

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No: 20250011-EI

Filed: May 15, 2025

FLORIDA ENERGY FOR INNOVATION ASSOCIATION'S MOTION TO INTERVENE

The Florida Energy for Innovation Association ("FEIA"), by and through its undersigned attorneys, hereby moves to intervene as a party to the above-captioned proceeding pursuant to chapters 120 and 366, Florida Statutes,¹ and rule 28-106.205, Florida Administrative Code ("F.A.C."). In support of its motion, FEIA states:

1. The name, address, and telephone number of FEIA are as follows:

Florida Energy for Innovation Association
1700 Flamingo Drive
Orlando, Florida 32803-1911
Contact@EnergyForInnovation.org
Phone: (407) 947-0877

2. All pleadings, orders, and correspondence should be directed to:

D. Bruce May
bruce.may@hklaw.com
Kevin W. Cox
kevin.cox@hklaw.com
Kathryn Isted
kathryn.isted@hklaw.com
Holland & Knight LLP
315 South Calhoun Street, Suite 600
Tallahassee, Florida 32301
Phone: (850) 224-7000

3. The agency affected by this Motion to Intervene is:

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

¹ All references herein to the Florida Statutes are to the 2024 edition thereof.

4. FEIA is a Florida not-for-profit association whose members are comprised of companies that are developing data centers in Florida (“Data Centers”) and their affiliates that are existing electric customers of FPL. These Data Centers are designed to support the substantial computational demands of the artificial intelligence (“AI”) and related technology industries that the State of Florida seeks to attract. They require a constant, reliable, and cost-effective electric power source to operate their computer servers, cooling systems, storage, and other essential infrastructure, and to conduct their AI businesses consistent with the needs of their customers.

5. All of the Data Centers that FEIA members are developing are located in FPL’s exclusive retail service territory and thus are reliant on FPL for electric power service. All FEIA members developing Data Centers are actively seeking to obtain electric service from FPL, and have entered into confidential agreements with FPL, pursuant to which they have paid FPL significant sums of money in exchange for FPL studying the configuration and cost of the facilities needed to supply electric power to their Data Centers.

6. All of the Data Centers have a projected new load of more than 25 MW and a projected load factor of 85 percent or more. Under FPL’s current tariffs, the Data Centers would take electric service from FPL under the rates, terms, and conditions of its General Service Large Demand-3 (“GSLD-3”) Tariff.

7. A substantial number of FEIA members are current retail electric customers of FPL.

8. Statement of Affected Interests. FEIA members received notice of the proceeding on February 28, 2025, when FPL filed a petition requesting a base rate increase along with supporting testimony.² In addition to requesting a base rate increase, FPL also proposes to close

² The Commission has scheduled final hearings on FPL’s rate petition for August 11-22, 2025.

its GSLD-3 Tariff to the Data Centers and other customers that have a projected load of 25 MW or more and a load factor of more than 85%, and require those customers to take service under a newly designed Large Load Contract Service (“LLCS”) Tariff rate structure and rate.

9. The rates FPL proposes to charge the Data Centers under its LLCS Tariff are more than 65% higher than FPL’s current rates under its GSLD-3 Tariff. In addition to increasing rates, the LLCS Tariff would condition essential electric service on the Data Centers executing a service agreement with a minimum term of twenty years, a minimum monthly “take-or-pay” requirements of not less than 90% of the customer’s contract demand, and additional security payments. None of those contractual terms and conditions are required under the current GSLD-3 Tariff.

10. In this rate case proceeding, the Commission will ultimately decide whether the rates, terms, and conditions under which FPL proposes to provide electric service to the Data Centers under the LLCS Tariff are appropriate, and whether to approve FPL’s other proposals to increase its base rates. The Commission’s decisions on the LLCS Tariff will directly impact the cost of electricity that FPL would supply to FEIA members’ Data Centers. Likewise, the Commission’s decisions on FPL’s request to increase base rates will directly impact the cost of electricity for FEIA members that are current FPL customers. Thus, the interests of all FEIA members will be directly affected by the Commission’s decisions in this proceeding.

11. The interests of FEIA members that are or will be directly affected by these proceedings are substantial, are of sufficient immediacy to entitle FEIA to participate in the proceeding, and are the type of interests that the proceeding is designed to protect. *See Ameristeel Corp. v. Clark*, 691 So. 2d 473, 477 (Fla. 1997); *Agrico Chem. Co. v. Dep’t of Env’tl Reg.*, 406 So. 2d 478 (Fla. 2d DCA 1981), *rev. denied*, 415 So. 2d 1359 (Fla. 1982) (to participate as a party in an ongoing proceeding an intervenor must demonstrate that it will suffer

a sufficiently immediate injury in fact that is of the type the proceeding is designed to protect.)

As noted, FEIA members developing Data Centers are actively seeking to obtain electric service from FPL, and have paid FPL significant sums of money to study the design and cost of the facilities needed to supply electric power to their Data Centers. Under the proposed LLCS Tariff, FEIA members' Data Centers would be foreclosed from taking electric service under FPL's GSLD-3 Tariff and instead relegated to a new and much more expensive and onerous LLCS rate structure. Thus, the substantial interests of those FEIA members will be directly, immediately, and substantially affected by the Commission's decisions regarding the proposed LLCS Tariff. Moreover, a substantial number of FEIA members are current retail electric customers of FPL whose electric utility bills will be directly impacted as a result of the Commission's decision regarding FPL's proposed base rate increase. Therefore, FEIA members have substantial interests in the Commission approving rates that FPL may charge that are fair, just, reasonable, and not unduly discriminatory. Those are precisely the type of interests that a general rate case proceeding like this is designed to protect.³

12. Associational Standing. FEIA has standing to represent the interests of its members if it shows that: (i) a substantial number of its members, although not necessarily a majority, are substantially affected by the agency's decisions; (ii) the intervention by the association is within the association's general scope of interest and activity; and (iii) the relief requested is of a type appropriate for an association to obtain on behalf of its members. *Fla. Home Builders Ass'n v. Dep't of Labor and Emp. Sec.*, 412 So. 2d 351, 353-54 (Fla. 1982); *Farmworker Rights Org., Inc. v. Dep't of Health & Rehab. Servs.*, 417 So. 2d 753, 754 (Fla. 1st DCA 1982); *see also*

³ In a general rate case like this, the Commission is charged with "fixing fair, just, and reasonable rates for each customer class." § 366.06, Fla. Stat. In so doing, the Commission "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." *Id.*

Order No. PSC-2025-0080-PCO-EI and Order No. PSC-2025-0079-PCO-EI, both issued in this docket on March 17, 2025.

13. FEIA satisfies all three of these “associational standing” requirements. First, as explained in paragraphs 8 through 11, if the Commission were to approve FPL’s petition, a substantial number of FEIA members will be substantially affected because their Data Centers would be prevented from taking electric service under FPL’s GSLD-3 Tariff and instead required to subscribe to a new LLCS rate structure that is much more expensive and contractually burdensome. Furthermore, a substantial number of FEIA’s members are current retail electric customers of FPL, and their electric utility bills will be directly impacted as a result of the Commission’s decision regarding FPL’s proposed base rate increase. *See* Order No. PSC-12-0229-PCO-EI, issued May 9, 2012 in Docket No. 120015-EI, *In re: Petition for Increase in Rates by Florida Power & Light Co.* (finding an FPL customer is substantially affected and has standing to intervene in FPL rate case). Second, intervention in this rate case proceeding fits squarely within FEIA’s stated purpose as set forth in its Articles of Incorporation, namely to represent its members’ interests “before, Florida governmental entities, including the Florida Public Service Commission, regarding the importance of governmental policies and regulatory or administrative actions that will ensure the Data Center Industry has access to fair, just, reasonable and non-discriminatory retail rates.” Finally, the relief requested—intervention and the assurance of fair, cost-effective, and non-discriminatory rates—will benefit all of FEIA’s members. Thus, it is the type of relief that is appropriate for an association to obtain on behalf of its members. For all of these reasons, FEIA is entitled to intervene in this proceeding to protect its members’ interest in receiving safe and reliable electric service at rates that are fair, reasonable, non-discriminatory, and at the lowest cost possible.

14. Disputed Issues of Material Fact. FEIA believes that the disputed issues of material fact in this proceeding will include, but will not be limited to, the following:

ISSUE: Are the increased base rates and charges for which FPL seeks the Commission's approval fair, just, reasonable, and non-discriminatory?

ISSUE: Are the proposed rates, charges, and rate structure for data centers under the LLCS Tariff fair, just, reasonable, and non-discriminatory?

FEIA reserves all rights to raise additional issues as the case progresses in accordance with the Commission's rules and the Order Establishing Procedure in this case.

15. Statement of Position. FEIA is an established association that, consistent with its stated purposes, seeks to intervene in this rate case to protect its members' substantial interests in having the Commission design and set rates for FPL that are fair, just, reasonable, non-discriminatory, and consistent with cost of service principles.

16. Statement of Conferral. Pursuant to Rules 28-106.204(3) and 28-106.205(2)(e), F.A.C., counsel for FEIA has conferred with FPL, PSC Office of General Counsel, Office of Public Counsel, Federal Executive Agencies, Florida Industrial Power Users Group, Southern Alliance for Clean Energy, Florida Retail Federation, and Walmart, Inc. in this case regarding this Motion to Intervene. FEIA can represent that FPL takes no position on FEIA's Motion at this time but reserves the right to challenge the standing of FEIA after the opportunity to take discovery on the merits of FEIA's standing claims. FEIA can also represent that Federal Executive Agencies and EVgo Services, LLC have no objection to FEIA's motion, and that PSC Office of General Counsel, Office of Public Counsel, Florida Industrial Power Users Group, Southern Alliance for Clean Energy, Florida Retail Federation, and Walmart, Inc. take no position to FEIA's Motion. The undersigned counsel has attempted to confer with counsel for Florida Rising, Inc., Environmental Confederation of Southwest Florida, Inc., League of United

Latin American Citizens of Florida, and Electrify America, LLC by e-mail yesterday and by telephone today to obtain their position regarding this motion, but counsel for those parties have not responded as of the time of this filing.

CONCLUSION AND RELIEF REQUESTED

WHEREFORE, FEIA respectfully requests the Commission to enter an order GRANTING this Motion to Intervene and requiring that all parties to this proceeding serve copies of all pleadings, notices, and other documents on the undersigned.

Respectfully submitted this 15th day of May, 2025.

HOLLAND & KNIGHT LLP

/s/D. Bruce May, Jr.

D. Bruce May, Jr.

Florida Bar No. 354473

bruce.may@hklaw.com

Kevin W. Cox

Florida Bar No. 034020

kevin.cox@hklaw.com

Kathryn Isted

Florida Bar No. 1005163

kathryn.isted@hklaw.com

315 South Calhoun Street, Suite 600

Tallahassee, Florida 32301

Telephone: (850) 224-7000

*Attorneys for Florida Energy for Innovation
Association*

CERTIFICATE OF SERVICE

I hereby certify a true and correct copy of the foregoing has been furnished by electronic mail this 15th day of May, 2025 to:

Jennifer Crawford, Shaw Stiller
and Timothy Sparks
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399
JCrawfor@psc.state.fl.us
SStiller@psc.state.fl.us
TSparks@psc.state.fl.us
discovery-gcl@psc.state.fl.us

John T. Burnett
Maria Jose Moncada
Christopher T. Wright
William P. Cox
Joel T. Baker
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420
John.t.burnett@fpl.com
Maria.moncada@fpl.com
Christopher.wright@fpl.com
Will.p.cox@fpl.com
Joel.baker@fpl.com

Kenneth A. Hoffman
Florida Power & Light Company
134 West Jefferson Street
Tallahassee, FL 32301
Ken.hoffman@fpl.com

Nikhil Vijaykar
EVgo Services, LLC
Keyes & Fox, LLP
580 California Street, 12th Floor
San Francisco, CA 94104
nvijaykar@keyesfox.com

Walt Trierweiler
Mary A. Wessling
Office of Public Counsel
c/o The Florida Legislature
111 W. Madison Street, Room 812
Tallahassee, FL 32399-1400
trierweiler.walt@leg.state.fl.us
wessling.mary@leg.state.fl.us

Jon C. Moyle, Jr.
Karen A. Putnal
Florida Industrial Power Users Group
Moyle Law Firm, P.A.
118 North Gadsden Street
Tallahassee, FL 32301
jmoyle@moylelaw.com
kputnal@moylelaw.com
mqualls@moylelaw.com

Danielle McManamon
Earthjustice
4500 Biscayne Blvd., Ste. 201
Miami, FL 33137
dmcnmanamon@earthjustice.org

Bradley Marshall
Jordan Luebke
Earthjustice
111 S. Martin Luther King Jr. Blvd.
Tallahassee, FL 32301
bmarshall@earthjustice.org
jluebke@earthjustice.org
flcaseupdates@earthjustice.org

Alicia Zaloga
EVgo Services, LLC
Keyes & Fox, LLP
1155 Kildaire Farm Road, Ste. 202-203
Cary, NC 27511

William C. Garner
Southern Alliance for Clean Energy
Law Office of William C. Garver, PLLC
3425 Bannerman Road
Unit 105, No. 414
Tallahassee, FL 32312
bgarner@wcglawoffice.com

Katelyn Lee & Lindsey Stegall
EVgo Services, LLC
1661 E. Franklin Avenue
El Segundo, CA 90245
Katelyn.Lee@evgo.com
Lindsey.Stegall@evgo.com

Steven W. Lee
Walmart, Inc.
Spilman, Thomas & Battle, PLLC
1100 Bent Creek Boulevard, Suite 101
Mechanicsburg, PA 17050
slee@spilmanlaw.com

Leslie Newton, Ashley George, Thomas
Jernigan, James Ely, Michael Rivera and
Ebony Payton
Federal Executive Agencies
139 Barnes Drive, Suite 1
Tyndall AFB, FL 32403
Ashley.George.4@us.af.mil
Ebony.Payton.ctr@us.af.mil
Leslie.Newton.1@us.af.mil
Michael.Rivera.51@us.af.mil
Thomas.Jernigan.3@us.af.mil
James.Ely@us.af.mil

Stephanie U. Eaton
Walmart, Inc.
Spilman, Thomas & Battle, PLLC 110
Oakwood Drive, Suite 500
Winston Salem, NC 27103
seaton@spilmanlaw.com

Robert E. Montejo
Electrify America, LLC
Duane Morris LLP
201 S. Biscayne Boulevard, Suite 3400
Miami, FL 33131-4325
REMontejo@duanemorris.com

James W. Brew, Laura Wynn Baker, Joseph
R. Briscar & Sarah B. Newman
Florida Retail Federation
Stone Mattheis Xenopoulos & Brew, PC
1025 Thomas Jefferson St, NW
Suite 800
Washington, D.C. 20007
jbrew@smxblaw.com
lwb@smxblaw.com
jrb@smxblaw.com
sbn@smxblaw.com

Stephen Bright
Jigar J. Shah
Electrify America, LLC
1950 Opportunity Way, Suite 1500
Reston, VA 20190
Steve.Bright@electrifyamerica.com
Jigar.shah@electrifyamerica.com

/s/D. Bruce May, Jr.

Attorney