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Public Service Commission of West Virginia
EFS Cover Sheet (G.O. 262.8)

Filing Date:	November 9, 2026
Case Number(s):	Case No. 26-0075-E-CN
Case Name(s):	Application for Certificate of Public Convenience and Necessity and Related Relief
Filing Party/Parties:	NextEra Energy Transmission MidAtlantic, Inc.
Title of Document:	Letter Filing Commission Request Exhibit 1
Attachments:	Commission Request Exhibit 1
Confidential Materials:	None
Filer Contact:	Christopher L. Callas 304.340.1251 ccallas@jacksonkelly.com
Copied Persons:	Service List
Certificate of Service:	The signature on the enclosed pleading certifies service on the date above by electronic mail to the parties on the Executive Secretary's service list(s) for the referenced dockets (if any) and any additional persons listed above.

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November 9, 2026

Via EFS

Karen Buckley, Executive Secretary
Public Service Commission of WV
201 Brooks Street
Charleston, West Virginia 25323

Re: Case No. 26-0075-E-CN
NextEra Energy Transmission MidAtlantic, Inc.

Dear Ms. Buckley:

NextEra Energy Transmission MidAtlantic, Inc. ("NEET MA") encloses for filing Commission Request Exhibit 1, which consists of two parts:

- A description of a pending settlement of the purported shareholder securities class action about which the Commission inquired, as excerpted from page 42 of the NextEra Energy, Inc. and Florida Power & Light Company quarterly report to the Securities and Exchange Commission filed on Form 10-Q for the quarter ended September 30, 2026 (see material in text box); and
- The "Lead Plaintiffs' Renewed Unopposed Motion for Preliminary Approval of Class Action Settlement" filed on October 20, 2026 in *Maha Jastram v. NextEra Energy, et al.*, Case No. 9:23-cv-80833-AMC in the United States District Court for the Southern District of Florida, in which the movants request approval of the settlement and provide background information on the claims asserted.

JACKSONKELLY PLLC

Please call with any questions or concerns. As always, we appreciate your assistance in this matter.

Sincerely yours,



Christopher L. Callas

Attachment

cc: Service List

NEE and FPL nuclear facilities each have accident property damage, nuclear accident decontamination and premature decommissioning liability insurance from NEIL with limits of $1.5 billion, except for Duane Arnold which has a limit of $50 million due to being placed in a deferred decommissioning status in 2020. All the nuclear facilities, except for Duane Arnold, also share an additional $1.25 billion nuclear accident insurance limit above their dedicated underlying limit. This shared additional excess limit is not subject to reinstatement in the event of a loss. All coverages are subject to sublimits and deductibles.

NEE also participates in an insurance program that provides limited coverage for replacement power costs if a nuclear plant is out of service for an extended period of time because of an accident. In the event of an accident at one of NEE's or another participating insured's nuclear plants, NEE could be assessed up to $183 million ($115 million for FPL), plus any applicable taxes, in retrospective premiums in a policy year. NextEra Energy Resources and FPL are contractually entitled to recover a proportionate share of such assessments from the owners of minority interests in Seabrook, Duane Arnold and St. Lucie Unit 2, which approximates $3 million, $3 million and $4 million, plus any applicable taxes, respectively.

Due to the high cost and limited coverage available from third-party insurers, NEE does not have property insurance coverage for a substantial portion of either its transmission and distribution property or natural gas pipeline assets. If FPL's storm restoration costs exceed the storm reserve, such storm restoration costs may be recovered, subject to prudence review by the FPSC, through surcharges approved by the FPSC or through securitization provisions pursuant to Florida law.

In the event of a loss, the amount of insurance available might not be adequate to cover property damage and other expenses incurred. Uninsured losses and other expenses, to the extent not recovered from customers in the case of FPL, would be borne by NEE and FPL and could have a material adverse effect on NEE's and FPL's financial condition, results of operations and liquidity.

Legal Proceedings – NEE, FPL, and certain current and former executives, are the named defendants in a purported shareholder securities class action lawsuit filed in the U.S. District Court for the Southern District of Florida in June 2023 and amended in December 2023 (2023 securities class action lawsuit) that seeks from the defendants unspecified damages allegedly resulting from alleged false or misleading statements regarding NEE's alleged campaign finance and other political activities. The alleged class of plaintiffs are all persons or entities who purchased or otherwise acquired NEE securities between December 2, 2021 and January 30, 2023. In September 2024, the class action lawsuit was dismissed with prejudice by the U.S. District Court for the Southern District of Florida. Following appeal, in November 2025, a panel of the U.S. Court of Appeals for the 11th Circuit reversed the dismissal and remanded the lawsuit for further proceedings. In June 2026, the named defendants and lead plaintiffs entered into a settlement agreement that, upon final court approval, would resolve the 2023 securities class action lawsuit. Under the terms of the settlement agreement, NEE would pay an aggregate of $150 million to settle all claims asserted in the 2023 securities class action lawsuit, inclusive of plaintiffs' counsel's fees and costs of administering the settlement. NEE's payment would be covered by insurance. Both the settlement amount and the offsetting expected insurance recovery amount are reflected on the condensed consolidated balance sheet as of September 30, 2026.

In June 2026, the plaintiffs filed a motion requesting the court to preliminarily approve the settlement agreement. In August 2026, the court denied the motion without prejudice, requesting additional information. In October 2026, the parties filed a renewed motion. There can be no assurance as to the ultimate outcome of the 2023 securities class action lawsuit, including no assurance that the settlement agreement will be given final approval by the court. If the settlement agreement is not given final approval by the court, the defendants plan to continue to defend the securities class action lawsuit vigorously.

NEE, along with certain current and former executives and directors are the named defendants in purported shareholder derivative actions filed in the 15th Judicial Circuit in Palm Beach County, Florida in July 2023, March 2024 and May 2025, and in the U.S. District Court for the Southern District of Florida in October 2023, November 2023 (which the plaintiff voluntarily dismissed), July 2024 and April 2026 (which the court dismissed without prejudice), seeking unspecified damages allegedly resulting from, among other things, breaches of fiduciary duties and, in the cases filed in the U.S. District Court for the Southern District of Florida, violations of the federal securities laws, all purporting to relate to alleged campaign finance law violations and associated matters. NEE also has received demand letters and books and records requests from counsel representing other purported shareholders and containing similar allegations. These demands seek, among other things, a Board of Directors investigation of, and/or documentation regarding, these allegations. In June 2026, the parties entered into a settlement agreement that, upon final court approval, would resolve the purported shareholder derivative actions and the related shareholder litigation demands and inspection demands. Under the terms of the settlement agreement, insurance carriers, on behalf of the named defendants, would pay to NEE an aggregate of approximately $16 million, less plaintiffs' and shareholders' counsel's fees, to settle all claims asserted in the purported shareholder derivative actions, litigation demands and inspection demands. NEE's payment would be covered by insurance. In addition, NEE would agree to implement or maintain certain corporate governance modifications or activities. Both the aggregate settlement amount and the offsetting expected insurance recovery amount are reflected on the condensed consolidated balance sheet as of September 30, 2026.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MAHA JASTRAM, Individually and on Behalf of All Others Similarly Situated, Plaintiff, v. NEXTERA ENERGY, INC., FLORIDA POWER & LIGHT COMPANY, JAMES ROBO, ERIC SILAGY and DAVID P. REUTER, Defendants.	Case No. 9:23-cv-80833-AMC CLASS ACTION

LEAD PLAINTIFFS' RENEWED UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

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I. Introduction

Lead Plaintiffs, the City of Hollywood Police Officers' Retirement System and the Pembroke Pines Firefighters & Police Officers Pension Fund ("Lead Plaintiffs"), on behalf of themselves and the proposed Settlement Class,[1] respectfully submit this Renewed Unopposed Motion for Preliminary Approval of Class Action Settlement ("Renewed Motion") under Fed. R. Civ. P. 23(e)(1). We address the specific issues raised by the Court in the August 7, 2026 Order Following Hearing on Motion for Preliminary Approval of Class Action Settlement: Denying Motion Without Prejudice and Authorizing Refiling (ECF No. 137) (the "Order").

II. Addressing the Court's Specific Requests

The Order requested specific information for the Court to evaluate whether it will grant preliminary approval of the Settlement and certify the class for settlement purposes. Lead Plaintiffs have taken significant time to investigate and research the Court's concerns to adequately address the issues raised by the Court. Each is addressed in turn.

1. The Size of the Putative Class

The Order specified that "any amended motion to certify a settlement class under Rule 23(b)(3) must provide actual, reliable information—drawn from case-specific material, discovery, and/or expert analysis—regarding the size of the proposed class." Order ¶4.

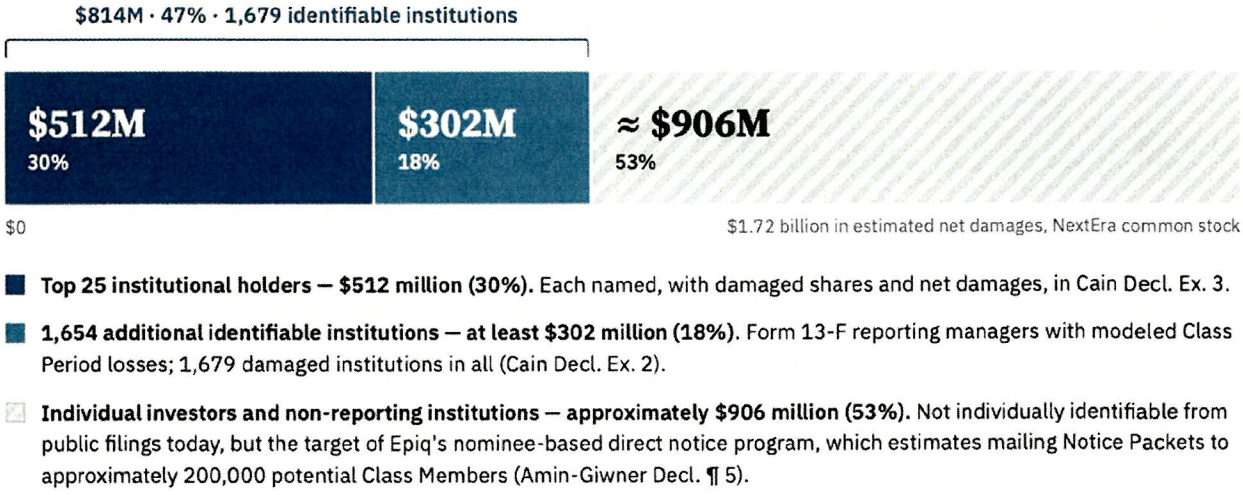
As explained in his declaration attached herewith, Lead Plaintiff's damages expert, Dr. Matthew Cain,[2] has estimated that 523.4 million of NextEra Energy, Inc.'s ("NEE") 2 billion shares of common stock outstanding during the proposed class period were allegedly damaged

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[1] Unless otherwise noted, defined terms used throughout this memorandum have the same definitions as provided in the attached Revised Stipulation and Agreement of Class Action Settlement (the "Revised Stipulation").

[2] Dr. Cain's credentials are set forth in his Declaration at ¶¶1-4.

(*i.e.*, were purchased after the alleged false statements were made and held through at least one of the alleged corrective disclosures). Declaration of Matthew D. Cain, Ph.D. ("Cain Decl.") ¶26. Based on a review and analysis for Form 13-Fs filed by institutional investors[3] for stock trading in NEE common stock, Dr. Cain determined that 1,679 identifiable institutional investors "suffered approximately $814 million in damages, or nearly 47% of the total net damages estimate," and that the top 25 of those institutions suffered $512 million of that $814 million in alleged damages. Cain Decl. ¶24. As is common in securities fraud class actions, institutional investors file claims reliably, and the top institutional investors represent a large proportion of total damages—as is the case here based on Dr. Cain's analysis as shown in figure 1 below:



So, approximately half of all estimated damages are accounted for by 1,679 identifiable institutional investors. The remaining half of estimated damages will be other, at present, non-identifiable institutions (because they do not file 13-Fs, Cain Decl. ¶16 n. 5) and individuals, all

[3] Institutional investors who have discretion to manage more than $100 million in assets are required to File Form 13-Fs quarterly with the Securities and Exchange Commission ("SEC") specifying their common stock purchases and sales. Cain Decl. ¶17.

of whom will be targeted for Notice under the notice plan.

As explained in the declaration of the proposed Claims Administrator, "a large majority of investors are beneficial purchasers whose securities are held in 'street name,' which means that the security is registered in the name of the purchasers' broker and not in their own name." Declaration of Stephanie Amin-Giwner on behalf of Epiq Class Action and Claims Solutions, Inc. in Further Support of Lead Plaintiff's Unopposed Motion for Preliminary Approval of Proposed Class Action Settlement ("Amin-Giwner Decl.") at ¶4. Defendants have already provided to the proposed Claims Administrator its list of record shareholders. That list reflects 16,547 record owners of NEE securities. *See Id.* ¶11. Some of those record shareholders are the brokers who maintain internal records to identify which shares belong to each individual (i.e., the beneficial owner). *Id.* ¶¶4, 7. However, some of those record owners may not have damaged shares (for example, a record owner who purchased NEE securities in 2010 and continues to hold them). They would have purchased shares prior to any alleged false statements and thus would not have suffered damages after the revelation of any alleged corrective disclosure.

To determine the precise number of investors who make up the approximately $906 million in common stock damages not accounted for by large institutions, the proposed Preliminary Approval Order authorizes the Claims Administrator to send requests to nominee banks requiring them to either (1) provide the Claims Administrator with a list of investors who purchased NEE securities during the class period or (2) send the notice to investors who purchased NEE securities during the class period.[4] *Id.* ¶¶7-8. Thus, the nominee banks are required, by Court order, to

[4] For example, an individual investor that has a brokerage account with Morgan Stanley may have purchased NEE common stock during the proposed class period but is not a record owner of the stock, *i.e.*, it is held by Morgan Stanley in street name. The Claims Administrator will send notice

provide this information to the Claims Administrator. Absent a Court order, nominee banks will not provide confidential information regarding their clients, including names, addresses and contact information, but will comply with an order of the Court requiring them to do so.

As explained by the Claims Administrator, using information derived from prior securities class action settlements, an estimated "200,000 potential Class Members" will be notified about the Settlement. *Id.* ¶6. This estimate is only of *potential* class members and is therefore overinclusive—because the claims administrator errs on the side of over inclusivity, individuals without a recognized loss will receive notice. *Id.* Based on Epiq's experience in other securities class action settlements, they expect approximately 40,000 claim forms to be submitted out of the approximately 200,000 claim forms they estimate they will send out. Of those 40,000 claims, Epiq estimates that 50% of these 40,000 claims are likely to represent valid claims, i.e., 20,000 claims. Amin-Giwner Decl. ¶6.

In conclusion, Dr. Cain can estimate that there are 523.4 million shares that were damaged. Based on 13(F) filings with the SEC, he has determined that there are 1,679 class members—all institutions—that represent approximately half of all estimated damages and can be specifically identified. The Claims Administrator, using its experience in other securities class actions, anticipates notifying 200,000 potential class members (including all 16,547 record holders provided to Epiq by NEE), and expects 40,000 of those to return claim forms, of which it estimates 50% of the returned claims will be valid claims. Amin-Giwner Decl. ¶6. Precise information about the exact number of claims made and how much of the estimated damaged shares those claims represent will be provided in Lead Plaintiffs' final approval reply. Given the large institutional

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to Morgan Stanley who will either provide the Claims Administrator with that investor's name, address, and email address, and the Claims Administrator will send the notice, or Morgan Stanley will then transmit the notice to that investor.

ownership and the frequency with which those institutions file claims, Lead Counsel expects the claims rate as measured by the damaged shares estimates to be high. *See* Nicholas D. Yavorsky, Chady Gemayel & Jessica Nguyen, *Approved Claims Rates in Securities Class Actions: Updated Evidence from 2015-2024 Rule 10b-5 Settlements*, Cornerstone Research (2026), *available at* https://tinyurl.com/ym9udykm (finding approved claims are approximately 44% of aggregate damages in median securities class action settlement and on average 52%); *see also In re LJ Int'l, Inc. Sec. Litig.*, 2009 WL 10669955, at *6 & n.3 (C.D. Cal. Oct. 19, 2009) (22,600 notice packets mailed out and 1,100 claims submitted); *Kendall v. Odonate Therapeutics, Inc.*, 2022 WL 1997530, at *3 (S.D. Cal. June 6, 2022) (36,189 notices mailed or emailed and 4,833 claims submitted).

2. Estimated Damages and Estimated Recoveries

The Court asked Lead Plaintiffs to "buttress and explain" their "theory of damage," "the projected estimated recovery of potential class members," and "the relationship between those projected sums and the requested $37.5 million in attorneys' fees anticipated to be sought in this case." Order ¶5.

Damages Theory and Estimated Damages

Lead Plaintiffs' theory is that Defendants' alleged misstatements and omissions of material fact concealed the legal, regulatory, and reputational risks facing NEE and FPL, thereby causing and maintaining artificial inflation in NEE's securities. In other words, under Lead Plaintiffs' theory, had investors known the truth during the class period, they would have paid less for NEE's securities than they otherwise did. Investors who thus purchased securities during the class period and held through the alleged corrective disclosures suffered damages. *See Jastram v. NextEra Energy, Inc.*, 161 F.4th 693, 705-06 (11th Cir. Nov. 26, 2025); Cain Decl. ¶¶7, 11.

To estimate damages, Dr. Cain performed an event study, "a statistical analysis often relied upon by academics both inside and outside of the litigation context to establish a causal connection between new company-specific news and movements in the market price of a company's securities" to determine the amount of artificial inflation in NEE's securities during the class period. Cain Decl. ¶¶7-9; *FindWhat Inv. Grp. v. FindWhat.com*, 658 F.3d 1282, 1313 (11th Cir. 2011) ("event studies are … 'used routinely in the academic literature to determine whether the release of particular information has a significant effect on a company's stock price.'").[5] Exhibit 1 to the Cain declaration "documents the total amount of inflation in NextEra Securities over the course of the Settlement Class Period." Cain Decl. ¶10. This is repeated in the proposed Plan of Allocation. *Id.* This is consistent with Eleventh Circuit precedent. *FindWhat Inv. Grp.*, 658 F.3d 1282 at 1315-16.

Using the event study's inflation estimate, and consistent with the statutory damages cap described in 15 U.S.C. § 78u-4(e), Dr. Cain then applied the "out-of-pocket" method to remove shares sold before the corrective disclosures and assess aggregate damages to NEE's common stock. Cain Decl. ¶¶11-15. Dr. Cain applied the same "out-of-pocket" framework to Corporate Units, Senior Notes, and options, taking account of the differences between those securities and common stock. *Id.* ¶19. For Senior Notes, for example, Dr. Cain accounted for movements in benchmark interest rates and corporate bond returns to remove non-recoverable price movements attributable to market-wide changes. *Id.* For options, Dr. Cain applied the Black-Scholes option

[5] Experts use event studies to isolate residual returns (*i.e.* returns not attributable to movements in the overall market or industry), determine what a given security's price would have been absent the artificial inflation, and thereby calculate simplified damages. Cain Decl. ¶8; *see also FindWhat*, 658 F.3d at 1313-14 (explaining event study's finding of 26.44% inflation during the class period which dissipated upon corrective disclosure, allowing a total class period damages calculation of $22.24 million).

pricing model, which considers the options' implied volatility, time to maturity, and the prevailing interest rate to calculate artificial inflation. *Id.*

Using these methods, Dr. Cain estimated simplified damages at approximately $3.11 billion. Cain Decl. ¶¶20-21. The proposed $150 million settlement represents 4.8% of that figure. *Id.* However, as is common in securities actions, Defendants would have argued that damages should be offset by profits investors made on any NEE shares purchased prior to the class period that were sold at artificially inflated prices during the class period (also called "netting"). Dr. Cain estimated netted damages of $1.72 billion.[6] Cain Decl. ¶23. The proposed settlement represents 9% of the estimated netted damages the class could have recovered if fully successful at trial. *Id.*

Estimated Recoveries

The Order asks Lead Plaintiffs to reconcile the $8.70 per share inflation calculation, the $3.29 in average damages per common share estimate, and the $0.28 per eligible share recovery figure used in the Notice. Order ¶5 & n.3. These three figures are consistent with one another and related, but measure different things.

The $8.70 per share figure represents the maximum artificial inflation per share, as estimated by Dr. Cain, which is based on the stock price declines on January 25, 2023 ($6.98) and January 31, 2023 ($1.72), meaning the total amount NEE's common stock declined on those two trading days. Cain Decl. ¶25. This figure does not represent how much each class member would recover in damages, however, which may be reduced based on a number of variables including (a) some damaged shares carry less than the total maximum inflation because their holders recovered a portion on sales; (b) some shares were purchased after the first alleged corrective disclosure and

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[6] Dr. Cain found that over 99% of all estimated losses were attributable to trading in NEE's common stock. Estimated net recoverable damages for securities other than common stock amounted to $9.9 million. Cain Decl. ¶23 n.8.

are thus not entitled to the full $8.70 in artificial inflation; (c) some shares are limited by the PSLRA's 90-day lookback cap on damages; and (d) some damaged shares are offset by gains (i.e., netting). Cain Decl. ¶26. After accounting for these factors, Dr. Cain estimated an average of $3.29 in potentially recoverable damages per share of common stock. *Id.* This represents the $1.72 billion estimated netted damages divided by the 523.4 million in estimated damaged shares. *Id.*

The $0.28 recovery per share figure is the $150 million Settlement Amount divided by the estimated 523.4 damaged shares. Cain Decl. ¶27. "[C]ompromise is the essence of settlement," *In re Checking Acct. Overdraft Litig.*, 830 F. Supp. 2d 1330, 1350 (S.D. Fla. 2011). The $0.28 per share recovery figure represents exactly this: payment of approximately 9% of netted damages. *Thorpe v. Walter Inv. Mgmt. Corp.*, 2016 WL 10518902, at *3, *10 (S.D. Fla. Oct. 17, 2016) (finding settlement which was "5.5% of th[e] best-case scenario" and "10% of the most likely damages" was "excellent" recovery).

In addition to common stock, the Settlement Class includes purchasers of two series of NextEra Corporate Units (the "preferred stock" referenced in the Order ¶5 and in the Notice), seven series of NextEra Energy Capital Holdings Senior Notes, and purchasers of call options and sellers of put options on NEE common stock. Stip. ¶1.19; Notice Table A; Cain Decl. Ex. 1. Lead Plaintiffs' theory of damages is the same for each: the price of every NEE Security reflected the same alleged misstatements and reacted to the same January 25 and January 31, 2023 disclosures. Cain Decl. ¶19.[7]

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[7] Dr. Cain applied an event-study methodology for each security, with adjustments for each security type's characteristics in order to determine the inputs for the out of pocket methodology, which he applied in equal measure to all security types: for the Senior Notes, his event study added controls for movements in benchmark interest rates and corporate bond returns, so that the effects of market-wide changes in rates or credit spreads are excluded from the inflation estimate; for the

The Relationship Between Projected Recoveries and Potential Attorneys' Fees

The Court requested clarification of the "relationship between" Class Members' projected recoveries and Lead Counsel's anticipated request for attorneys' fees. Order ¶5.

Lead Counsel anticipates requesting no more than 25% of the recovery obtained for the class. "[A] reasonable fee is based on a percentage of the fund bestowed on the class." *Blum v. Stenson*, 465 U.S. 886, 900 n.16 (1984). "[I]n common fund settlements ... an attorney's fee award 'shall be based upon a reasonable percentage of the fund established for the benefit of the class.'" *In re Equifax Inc. Customer Data Security Breach Litig.* 999 F. 3d 1247, 1278 (11th Cir. 2021) (citing and reaffirming *Camden I Condo. Ass'n, Inc. v. Dunkle*, 946 F.2d 768, 774 (11th Cir. 1991)).

The relationship between an individual's recovery and the attorneys' fees, then, is that each Class Member's recovery will "simulate the market" as if an "*ex ante*" contingency agreement had been negotiated to pursue their claims individually. *Wolff v. Cash 4 Titles,* 2012 WL 5290155, at

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Corporate Units, he added a control for preferred stock returns; and for options, he applied the Black-Scholes model to compute each series' actual price and its but-for price using NEE's actual and inflation-adjusted stock prices, holding implied volatility, time to maturity, and the risk-free rate constant. Cain Decl. ¶19, n.7. Because artificial inflation in the stock increases the value of a call and decreases the value of a put, call purchasers and put sellers are the option holders who paid too much or received too little. The resulting maximum inflation was $0.96 and $3.07 per Corporate Unit, between $0.89 and $7.92 per $1,000 of principal amount for the Senior Notes, and, for options, series-specific figures set out in Tables C and D of the Plan of Allocation. *Id.* ¶¶28-33; *id.* Ex. 1; Notice Table A. The estimated recovery figures in the Notice for these securities—$0.01 per Corporate Unit, $0.03 per $1,000 principal amount of Senior Notes, and approximately $0.02 per underlying share for options—are derived exactly as the $0.28 figure for common stock is: the portion of the Settlement Amount allocated to the security, divided by the estimated number of damaged units. Cain Decl. ¶¶28-33; Notice at 5. Because Form 13-F data do not cover these securities, their damages were modeled using the Proportional Two-Trader Model alone. Cain Decl. ¶17 n.6. Net recoverable damages for all NEE Securities other than common stock total approximately $9.9 million, less than one percent of the total. *Id.* ¶23 n.8. The Plan of Allocation applies a single methodology to every security; the differences in per-unit recovery reflect differences in measured inflation, not differences in treatment. *See infra* Section III.C.4 (discussing Fed. R. Civ. P. 23(e)(2)(D)).

*4 (S.D. Fla. Sept. 26, 2012) (internal quotation marks omitted). Had Lead Counsel taken on class members' cases and litigated them individually, it would have negotiated a contingency fee against the backdrop of market rates for such cases, which are generally at least 25%, if not higher. *See Checking Acct. Overdraft*, 830 F. Supp. 2d at 1366 n.35 (finding 30% fee to be "at the low end of the average in the private marketplace"); *see also Cabot E. Broward 2 LLC v. Cabot*, 2018 WL 5905415, at *4, 7 (S.D. Fla. Nov. 9, 2018) ("The percentage method of awarding fees in class actions is consistent with, and is intended to mirror, practice in the private marketplace where attorneys … regularly contract for contingent fees between 30% and 40% directly with their clients" and finding that while 25% was the "bench mark" at the time of *Camden I*, "[a]ccording to recent empirical studies, however, the average percentage fee award in this Circuit is now at or above 30%"). Here, the attorneys' fees assessed from any individual recovery will always be a small proportion—at most 25 cents for every dollar a Class Member is eligible to recover under the settlement.[8]

In this context, the aggregate attorneys' fees would necessarily be larger than any individual's recovery, but the proportion any single class member contributes to those fees is simply a percentage of their individual recovery. For these reasons, the percentage method selected by the Eleventh Circuit measures attorneys' fees against the size of the aggregate common fund, not against individual recoveries, and the same dynamic would be at play if counsel represented each class member individually on a contingent basis.[9] *See Camden I*, 946 F.2d at 774 ("'[A]

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[8] *Wolff*, 2012 WL 5290155, at *5 ("The average percentage award in the Eleventh Circuit mirrors that of awards nationwide—roughly one-third.").

[9] Defendants do not have a reversionary interest in the Settlement. After subtracting fees and costs, the entirety of the common fund will be paid to Class Members (until no funds or a *de minimis* sum remains). Accordingly, there is no possibility that attorneys' fees will exceed actual relief paid to the class.

common fund is itself the measure of success … [and] represents the benchmark on which a reasonable fee will be awarded' … In this context, monetary results achieved predominate over all other criteria.") (quoting H. Newberg, *Attorney Fee Awards* § 2.07 at 47 (1986)).

The following shows estimated common stock damages calculations for the plaintiff who filed the first complaint, Ms. Jastram, Lead Plaintiffs, and the top institutional holder of NEE common stock,[10] assuming a 100% claims rate:

	Wellington Mgmt.	**Pembroke Pines**	**Hollywood**	**Ms. Jastram**
Estimated Recognized Loss	$104,806,759	$258,660	$244,000	$435
Gross Share of Settlement	$9,127,019	$22,525	$21,249	$37.88
- Expenses[11]	$51,720	$128	$120	$0.21
- Fees[12]	$2,281,755	$5,631	$5,312	$9.47
Net Recovery	**$6,793,545**	**$16,766**	**$15,816**	**$28.20**

As illustrated above, each class member pays their share of the fees and expenses. Wellington Management (itself an investment manager that manages assets on behalf of pension funds, endowments, foundations, etc.), is estimated to have suffered approximately 6.08% of all estimated damages in the case. Cain Decl. Ex 3. It thus would receive approximately 6.08% of the gross settlement and pays 6.08% of the total expenses and fees incurred by the entire class. Its net estimated recovery of approximately $6.8 million represents approximately 6.5% of its estimated damages after all fees and expenses.

Lead Plaintiffs, the Retirement Funds, institutional investors with significant experience in

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[10] This estimate is based on publicly available Form 13F filings and represents the best information available to the parties at this time, but may vary substantially from any claim ultimately filed based on the specific timing and volume of trades in NEE securities which are presently unknown.
[11] Estimated at $850,000 (maximum cap of $350,000 in expenses sought plus $500,000 for notice and administrative costs).
[12] Assumes Lead Plaintiffs request and the Court awards a 25% fee.

PSLRA actions, fully support authorizing counsel to seek an attorney fee of no more than 25% of the Settlement Fund. *See* Hollywood and Pembroke Pines Decl. at ¶¶20-23.[13] They understand that counsel undertook the action on a fully contingent basis with no guarantee they would be paid or even recover their out-of-pocket costs, believe the settlement is an exceptional result achieved in an efficient manner which allows them, and other class members, to recoup some of their losses now rather than waiting years, and fairly rewards counsel for the excellent result they achieved. *Id.*

3. The Anticipated Fee Request

The Court has asked that the fee motion filed with final approval "should be filed contemporaneously with a current, detailed itemization of attorney/paralegal time." Order ¶6. Lead Counsel is committed to doing this when it files its fee motion, and to filing that motion on the Notice Date, as well as providing the Settlement Class with at least 90 days to review the fee request. *See* Revised Proposed Order of Preliminary Approval at ¶¶4, 7-16, 23; Revised Proposed Notice at 7.

4. Reimbursement of Lead Plaintiffs

Lead Plaintiffs have determined to not seek reimbursement for their time or expenses. The Settlement Agreement, Proposed Order, and Notice have all been revised to reflect this change. *See* Revised Proposed Notice at 6; Order ¶7(a). Hollywood and Pembroke Pines Decl. at ¶26.

5. Cy Pres

The Court asked for more information about the proposed cy pres distribution. Order ¶7(b). The intention of the Settlement is to distribute the entire Settlement Fund to the class on a pro rata

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[13] "Hollywood and Pembroke Pines Decl." refers to the Joint Declaration of David Strauss and James Fisher In Support of Lead Plaintiffs' Renewed Motion for Preliminary Approval, filed concurrently herewith.

basis. If everyone in the class who submits a claim form and has a claim accepted cashes their checks, there would be no need for a *cy pres* recipient. However, it is often the case that some individuals, despite numerous attempts to reach out, leave checks uncashed. The Claims Administrator may also hold back minimum funds to pay taxes on interest earned in the qualified Settlement Fund. If, after the main distribution and time for checks to clear has passed, there remains a balance in the Settlement Fund, the Claims Administrator will determine whether it is cost effective to make a second distribution. *See* Stipulation at ¶7.8. Only if that second distribution is not cost effective, or if a balance remains after that second distribution that it would not be cost effective to redistribute, the balance of funds (necessarily too small to distribute) would be donated. *Id.*

"Cy pres distribution is a common and proper method of distributing unclaimed settlement funds." *Esposito v. I.Q Data Int'l, Inc.*, 2021 WL 1561479, at *1 (M.D. Fla. Apr. 21, 2021) (approving University of Miami School of Law as cy pres recipient). Cy pres "funds 'should be distributed for a purpose as near as possible to the legitimate objectives underlying the lawsuit, the interests of class members, and the interests of those similarly situated.'" *Id.* (citation omitted). Here, the Investor Rights Clinic was selected because of its nexus to the issues in this case as well as its in-district location, nonprofit status, and the absence of any conflicts. *See Nelson v. Mead Johnson*, 484 F. App'x 429, 435 (11th Cir. 2012); *Checking Acct. Overdraft*, 830 F. Supp. 2d at 1355. The Investor Rights Clinic provides representation to individuals who have suffered investment losses because of broker misconduct and conducts educational programs to help the public (and in particular the elderly) detect fraud.[14] This litigation and the Investor Rights Clinic

[14] *See* University of Miami School of Law, *Investor Rights Clinic* (last visited Aug. 27, 2026), https://www.law.miami.edu/academics/experiential-learning/clinics/investor-rights/.

therefore share the same general purpose of protecting investors from losses caused by fraud. Therefore, the Investor Rights Clinic's "interests reasonably approximate those being pursued by the class," making it an appropriate recipient of any unclaimed funds that cannot be economically re-distributed to the Class. *Perkins v. Am. Nat. Ins. Co.*, 2012 WL 2839788, at *2 (M.D. Ga. July 10, 2012) (citation omitted).

6. Notice by Mail and Email

Per the Court's request, Order ¶7(c), the proposed Notice plan now contemplates providing notice by both postal mail and electronic mail if available after reasonable due diligence. *See* Revised Proposed Order of Preliminary Approval ¶4(a).

7. 90 Day Review

The Court requested the Settlement Class have "[a]t least 90 days to review the final approval papers and file any requests for exclusions and objections." Order ¶7(d). The revised proposed preliminary approval order provides a schedule that allows for class members to review all final approval papers, including Lead Counsel's motion for fees and expenses, for at least 90 days. *See* Revised Proposed Order of Preliminary Approval ¶¶4, 7-16, 23. In fact, Lead Counsel have committed to filing all final approval papers on the Notice Date, such that those papers will be available to the Class throughout the entire Notice Period. *Id.*

8. Objection Process

As the Court requested, Order ¶7(e), the Notice has been revised to direct class members to submit objections and exclusion requests directly to the Claims Administrator. Revised Notice at 19-20. Lead Counsel will aggregate any objections and exclusions and file them in a single filing no later than twenty-one days prior to the Settlement Hearing and will supplement the record if any additional objections or exclusions are filed late. Revised Proposed Order of Preliminary

Approval ¶14.

9. Untimely Objections

The Proposed Order, and Notice have been revised to make clear that the Court retains discretion to consider any late-filed objections or exclusions. *See* Order ¶7(f); Revised Proposed Order of Preliminary Approval ¶16; Revised Notice at 21.

10. Vacatur

The Stipulation has been revised to make clear that only a Court order can vacate, nullify, or render ineffective any Court order or judgment. Order ¶7(g); Stipulation ¶9.5.

III. The Court Will Likely Be Able to Certify the Settlement Class and Approve the Settlement Under Rule 23(e)(2)

A. The Governing Standard

Rule 23(e)(1)(B) provides that the Court "must direct notice in a reasonable manner to all class members who would be bound by the proposal if giving notice is justified by the parties' showing that the court will likely be able to: (i) approve the proposal under Rule 23(e)(2); and (ii) certify the class for purposes of judgment on the proposal." Fed. R. Civ. P. 23(e)(1)(B). The decision to direct notice therefore turns on two inquiries: whether the Settlement Class will likely satisfy Rule 23(a) and Rule 23(b)(3), and whether the Settlement will likely be found "fair, reasonable, and adequate" under the factors enumerated in Rule 23(e)(2). Order ¶2.

The Rule 23(e)(2) factors are: "(A) the class representatives and class counsel have adequately represented the class; (B) the proposal was negotiated at arm's length; (C) the relief provided for the class is adequate, taking into account: (i) the costs, risks, and delay of trial and appeal; (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims; (iii) the terms of any proposed award of attorney's fees, including timing of payment; and (iv) any agreement required to be identified under Rule

23(e)(3); and (D) the proposal treats class members equitably relative to each other." Fed. R. Civ. P. 23(e)(2).[15]

Because the Settlement Class is proposed for certification in connection with a settlement, the Court need not consider whether trial of the class's claims would present "intractable management problems" under Fed. R. Civ. P. 23(b)(3)(D), but the remaining requirements of Rule 23(a) and (b)(3) "demand undiluted, even heightened, attention." *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997). Lead Plaintiffs address each requirement below with citation to the record, as the Court directed. Order ¶2.

B. The Court Will Likely Be Able to Certify the Settlement Class

i. The Settlement Class

The Stipulation defines the Settlement Class as "all persons and entities who purchased or otherwise acquired NEE Securities, including purchasers of NEE call options and sellers of NEE put options, during the period from December 2, 2021, through February 1, 2023, inclusive (the 'Class Period'), and who were damaged thereby," subject to standard exclusions for Defendants,

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[15] Lead Plaintiffs' initial motion described the inquiry at this stage as whether the Settlement falls within the "range of possible approval." That formulation derives from the Manual for Complex Litigation (Fourth) § 21.632 (2004) and from decisions predating the 2018 amendments to Rule 23(e), and courts continue to use it as shorthand for the pre-notice inquiry. *See, e.g.*, *Matus v. Sport Squad, Inc.*, 2025 WL 2406315, at *2 (S.D. Fla. Aug. 11, 2025), *report and recommendation adopted*, 2025 WL 2409791 (S.D. Fla. Aug. 20, 2025) ("A proposed settlement should be preliminarily approved if it is within the range of possible approval or, in other words, if there is probable cause to notify the class of the proposed settlement.") (internal quotation marks omitted); Lead Plaintiffs did not intend it to suggest a diminished standard of review. Since December 1, 2018, however, Rule 23(e)(1)(B) itself supplies the governing test: notice is warranted where the parties' showing establishes that the Court "will likely be able to" approve the proposal under Rule 23(e)(2) and certify the class for purposes of judgment. Fed. R. Civ. P. 23(e)(1)(B); *see id.* advisory committee's note to 2018 amendment (the decision to send notice "should be based on a solid record supporting the conclusion that the proposed settlement will likely earn final approval"). Consistent with the Order ¶2, this renewed motion applies that standard and addresses each Rule 23(e)(2) factor directly.

their affiliates, and persons who timely opt out. Stip. ¶1.3; *see also id.* ¶1.19 (defining "NEE Securities" as "any and all securities of NEE, including common stock, corporate units (preferred stock), notes and options contracts, that are described in the Notice, at Table A.").

The Court noted that this definition "is not expressly specified in the operative complaint." Order ¶4 n.1. The Second Amended Class Action Complaint ("SAC") (ECF No. 68) asserts claims on behalf of "all persons and entities who purchased or otherwise acquired NEE securities during the Class Period," SAC ¶338. The Settlement Class definition tracks that allegation and specifies the securities it covers because Lead Plaintiffs' damages expert has determined that the price of each—common stock, Corporate Units, Senior Notes, and options—reflected alleged artificial inflation and reacted to the same corrective disclosures. Cain Decl. ¶19. The claims of every Settlement Class Member arise from the same alleged misstatements concerning the same subject matter over the same period, and the release is limited to claims arising from that factual predicate. Stip. ¶¶1.26 (defining "Released Claims"), 6.1–6.3.

The Settlement Class is defined by objective criteria — the security purchased, the dates of purchase and sale, and resulting loss — that can be applied to each claimant's transaction records. That is what Rule 23 requires. *Cherry v. Dometic Corp.*, 986 F.3d 1296, 1302–04 (11th Cir. 2021) (ascertainability requires only that the class be "adequately defined and clearly ascertainable" by reference to objective criteria; administrative feasibility is not a prerequisite).

ii. Rule 23(a)(1): Numerosity

Rule 23(a)(1) requires that "the class is so numerous that joinder of all members is impracticable." Fed. R. Civ. P. 23(a)(1); *Evans v. U.S. Pipe & Foundry Co.*, 696 F.2d 925, 930 (11th Cir. 1983) ("plaintiff need not show the precise number of members in the class."). Classes exceeding forty members generally satisfy the requirement. *Cox v. Am. Cast Iron Pipe Co.*, 784 F.2d 1546, 1553 (11th Cir. 1986); *Vega v. T-Mobile USA, Inc.*, 564 F.3d 1256, 1267 (11th Cir.

2009).

The record here establishes numerosity by orders of magnitude. During the Class Period, NEE had approximately two billion shares of common stock outstanding, of which Dr. Cain estimates 523.4 million were damaged. Cain Decl. ¶¶26-27. As described above, at least 1,679 institutional investment managers filing Forms 13F held damaged shares, representing approximately half of all estimated damages. *Id.* ¶24; *id.* Ex. 2. NEE's transfer agent has identified 16,547 holders of record of NEE securities. Amin-Giwner. Decl. ¶11. Joinder of even the identified holders would be impracticable. *See Evans*, 696 F.2d at 930 ("plaintiff need not show the precise number of members in the class"); *Zeidman v. J. Ray McDermott & Co., Inc.*, 651 F.2d 1030, 1039 (5th Cir. 1981) (accord, collecting cases involving nationally traded securities); *see also Ferron v. Kraft Heinz Foods Co.*, 2021 WL 2940240, at *16 (S.D. Fla. July 13, 2021) ("To satisfy this requirement, a plaintiff is not required to allege the exact number and identity of the class members … only that joinder is impracticable through some evidence or a reasonable estimate of the number of purported class members.").[16]

iii. Rule 23(a)(2): Commonality

Rule 23(a)(2) requires "questions of law or fact common to the class" — a "common contention" whose "truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke." *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011). Securities fraud class actions of this kind present such questions as a matter of course, because every class member's claim depends on the same alleged misstatements by the same speakers. *See Amgen Inc. v. Conn. Ret. Plans & Tr. Funds*, 568 U.S. 455, 459–60, 467–68 (2013).

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[16] *See also* 7 Newberg and Rubenstein on Class Actions § 22:68 (6th ed.) (collecting cases) ("with a huge number of *shares* outstanding, it is fair to assume that there are enough *shareholders* holding these shares to meet the numerosity requirement.") (emphasis in original).

The common questions here include: (a) whether the challenged statements concerning NEE's and FPL's political activities and associated legal and reputational risk were materially false or misleading, SAC ¶¶252–68; (b) whether Defendants acted with scienter; (c) whether the alleged misstatements were material to a reasonable investor; (d) whether the price of NEE Securities was artificially inflated as a result; (e) whether and to what extent that inflation was removed by the January 25 and January 31, 2023 disclosures; and (f) the proper measure of damages per share, unit, note, and option. Each is susceptible to class wide proof, and none turns on the circumstances of an individual purchaser. Cain Decl. ¶¶18-19 (event-study methodology applied uniformly across all Class Period purchasers).

iv. Rule 23(a)(3): Typicality

Typicality requires that "the claims or defenses of the representative parties are typical of the claims or defenses of the class." Fed. R. Civ. P. 23(a)(3). The requirement is met where there is "[a] sufficient nexus" between the representatives' claims and those of the class — where the claims "arise from the same event or pattern or practice and are based on the same legal theory." *Kornberg v. Carnival Cruise Lines, Inc.*, 741 F.2d 1332, 1337 (11th Cir. 1984). Factual variations among class members do not defeat typicality where the representatives' claims share the same essential characteristics. *Id.*

Lead Plaintiffs City of Hollywood Police Officers' Retirement System and City of Pembroke Pines Firefighters and Police Officers Pension Fund each purchased NEE common stock during the Class Period at prices Lead Plaintiffs allege were artificially inflated, and each held shares through the corrective disclosures. *See* ECF No. 25-5 ¶¶5, 7; ECF No. 25-6, at 3, 5; . Their claims rest on the same alleged misstatements, the same theory of falsity and scienter, and the same loss-causation theory sustained by the Eleventh Circuit, *Jastram*, 161 F.4th 693, as the claims of every other Settlement Class Member. The Plan of Allocation applies the same inflation-

per-security and dissipation methodology to Lead Plaintiffs' transactions as to everyone else's.[17] Cain Decl. ¶¶12-13, 18-19; Revised Notice at 13-16.

That Lead Plaintiffs purchased common stock rather than Corporate Units, Senior Notes, or options does not affect typicality. Purchasers of each security allege injury from the same misstatements and the same corrective disclosures; the securities differ only in the mechanics by which the alleged inflation was measured. Cain Decl. ¶19; *Walco Investments, Inc. v. Thenen*, 168 F.R.D. 315, 327 (S.D. Fla. 1996) (finding typicality among purchasers of varying investments that were each part of the same allegedly fraudulent scheme); *see also In re January 2021 Short Squeeze Trading Litig.*, 2023 WL 9035671, at *10-11 (S.D. Fla. Nov. 13, 2023).

v. Rule 23(a)(4): Adequacy

Adequacy asks (1) whether any substantial conflicts of interest exist between the representatives and the class, and (2) whether the representatives will adequately prosecute the action. *Valley Drug Co. v. Geneva Pharms., Inc.*, 350 F.3d 1181, 1189 (11th Cir. 2003); *Busby v. JRHBW Realty, Inc.*, 513 F.3d 1314, 1323 (11th Cir. 2008). The Court has indicated that it is satisfied as to the adequacy of the class representatives. Order ¶3.

There is no conflict between Lead Plaintiffs and the Settlement Class. Lead Plaintiffs' interest in maximizing the recovery for Class Period purchasers is identical to that of every other class member, and the Plan of Allocation distributes the Net Settlement Fund pro rata by Recognized Loss without preference for any claimant, including Lead Plaintiffs. Notice at 13-16 (describing Plan of Allocation). Lead Plaintiffs have elected not to seek any award under 15 U.S.C. § 78u-4(a)(4), so they will recover only their pro rata share of the Net Settlement Fund on the same

[17] As explained by Dr. Cain, over 99% of all damages are reflected in NextEra common stock. Cain Decl. ¶23 n.8.

terms as absent class members.

Lead Counsel Block & Leviton LLP, appointed by this Court under 15 U.S.C. § 78u-4(a)(3)(B)(v), ECF No. 63, together with proposed Liaison Counsel Klausner, Kaufman, Jensen & Levinson,[18] and appellate counsel Gupta Wessler LLP, have decades of experience prosecuting securities class actions and secured the Eleventh Circuit's reversal of the dismissal in this case. Block Decl. Exs. C-E (firm resumés). Their adequacy is addressed further under Rule 23(e)(2)(A) and Rule 23(g) below.

vi. Rule 23(b)(3): Predominance

Rule 23(b)(3) requires that "the questions of law or fact common to class members predominate over any questions affecting only individual members." Fed. R. Civ. P. 23(b)(3). Predominance "tests whether proposed classes are sufficiently cohesive to warrant adjudication by representation," and is "readily met in certain cases alleging consumer or securities fraud." *Amchem*, 521 U.S. at 623, 625. The inquiry asks whether the issues subject to generalized proof, and thus applicable to the class as a whole, predominate over those requiring individualized proof. *Klay v. Humana, Inc.*, 382 F.3d 1241, 1254 (11th Cir. 2004).

Every element of the Section 10(b) claim other than reliance and damages — material misrepresentation, scienter, a connection with the purchase or sale of a security, economic loss, and loss causation — is common to the Settlement Class and would be established (or refuted) by

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[18] Edelsberg Law, through its attorney at the time Christopher Gold, originally served as Liaison Counsel (ECF No. 63). Gold left Edelsberg Law before the hearing on the Motion to Dismiss. Florida based Klausner, Kaufman, Jensen & Levison, already counsel in the action as counsel to the Retirement Funds, continued in that role and is identified as "Liaison Counsel" in the proposed Stipulation of Settlement. *See* Stipulation at ¶1.17. Per the Court's Order, Lead Plaintiff will include time and expenses spent by Gold and Edelsberg Law in its final approval papers.

the same evidence for every member. *See Amgen*, 568 U.S. at 460–61; *Halliburton Co. v. Erica P. John Fund, Inc.*, 573 U.S. 258, 267 (2014) ("*Halliburton II*").

Reliance: Reliance is also subject to common proof under the fraud-on-the-market presumption of *Basic Inc. v. Levinson*, 485 U.S. 224, 247 (1988), which applies where the alleged misrepresentations were public, the security traded in an efficient market, and the plaintiff purchased between the misrepresentation and the corrective disclosure. *Halliburton II*, 573 U.S. at 268; *Local 703, I.B. of T. Grocery & Food Emps. Welfare Fund v. Regions Fin. Corp.*, 762 F.3d 1248, 1254 (11th Cir. 2014).

Damages: Damages are likewise susceptible to class wide measurement. Dr. Cain's event study yields a single inflation-per-share figure for each day of the Class Period, and the same methodology produces per-unit, per-note, and per-option figures for the other NEE Securities. Cain Decl. ¶19, Ex. 1; Notice Tables A, C, and D. Each class member's recognized loss is a mechanical function of that inflation ribbon and the class member's own purchase and sale dates — the standard out-of-pocket measure that courts have long applied class wide in Section 10(b) cases. That methodology is tied directly to Lead Plaintiffs' theory of liability and therefore satisfies *Comcast Corp. v. Behrend*, 569 U.S. 27, 34–35 (2013).

vii. Rule 23(b)(3): Superiority

A class action must also be "superior to other available methods for fairly and efficiently adjudicating the controversy." Fed. R. Civ. P. 23(b)(3). The pertinent considerations are class members' interests in individually controlling separate actions, the extent of litigation already commenced by class members, and the desirability of concentrating the litigation in this forum. Fed. R. Civ. P. 23(b)(3)(A)–(C). Manageability at trial under Fed. R. Civ P. 23(b)(3)(D) is not a consideration for a settlement class. *Amchem*, 521 U.S. at 620.

Each consideration favors class treatment. The record described in Section II.1 shows a

class consisting of 1,679 institutional investors and a far larger number of individual investors whose losses, measured by Dr. Cain's inflation figures, will frequently be in the tens or hundreds of dollars. Cain Decl. ¶18; *see* Section II.2 above (illustrating recoveries). No rational investor would bring an individual action to recover such sums, including attorneys' fees, discovery costs, trial costs and the substantial costs of expert testimony on market efficiency, loss causation, and damages that would be duplicated in every case. *See Amchem*, 521 U.S. at 617 ("The policy at the very core of the class action mechanism is to overcome the problem that small recoveries do not provide the incentive for any individual to bring a solo action.").

viii. Rule 23(g): Appointment of Class Counsel

Rule 23(g) requires the Court to appoint class counsel upon certification, considering counsel's work in identifying and investigating the claims, experience in class and securities litigation, knowledge of the applicable law, and the resources counsel will commit. Fed. R. Civ. P. 23(g)(1)(A). Block & Leviton has served as court-appointed Lead Counsel since October 2023, ECF No. 63, investigated and pleaded the claims, briefed and argued the motion to dismiss, prosecuted the successful appeal with Gupta Wessler, conducted the mediation with Klausner, Kaufman, Jensen & Levinson; undertook confirmatory discovery, and negotiated the Settlement. Block Decl. ¶¶9-10. Lead Plaintiffs respectfully request that the Court appoint Block & Leviton LLP as Class Counsel and Klausner, Kaufman, Jensen & Levinson as Liaison Counsel for the Settlement Class.

C. The Court Will Likely Be Able to Approve the Settlement Under Rule 23(e)(2)

1. Rule 23(e)(2)(A): Lead Plaintiffs and Lead Counsel Have Adequately Represented the Class

For the reasons set forth under Rule 23(a)(4) above, Lead Plaintiffs and Lead Counsel have adequately represented the Settlement Class. The Court has so indicated. Order ¶3. Two further

points bear on this factor. First, the Settlement was negotiated only after Lead Counsel had fully briefed and argued the motion to dismiss, prosecuted a successful appeal that produced a published decision on the loss-causation theory at the center of the case, and defeated a petition for rehearing en banc. Stip. at H–J. Counsel therefore negotiated with a well-developed understanding of the strengths and vulnerabilities of the claims. Second, following execution of the Term Sheet, Lead Counsel obtained and reviewed confidential, confirmatory discovery from Defendants on the topics at issue, and Lead Plaintiffs confirmed on the basis of that review that the Settlement is in the best interests of the Class. Stip. at Q; Block Decl. ¶¶10, 13; Hollywood and Pembroke Pines Decl. ¶¶11-16.

2. Rule 23(e)(2)(B): The Settlement Was Negotiated at Arm's Length

The Settlement is the product of a formal mediation before the Honorable Layn R. Phillips (Ret.), a former United States District Judge and one of the most experienced mediators of securities class actions in the country, assisted by Caroline Cheng and Niki Mendoza of Phillips ADR. Stip. ¶M; Declaration of the Hon. Layn R. Phillips (Ret.) at ¶¶10-16. The parties exchanged mediation statements, attended a full-day session on March 2, 2026 without reaching agreement, and continued negotiating through the mediators over the following days. *Id.* On March 5, 2026, Judge Phillips made a double-blind mediator's recommendation of $150 million, which both sides accepted on March 9, 2026. *Id.*; Block Decl. ¶10; Phillips Decl. ¶14. The parties then negotiated the Term Sheet (executed March 15, 2026) and the Stipulation over the following three months. Block Decl. ¶¶9-11.

The circumstances bear none of the indicia of collusion and Judge Phillips' Declaration confirms as much. Phillips Decl. ¶16. The negotiations occurred after the Eleventh Circuit's decision had substantially altered the litigation risk for both sides and shortly before Defendants

were required to respond to the Second Amended Complaint on remand. ECF Nos. 123, 124. Defendants were represented by Paul, Weiss, Rifkind, Wharton & Garrison LLP and Martínez-Cid Law, who contested the claims at every stage. The Settlement is non-reversionary: no portion of the Settlement Fund returns to Defendants absent termination, and unclaimed funds are redistributed to claimants. Stip. ¶7.8. Attorneys' fees were not negotiated with Defendants and are left entirely to the Court. Stip. ¶¶8.1, 8.3–8.4. Lead Plaintiffs will receive no payment beyond their pro rata share.

3. Rule 23(e)(2)(C): The Relief Provided to the Class Is Adequate

i. The costs, risks, and delay of trial and appeal

The $150 million Settlement must be measured against what the Class could realistically expect to recover through continued litigation, discounted for the risk of recovering nothing and the time required to recover anything. That analysis, which the Court asked Lead Plaintiffs to develop, Order ¶5, is set out in detail in Section II.2 above and summarized here.

The risks. The Class faced substantial risk of recovering far less, or nothing, had the case continued:

- *Pleading.* The Court dismissed the SAC on loss causation without reaching Defendants' falsity and scienter arguments. ECF No. 118. On remand, Defendants would have renewed their motion to dismiss on those grounds, contending that none of the eight challenged statements was pleaded with particularity to be false or misleading and that no Defendant acted with the requisite intent or severe recklessness. Stip. ¶P. Those arguments were fully briefed and unresolved. ECF Nos. 83, 85, 90.
- *Loss causation.* Although the Eleventh Circuit sustained Lead Plaintiffs' theory at the pleading stage, *Jastram*, 161 F.4th at 714, that theory—that Defendants' statements concealed the risk of the legal and reputational harm that materialized in January 2023—

would have been contested vigorously on a full record. Proving it would have required Lead Plaintiffs to establish through expert testimony that the January 25, 2023 decline was attributable to the alleged concealment rather than to other information disclosed that day, and that the January 31, 2023 decline was likewise attributable to fraud-related information. Cain Decl. ¶¶7-10 (describing disaggregation analysis). Defendants would have presented their own expert testimony attributing some or all of the declines to non-fraud factors, and a factfinder could have credited it. Had only the January 25, 2023 disclosure been sustained, or had the disaggregation analysis reduced the inflation attributable to it, recoverable damages would have fallen substantially. *Id.* ¶14.

- *Class certification.* Defendants would have likely opposed certification of a litigation class by attempting to rebut the *Basic* presumption through evidence that the challenged statements had no price impact. *Goldman Sachs Grp., Inc. v. Ark. Teacher Ret. Sys.*, 594 U.S. 113, 122–27 (2021).
- *Summary judgment, trial, and appeal.* Even a certified class would have faced summary judgment on scienter, a jury trial in which Defendants' explanation of the Matrix relationship and the January 2023 events would be presented through their own witnesses and experts, post-trial motions, and a further appeal—all with the possibility of no recovery. Securities class actions that reach trial are rare, and the outcomes are unpredictable.[19] *See Thorpe*, 2016 WL 10518902, at *3 (noting complex securities

[19] In 2023, for instance, a jury returned a unanimous defense verdict in a securities case, erasing $12 billion in potential damages. *See* Jody Godoy & Hyunjoo Jin, *Tesla's Elon Musk found not liable in trial over 2018 'funding secured' tweets*, Reuters (Feb. 4, 2023), https://perma.cc/M3SF-HAWL. This was despite the Court having granted summary judgment to plaintiffs on falsity and scienter, leaving loss causation and materiality as the only issues to be decided by the jury, and

litigation is "notably difficult and notoriously uncertain."). Defendants' counsel represented to the Court that Defendants' assessment was that there were no damages in this case,[20] a jury might have agreed.

- *Delay.* Continued litigation would have required, at a minimum, resolution of the renewed motion to dismiss, fact and expert discovery, class certification briefing and any Rule 23(f) proceedings, summary judgment, trial, and appeal—a process that would likely have extended for three to five years beyond the present, with class members receiving nothing in the interim. Block Decl. ¶12. The Settlement Fund, by contrast, will be funded within thirty days of preliminary approval and will begin accruing interest for the benefit of the Class (at approximately $450,000 per month at current rates). Stip. ¶4.1; Block Decl. ¶13.

ii. The effectiveness of the proposed method of distributing relief

The Court has indicated that it is satisfied with the proposed method of processing claims. Order ¶3. The Net Settlement Fund will be distributed through a claims process administered by Epiq Class Action & Claims Solutions, Inc., an experienced securities settlement administrator, under the supervision of Lead Counsel and the Court. Amin-Giwner Decl. ¶¶3, 16. Class members will submit a Proof of Claim with transaction information of the kind routinely available from brokerage statements; institutional investors and nominees may submit electronically. Notice at 12. Epiq will calculate each claimant's Recognized Loss under the Court-approved Plan of Allocation and distribute the Net Settlement Fund pro rata. *Id.* Funds remaining after the initial distribution will be redistributed to claimants who cashed their checks, and only after redistribution

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leading legal experts to confidently assert that "[e]verything is lined up for a plaintiffs' win" and that the only question was "exactly how much" the defendant would have to pay in damages. Jon Brodkin, *Musk on trial for "funding secured" tweet – experts predict he's going to lose*, Ars Technica (Jan. 13, 2023), https://perma.cc/ZJB5-ZEVQ.

[20] *See* ECF No. 135, Transcript of Hearing held July 30, 2026, at 69:1–10.

ceases to be cost-effective will any de minimis residual be paid to the proposed cy pres recipient — a mechanism that ensures the Fund is directed to class members to the maximum extent practicable. Stip. ¶7.8; Section II.5 above (addressing the cy pres recipient in accordance with Order at ¶7(b)). Nothing reverts to Defendants.

The notice program, described in Section I.1. above and in the Amin-Giwner Declaration, will reach class members through direct mail and email to record holders and to beneficial holders identified through the nominee process, publication in *The Wall Street Journal* and over PR Newswire, a dedicated settlement website, and a toll-free number. Amin-Giwner Decl. ¶¶8-15; Revised Proposed Order ¶4. It complies with each of the Court's directives in the Order ¶7(c)–(g). *See* Sections I.1.; I.6.-9.

iii. The terms of the proposed award of attorneys' fees, including timing of payment

Lead Counsel intends to apply for an award of attorneys' fees not to exceed 25% of the Settlement Fund and reimbursement of litigation expenses not to exceed $350,000, both payable solely from the Settlement Fund and both subject to the Court's independent determination. Stip. ¶8.1; Revised Notice at 5. Lead Counsel will file the fee application on the Notice Date, together with the detailed itemization of attorney and paralegal time the Court has directed, Order ¶6, so that the application will be available on the settlement website from the first day of the notice period and class members will have at least 90 days to review it before the deadline to object. Revised Proposed Order ¶¶4, 7-14, 23. The requested percentage does not exceed the Eleventh Circuit's benchmark range for common-fund awards, *Camden I*, 946 F.2d at 774–75, or the PSLRA's requirement that fees not exceed "a reasonable percentage of the amount of any damages and prejudgment interest actually paid to the class," 15 U.S.C. § 78u-4(a)(6). The relationship

between the requested fee and the projected benefit to class members is addressed in Section II.2 above, as the Court directed. Order ¶5.

iv. Agreements required to be identified under Rule 23(e)(3)

Rule 23(e)(3) requires the parties to "file a statement identifying any agreement made in connection with the proposal." Fed. R. Civ. P. 23(e)(3). In addition to the Stipulation and its exhibits, the parties have entered into a Supplemental Agreement Regarding Requests for Exclusion, which grants NEE the right to terminate the Settlement if class members who collectively purchased more than a specified number of shares of NEE Securities during the Class Period timely request exclusion. Stip. ¶9.3. Agreements of this kind are customary in securities class settlements; they protect a settling defendant against the possibility that the settlement will not deliver the peace for which it is paying, and the threshold is kept confidential so that it does not become a target for coordinated opt-out solicitation. Block Decl. ¶14. The Stipulation permits disclosure of the Supplemental Agreement to the Court, *id.*, and the parties will produce it for the Court's in-camera review upon request. There are no other agreements. *Id.*

4. Rule 23(e)(2)(D): The Settlement Treats Class Members Equitably

The Plan of Allocation treats every class member identically. Each claimant's Recognized Loss is calculated by applying the same inflation-per-security figures, derived from the same event study, to the claimant's own transactions, and the Net Settlement Fund is distributed pro rata according to each claimant's Recognized Loss as a proportion of all Recognized Losses. Notice at 17; Cain Decl. ¶¶27, 34. Purchasers of common stock, Corporate Units, Senior Notes, and options are treated under a single methodology; the differences in recovery per unit among those securities reflect differences in the measured inflation in each, not differential treatment. Cain Decl. ¶¶19, 28-33; Revised Notice at Tables A, C, D. The PSLRA's 90-day look-back applies uniformly. 15 U.S.C. § 78u-4(e). Lead Plaintiffs will receive only their pro rata share and have forgone any award

under § 78u-4(a)(4). No class member or group of class members receives preferential treatment, and the $10 minimum distribution threshold applies equally to all. Revised Notice at 17.

D. Notice is Reasonably Calculated to Reach Members of the Settlement Class

Because we believe that the Court will likely be able to certify the Settlement Class and approve the Settlement, Fed. R. Civ. P. 23(e)(1)(B) directs that notice issue "in a reasonable manner to all class members who would be bound by the proposal." The proposed notice program, including the form and content of the Notice, Summary Notice, and Proof of Claim, satisfies Rule 23(c)(2)(B) and the PSLRA, 15 U.S.C. § 78u-4(a)(7), and incorporates each modification the Court directed. Order ¶7(c)–(g). Those matters are addressed in Section I. above and in the Amin-Giwner Declaration.

IV. Conclusion

For the reasons set forth herein and in the Initial Motion, Lead Plaintiffs respectfully request the Court grant preliminary approval of the Settlement.

October 20, 2026

Respectfully submitted,

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Additional Counsel for Florida Retirement Funds and Proposed Liaison Counsel for the Class

CERTIFICATE OF SERVICE

I hereby certify that on this on the 20th day of October, 2026, a true and correct copy of the foregoing document was served by CM/ECF to the parties registered to the Court's CM/ECF system.

/s/ Robert D. Klausner
Robert D. Klausner

TABLE A: PROPOSED SCHEDULE

Event	**Deadline**
Deadline for mailing the Notice and Proof of Claim to Class Members ("Notice Date")	Within twenty-one (21) calendar days after the entry of Preliminary Approval
Deadline for publishing summary notice in the *Wall Street Journal* and over a national newswire service	Within seven (7) days of the Notice Date
Deadline for filing final approval papers	Within twenty-one (21) calendar days after the entry of Preliminary Approval
Deadline for submitting Proof of Claim and Release Forms	No sooner than ninety (90) calendar days after the Notice Date
Deadline for receipt of exclusion requests or objections	No later than twenty-one (21) calendar days prior to the Settlement Hearing
Deadline for filing reply papers	No later than seven (7) calendar days prior to the Settlement Hearing
Final Approval Hearing	Date to be determined by the Court which is at least one-hundred-and-forty (140) calendar days from entry of this Order