' "planning and operations are comprehensively regulated by the State of Florida." *See Tampa Elec. Co.*, Order on Compliance Filings, 143 FERC ¶ 61,254, Docket No. ER13-80-000 (June 20, 2013) (Clark, Comm'r, concurring)

30. Finally, FPL's assertion that FERC Order No. 1920 is irrelevant to this proceeding ignores the explicit, vested authority the federal rule grants directly to the Commission. Under Order No. 1920, "Relevant State Entities" (RSEs) are defined as any state agency responsible for electric utility regulation or the siting of electric transmission facilities—a definition that squarely encompasses the Commission and empowers RSEs with specific, substantive authorities to govern long-term regional transmission planning. *See* Order 1920 at P. 1355 (May 13, 2024).

31. The Commission, as an RSE, has the authority to determine a cost allocation method for projects selected through the Long-Term Regional Planning Process, which transmission providers are then required to include in their federal compliance filings. *Id.* at P 1291.

32. Furthermore, the Commission is granted the authority to directly shape transmission modeling; utilities must incorporate the FPSC's input when developing their mandatory 20-year transmission needs scenarios, and they must run additional planning scenarios whenever requested by the Commission to inform cost allocation. *Bldg. for the Future Through Elec. Reg'l Transmission Planning & Cost Allocation*, Order No. 1920-A,

189 FERC ¶ 61,126 at P 364-65 (2024). The rule also requires transmission providers to consult with the Commission when establishing the evaluation processes and selection criteria used to choose transmission solutions, and provides the FPSC the right to voluntarily fund specific transmission projects that align with Florida's priorities. Order No. 1920 at P 1013. Because Order No. 1920 grants the Commission explicit, legally binding rights to direct the evaluation, selection, and cost allocation of regional transmission, there is little question that the Order itself is well within the jurisdiction of the Commission. And there is no doubt that how FPL conducts its local planning process – a process that FERC in promulgating Order No. 1920 seeks to make more economic and efficient – is relevant to regional planning, and vice-versa. FPL cannot use a motion in limine to blindfold this Commission to its own federally recognized regulatory authorities.

33. Finally, even FPL's own witness, Miguel Yanes, cites to his involvement with FERC Order 1920 as relevant. In his Pre-filed Direct Testimony filed approximately 2 weeks before EDF intervened, FPL's Witness Yanes cited to his service as "Chair of the FRCC Federal Energy Regulatory Commission [] Task Forces for Order 881 and Order 1920" as part of his relevant duties and responsibilities in his position as FPL's Senior Director for Transmission Services and Planning.

34. FPL also seeks a blanket order barring all references to Order No. 1920 in this proceeding, asking the Commission to bar EDF and its counsel from "introducing any testimony, documents, arguments, or references in any manner in this proceeding" related to Order No. 1920. This request goes far beyond any motion in limine this Commission has entertained. It would effectively impose a prior restraint on an intervenor's ability to

present evidence and argue its case. Nothing in the TLSA, the Administrative Procedure Act, or this Commission's rules authorizes such a sweeping prohibition. The request should be denied on its face.

B. EDF's Testimony and Exhibits Regarding FERC Order No. 1000 are Relevant and Material to the Issues in this Case

35. EDF's testimony and exhibits regarding FERC Order No. 1000 are the type of evidence that would commonly be relied upon by reasonably prudent persons in the conduct of transmission planning and is admissible pursuant to section120.569(2)(g), Florida Statutes.

36. FPL contends that EDF's criticism of the current FRCC regional planning process under FERC Order No. 1000 is beyond the Commission's jurisdiction and irrelevant to the need determination, again invoking *Mississippi Power & Light* and *Nantahala*. FPL characterizes EDF's testimony as improperly asking this Commission to "sit in review of FERC-jurisdictional transmission-planning requirements." Motion at ¶ 22.

37. EDF is not asking the Commission to sit in review of a FERC-jurisdictional process. EDF is presenting evidence that FPL's planning process—the very process upon which FPL relies to justify the AOP—is structurally deficient. This evidence goes to the heart of the TLSA's statutory inquiry, and is well within the jurisdictional purview of the Commission under the TLSA and the Florida Grid Bill.

38. The Commission cannot meaningfully determine whether a proposed transmission line is needed to provide "abundant, low-cost electrical energy" under section

403.537(1)(b) without evaluating whether the utility's planning process adequately considered regional alternatives and cost-effective solutions. It cannot oversee a coordinated grid, if it doesn't look at what coordinated processes are taking place. If the planning process that produced the AOP was systemically biased toward local, utility-specific projects and failed to evaluate whether a broader, right-sized regional solution would serve ratepayers at lower cost, that is directly probative of whether FPL has met its burden of demonstrating need.

39. EDF witness Thomas's testimony that the FRCC's Order No.1000 process has resulted in "zero" regionally selected projects in over a decade is not a challenge to FERC's authority—it is a factual observation about the integrity of the planning process that FPL invokes as justification for its project. When a regional planning process has never produced a single regional project, this Commission cannot reasonably rely on that process as evidence that no cost-effective regional alternatives exist. Nor can it rely on the process to serve as a proxy for its own grid coordination authority. An evaluation of the existing regional planning processes is precisely the kind of information this Commission needs to consider in order to protect the public interest.

40. As explained above, *Mississippi Power & Light* and *Nantahala* address the narrow issue of whether state commissions may modify or reject FERC-approved wholesale rates. No FERC-approved rate or tariff is at issue here. EDF is not challenging any FERC determination; it is presenting evidence relevant to the state-law question of whether FPL's planning was adequate. This Commission routinely evaluates the adequacy

of a utility's planning process in need determination proceedings. There is no federal preemption barrier to doing so.

41. Moreover, FPL's argument proves too much. If the mere mention of FERC-jurisdictional planning processes were barred in FPSC proceedings, the Commission could never evaluate the adequacy of a utility's planning—because planning is conducted under FERC-jurisdictional frameworks. Nor could the Commission consider the NERC reliability standards that FPL asserts as the basis for its need – since those reliability standards only carry the force of law, because FERC has approved and mandated use of reliability standards TPL-001-5.1 and NUC-001-4. *See Transmission Planning Reliability Standard TPL-001-5*, Order No. 867, 170 FERC ¶ 61,030, Docket No. RM19-10 (Jan. 23, 2020); and *Mandatory Reliability Standard for Nuclear Plant Interface Coordination*, Order No. 716, 125 FERC ¶ 61,065, Docket No. RM08-3 (Oct. 16, 2008). That, therefore, cannot be the law, and thankfully it is not. This Commission has jurisdiction under Chapter 366, to regulate electric utilities in the public interest, including the authority to evaluate the prudence and adequacy of utility planning decisions. *See* §§ 366.01, 366.04, 366.05, Fla. Stat.

42. Therefore, for the same reasons stated above regarding Order 1920, FPL's request to bar all references to FERC Order 1000 is unprecedented, overbroad, and inconsistent with the Commission's mandate. It should be denied.

C. Testimony of EDF Witness Thomas Regarding the Commission's Procedural Schedule in this Proceeding is Relevant to the Commission's Evaluation of the Evidentiary Record.

43. The testimony of EDF Witness Ted Thomas is relevant to the weight the Commission should afford the evidence and to the Commission's understanding of the practical constraints on intervenor participation. It provides critical context for why EDF's testimony may not include the kind of comprehensive independent engineering analysis that FPL now faults EDF for not producing—the compressed schedule made such analysis infeasible. That context is relevant and material.

44. FPL argues that Mr. Thomas's testimony criticizing the compressed procedural schedule is immaterial because the TLSA's statutory deadlines under section 403.537(1)(a), Florida Statutes, are set by the Legislature and cannot be modified by the Commission. FPL is correct that the statutory deadlines are legislatively mandated. But Mr. Thomas does not ask the Commission to violate those deadlines. Mr. Thomas—a former state public utility commissioner—testifies from experience that compressed schedules can impair the adversarial process and leave the Commission with an incomplete record. He observes that a "13-day window all but ensures that highly complex localized projects will get built simply because they were filed, as no intervenor can realistically marshal the resources to fully evaluate and contest the utility's models in that timeframe."

45. Even if the Commission ultimately gives this testimony limited weight, the appropriate disposition is to admit it and weigh it accordingly—not to strike it before the hearing. As this Commission has recognized, it "has the discretion to allow testimony and simply give it the weight it is due." Order No. PSC-99-0099-PCO-TP. FPL's Motion does not identify any prejudice it would suffer from allowing this testimony into the record. The

testimony does not address any contested factual issue improperly; it provides contextual information that a reasonably prudent decisionmaker would find useful.

D. EDF Witness Cranston's Exhibits Are Admissible Under the Relaxed Administrative Hearsay Standard

46. The challenged exhibits offered by EDF Witness David Cranston are admissible under the relaxed administrative hearsay standard, regardless of whether Cranston is classified as an expert, because they serve to supplement or explain other evidence in the proceeding.

47. Under section 120.57(1)(c), Florida Statutes, hearsay evidence may be used for the purpose of supplementing or explaining other evidence, and that it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. In *McDonald v. Department of Banking & Finance,* 346 So. 2d 569 (Fla. 1st DCA 1977), the court reiterated that hearsay may be admitted to supplement and corroborate other evidence, and in *Houston v. City of Tampa Firefighters & Police Officers' Pension Fund Board of Trustees*, 303 So. 3d 233 (Fla. 2nd DCA 2020), the court affirmed that hearsay is admissible in administrative proceedings, subject only to the limitation that it may not independently serve as the sole basis for a finding absent independent admissibility in civil actions. Applying these well-established principles here, FPL's Motion in Limine to exclude EDF witness David Cranston's exhibits should be denied.

48. Each of Mr. Cranston's exhibits constitutes precisely the type of evidence that the relaxed administrative evidentiary standard is designed to accommodate. Exhibit

DC-2, an Assessment of Florida's Electric Transmission System Performance and Opportunities for Enhancement prepared in conjunction with the University of Florida, is a scholarly study of the type commonly relied upon by reasonably prudent persons evaluating transmission system performance and is offered to supplement EDF's direct testimony regarding the potential for grid enhancement. Exhibits DC-7 and DC-8, comprising comments submitted by EDF to the Florida Reliability Coordinating Council regarding tariff language in relation to FERC Order No. 1920, are public regulatory filings that reflect EDF's substantive positions on matters directly at issue in this proceeding and serve to explain and contextualize the testimony of EDF's witnesses. Exhibit DC-9, a report prepared by EQ Research on Florida fuel costs for generation, is an expert analytical product of the type routinely admitted and relied upon in regulatory proceedings to supplement testimony. Exhibit DC-10, testimony from Rao Konidena in the Illinois Ameren CPCN proceeding in which EDF was an intervenor and in which a settlement was reached with the utility regarding consideration of Grid Enhancing Technologies, is prior sworn testimony in a formal regulatory proceeding and constitutes highly probative evidence of the practical viability of GETs—evidence that is offered not for the truth of every assertion therein, but to supplement and explain EDF's expert testimony regarding the demonstrated track record of GET deployment. Exhibit DC-11, The Brattle Group's report titled *The Untapped Grid*, which illustrates that additional capacity exists on the grid to enable additional generation resources if GETs and other Advanced Transmission Technologies are deployed, is an independent expert study of the type commonly relied upon by utilities, regulators, and industry participants alike. None of these exhibits is

offered as the sole basis for any finding; rather, each is offered to supplement, explain, and corroborate EDF's direct testimony and the testimony of its witnesses, which is precisely the purpose for which hearsay evidence is admissible under sections 120.569(2)(g) and 120.57(1)(c), Florida Statutes.

49. FPL argues that Cranston's exhibits are impermissible hearsay that cannot support any finding, and that Cranston cannot rely on them because he is not a qualified expert. FPL's hearsay argument, however, fundamentally misapplies the applicable standard. Section 120.57(1)(c) does not bar the admission of hearsay in administrative proceedings. It provides that hearsay evidence "may be used for the purpose of supplementing or explaining other evidence" and limits only the use of hearsay as the sole basis for a finding.

50. The Florida Supreme Court squarely addressed this issue in *Fla. Indus. Power Users Grp. v. Brown*, 273 So. 3d 926 (Fla. 2019), and upheld the Commission's reliance on a third-party report (the ICF report) that was challenged as uncorroborated hearsay. The Court held that the report "was not the sole basis for the Commission's finding . . . ; rather, it was just one piece of [the witness's] economic analysis, which supplemented and explained his overall testimony about the projects' cost-effectiveness, customer savings, and noneconomic benefits." *Id.* at 932. The Court concluded that the Commission's findings were based on "competent, substantial evidence." *Id*.

51. The challenged exhibits here serve precisely the supplementary and explanatory function sanctioned by section 120.57(1)(c) and *Brown*. Exhibit DC-2, the University of Florida study, provides independent analytical support for Cranston's

testimony about system-wide reliability constraints and the potential for cost savings through alternative transmission solutions. Exhibits DC-7 and DC-8 document EDF's participation in the FRCC stakeholder process—factual evidence of what positions EDF took and when, which is not offered primarily for the truth of any technical conclusion. Exhibit DC-9, the EQ Research fuel-cost report, and Exhibits DC-11 and DC-12, published reports on alternative transmission technologies, are precisely the type of published studies and reports that reasonably prudent persons rely upon in evaluating transmission planning alternatives—the explicit standard under section 120.569(2)(g). Exhibit DC-10, testimony from another state proceeding, is a form of evidence regularly relied upon in utility regulatory practice to demonstrate how alternative technologies have been evaluated in other jurisdictions.

52. FPL cites *Palm Beach v. Palm Beach Cty*, 460 So. 2d 879 (Fla. 1984), for the general proposition that presiding officers have significant discretion in ruling on motions to strike. While the case does address the limits of opinion testimony—holding that a witness may not merely "tell[] the trier of fact how to decide the case" without assisting it in understanding the evidence, *id*. at 882—it is a judicial case applying the Florida Evidence Code in a civil proceeding. It does not establish a standard for wholesale pre-hearing exclusion of testimony in administrative proceedings. Moreover, even under *Palm Beach*, the discretion runs in both directions: the presiding officer has discretion to admit and weigh, not only to exclude.

53. FPL also separately argues that if Cranston is "not an expert," he cannot rely on hearsay materials. This argument conflates two distinct issues. The admissibility of the

documents turns on whether they are "of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs" under section 120.569(2)(g). The documents meet that standard regardless of whether Cranston is classified as an expert. FPL's circular argument—that the documents are inadmissible because the witness is unqualified, and the witness is unqualified because he relies on the documents—finds no support in Florida administrative law.

E. Challenges to EDF Witness Cranston's Qualifications Go to Weight, Not Admissibility, and Should Be Resolved Through Cross-Examination at Hearing

54. EDF Witness David Cranston has knowledge and experience of the Florida transmission system, and with utility planning, and his testimony and exhibits are exactly the type of information that a reasonably prudent person would want to hear in a TLSA case.

55. As discussed in his response to FPL's Interrogatory Number 1 to EDF in this case, Mr. Cranston had a significant role in the preparation of "the first comprehensive, statewide transmission study that performs system optimization at the regional level rather than within each utility service area" in Florida. *See* Cranston response to FPL's Interrogatory Number 1 to EDF, attached hereto and incorporated by reference as Exhibit A.

56. Evidentiary rules for administrative hearings are liberal and the Florida Evidence Code does not apply to Commission proceedings. The relevant evidentiary standard in this proceeding under the APA is found in section 120.569(2)(g), Florida Statutes. The APA standard is fully consistent with the Commission's longstanding

practice of including evidence for consideration in its decision-making, rather than excluding it. Also, the concern that improperly allowed evidence will prejudice a trial jury does not apply to administrative matters heard before the Commission in light of the Commission's technical expertise in the matters it hears, because the Commission has the judgment to weigh the evidence presented, and accord it the weight that it is due, if any. *See e.g.* Order Nos. PSC-03-1014-PCO-TP and PSC-02-0876-PCO-TP, *supra*.

57. FPL argues that EDF's witness Cranston is not an expert and is unqualified to offer expert opinions on transmission planning, alternative transmission technologies, and Florida's transmission system because he holds degrees in Political Science and Public Affairs and is not an engineer or transmission planner.

58. As a threshold matter, FPL's reliance on the Florida Evidence Code is legally unfounded. The Florida Supreme Court held in *Fla. Indus. Power Users Group v. Graham*, 209 So. 3d 1142 (Fla. 2017), that the Florida Evidence Code does not apply to administrative proceedings before the Commission. The Court surveyed decades of appellate authority confirming that "adjudicatory proceedings before administrative boards are not required to adhere to strict rules pertaining to the exclusion of evidence required in trials in a court of law," *Jones v. City of Hialeah*, 294 So. 2d 686, 687 (Fla. 3rd DCA 1974), and that "examiners in administrative hearings are not required to comply with strict rules of evidence and have wide discretion in the admission of . . . evidence," *Odessky v. Six L's Packing Co.*, 213 So. 2d 732, 734 (Fla. 1st DCA 1968). FPL cannot import the Florida Evidence Code's expert-witness framework wholesale into a proceeding governed by the Administrative Procedure Act.

59. FPL cites *Ramirez v. State*, 542 So. 2d 352, 355 (Fla. 1989), which holds that '[t]he determination of a witness's qualifications to express an expert opinion is peculiarly within the discretion of the trial judge, whose decision will not be reversed absent a clear showing of error.' This authority supports EDF's position, not FPL's. Ramirez establishes that qualification determinations are discretionary—it does not compel pre-hearing exclusion based on a review of a witness's resume. Moreover, Ramirez arose in a criminal prosecution applying the Florida Evidence Code, which the Florida Supreme Court has held is inapplicable to FPSC proceedings. Its use as binding authority in this administrative context is therefore limited.

60. Although the Florida Evidence Code does not strictly apply in this case, Mr. Cranston would still be qualified to testify as an expert on the subject matter of his testimony based on his experience and knowledge.

61. As discussed in his testimony and detailed in his interrogatory response attached as Exhibit A, he has worked for a municipal electric utility, Austin Energy, on grid infrastructure, has worked on transmission planning policy in his role as Florida Energy Policy Manager for EDF, and had a significant role in the preparation of the first-of-its-kind study by the University of Florida and EDF applying a statewide model that looks beyond utilities' territorial boundaries to assess the current and future state of Florida's transmission network (the "UF-EDF Study").

62. Moreover, as an expert he can rely on his exhibits even if they are hearsay. *See, e.g., § 704.1, Florida Evidence*, Ehrhardt and Lewis (2026). Under section 90.704, Florida Statutes, an expert may rely on facts or data that have not been admitted, or are not

even admissible, when those underlying facts are of a type reasonably relied upon by experts in the subject to support the opinions expressed. The intent of the drafters of the Evidence Code was to permit expert witnesses to reach their opinions and explain them in almost the same manner as they would in their laboratory or office. The sources relied on by the expert must be sufficiently trustworthy to make the reliance reasonable. Experts may rely, in part, upon hearsay in forming their opinions if that kind of hearsay is relied upon during the practice of the experts in a particular discipline when not in court.

63. Mr. Cranston's testimony does not purport to perform engineering calculations or design transmission infrastructure. His testimony addresses regulatory policy, the adequacy of FPL's planning process, the existence and general characteristics of alternative technologies, and the implications for ratepayers. These are matters squarely within the competence of a policy professional with experience in utility regulatory proceedings. Even under the Florida Evidence Code standard that FPL invokes (but that does not apply here), a witness may be "qualified as an expert by knowledge, skill, experience, training, or education," and is "not required to be licensed in the State of Florida in order to be qualified to offer expert testimony." *Fla. Laundry Servs. v. Sage Condo. Ass'n*, 193 So. 3d 68, 69 (Fla. 3rd DCA 2016).

64. The appropriate course is to permit Cranston to testify, allow FPL to conduct cross-examination regarding his qualifications and the basis for his opinions, and allow the Commission to assign appropriate weight based on the full record. Pre-hearing exclusion of Cranston's testimony based on FPL's characterization of his resume alone is premature,

inconsistent with the broad evidentiary standards governing this proceeding, and contrary to the Commission's established practice.

CONCLUSION AND RELIEF REQUESTED

65. For all of the foregoing reasons, FPL's Motion in Limine and to Strike should be denied in its entirety. FPL asks this Commission to apply standards of evidence that do not govern these proceedings, to invoke a federal preemption doctrine that has no application to the facts of this case, and to impose an unprecedented blanket prohibition on entire subject areas that are directly relevant to the statutory inquiry. Each of FPL's arguments, examined against the correct legal standards, fails.

66. EDF's testimony and exhibits that FPL seeks to exclude the Commission from considering are admissible and relevant to this proceeding and will help the Commission make sound decisions as to whether the AOP is needed consistent with the criteria set forth in the TLSA. The testimony addresses the adequacy of FPL's planning process, the existence of cost-effective alternative technologies, and the implications of the proposed project for Florida ratepayers—all matters squarely within the scope of the TLSA's need determination criteria. To the extent FPL disagrees with the opinions expressed or the weight to be afforded to particular evidence, the appropriate remedy is cross-examination at hearing, not pre-hearing excision of the testimony.

67. The Commission should not allow FPL to conceal information from the Commission, which any reasonably prudent person would want to hear and consider, and

silence the sole public interest intervenor in this docket. The Commission should accordingly deny FPL's Motion.

WHEREFORE, the Environmental Defense Fund, Inc., respectfully requests the Florida Public Service Commission to enter an order DENYING FPL's Motion in Limine and to Strike.

Respectfully submitted this 7th day of April, 2026.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail on this 7th day of April, 2026, to the following:

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Exhibit A

RESPONSES TO SPECIFIC INTERROGATORIES

1. State in complete detail every subject area in which You contend You are qualified to offer expert opinion in this proceeding, and for each such subject area identify all education, training, licenses, certifications, technical coursework, employment duties, project work, publications, modeling experience, and prior testimony or sworn statements on which You rely.

EDF's Response:

Subject areas of expertise relevant to this proceeding: Transmission planning (including federal transmission requirements and Florida-specific planning processes), electric utility operations, energy systems, power grid modernization policy, energy policy, energy technology, and the current state of Florida's power system

I have gained this expertise primarily from my employment duties since December 2020, when I joined Austin Energy, which is a municipal electric utility serving one of the largest cities in the United States. In my two roles at Austin Energy, I learned about electric utility operations including how to conduct grid planning through an approach that prioritizes safety, reliability, quality of service, and affordability. (Maintaining affordable service to customers, through whatever innovation needed, was particularly important given that Austin Energy is a community-owned, not-for-profit utility.) While I did not specifically work in the transmission planning department, I worked regularly with colleagues who guaranteed the reliability of the utility's distribution grid and learned numerous principles that they apply to their planning and analysis. These included colleagues in distribution design and Distributed Energy Resource (DER) integration. I led a long-term project to update Austin Energy's DER interconnection policies as the utility was undergoing a transformation from a primarily centralized power grid to one that was more distributed due to the proliferation of customer-owned generation and storage resources. This required a careful understanding of how these resources would interact with grid assets at higher volumes of deployment, influence grid architecture, and affect power reliability. It also involved a broader determination of how grid infrastructure would need to be upgraded at higher levels of DER deployment, especially if transformers risked becoming overloaded. I was involved in those reviews for new DER projects as well.

Despite the utility's naturally cautious approach to maintaining reliability, I learned at Austin Energy how to coordinate with a group of electric utility professionals that approach technology and operational transformation proactively rather than continuing to serve customer demand through traditional methods. The group I worked within did

not stop customers from adopting DERs; rather, it figured out how to adapt the system as best it could to accommodate them, while instituting some guardrails on DER operation to ensure safety and reliability. When a vendor wanted to integrate a new energy storage technology that did not fit the utility's existing method of interconnection, my group launched a demonstration project to test the technology in a controlled environment to determine what protocols were needed before allowing customers to deploy it. Similarly, I helped develop new protocols for the interconnection of electric vehicles with bi-directional charging capability that the utility had never seen before. My larger work group regularly applied a holistic approach to planning that sought to adapt to technological change. In the process of doing all this work, I acquired broad expertise in how the power grid operates (beyond the unique code of one utility) and processes for adapting to new reliability needs as they arise.

After I joined EDF in Florida in February 2024, I built on my foundation of electric utility experience to develop subject matter expertise in the Florida power sector. I performed a deep dive into the policies and regulations that shape power generation and transmission in the state today. I regularly analyze dockets at the Florida Public Service Commission including petitions for rate changes, the fuel cost recovery docket, and goal-setting for demand-side management programs under the Florida Energy Efficiency and Conservation Act (FEECA). I am familiar with Florida utilities' Ten-Year Site Plans, the Transmission Line Siting Act and Power Plant Siting Act, and how utilities secure approval to make capital investments in grid infrastructure. And because I have been involved in the stakeholder engagement process with the Florida Reliability Coordinating Council (FRCC) and Florida utilities as they propose plans for compliance with FERC Order No. 1920, and because I have co-led an extensive technical analysis of the Florida transmission system (i.e., the UF study), and because I have extensively studied both the long-term regional transmission planning principles and reforms mandated by Order No. 1920 *and* the current local and regional planning processes conducted in Florida (and how these local and regional processes interact), I now have subject matter expertise in Florida transmission planning and operation that few individuals outside of utility planning departments possess.

This expertise allowed me to advise the University of Florida (UF) team in putting together a robust model of the Florida transmission system to ensure more accurate, meaningful results. It helped me to better interpret the UF study results and point out key patterns or inconsistencies, based on what I know about the generation and transmission characteristics across different Florida utility service territories. It allowed me to write most of the UF study report submitted as Exhibit DC-2, including its numerous references to current transmission planning practices and Order No. 1920-mandated planning reforms in Florida. It allowed me to make significant contributions to three highly detailed sets of comments that EDF submitted to the FRCC and Florida utilities to help them improve their proposals for integrating Order No. 1920 into their

transmission planning processes, to achieve more cost-effective reliable outcomes for ratepayers. It has allowed me to make substantive public comments on transmission planning reform in multiple forums, including to the Florida Public Service Commission on multiple occasions.

Because the UF study is the first of its kind – as the first comprehensive, statewide transmission study that performs system optimization at the regional level rather than within each utility service territory – I have a deeper understanding of transmission system constraints and opportunities across the state, from a regional rather than strictly local context. I would argue that even fewer individuals have this particular knowledge. I have a better understanding than almost anyone of the UF study and how it informs regional and local transmission planning processes in Florida.

2. Describe in detail all experience You have in electric transmission planning, transmission reliability analysis, NERC standards compliance analysis, power-flow modeling, production-cost modeling, transmission project development, transmission cost estimation, transmission siting, rights-of-way acquisition, environmental permitting, and substation design.

EDF's Response:

See my response to INT-1, which describes in depth my experience and expertise that is relevant to this proceeding.

3. Describe in detail the basis for Your testimony that You are "testifying as an expert on appropriate principles and considerations to be followed by public utilities and public utility regulatory authorities in making planning and investment decisions for transmission and related utility power supply assets," including all facts, training, work experience, and analyses supporting that claim.

EDF's Response:

See my response to INT-1, which describes how this expertise is based on my work experience, including the projects I have led and the analyses I have performed (or helped perform) as part of my professional responsibilities.