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VIA ELECTRONIC FILING

Adam J. Teitzman, Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: *Duke Energy Florida, LLC's Post Rule Development Workshop Comments;*
Docket No. 20190131-EU

Dear Mr. Teitzman:

Attached for filing on behalf of Duke Energy Florida, LLC's (DEF) are DEF's Post Rule Development Workshop Comments in regard to the above-referenced Docket.

DEF gave many comments at the Rule Development Workshop on June 25, 2019 related to Staff's draft rules and identified topics for discussion. Below we have summarized those comments and supplemented with additional detail. All paragraph references are to the draft rules as originally provided by Staff. We have also provided suggested edits to the rules in redline and strikethrough.

1. Draft Rule 25-6.030, Storm Protection Plan

Storm Protection Plan (SPP) –As a general proposition, DEF believes it and the other utilities should be required to develop and file, and the Commission should evaluate the SPPs at the Program level. As described further below, SPP review at the Program level will foster administrative efficiency and allow the Commission to meet the statutorily required 180-day review schedule; moreover, the Commission will retain the ability to review project level decisions in the annual cost-recovery docket.

An example of a Program that could be included in a future SPP is DEF's Targeted Undergrounding (TUG) program; the program will have many projects underlying it, but for purposes of reviewing the SPP, the Commission should focus on the company's plan for implementing the Program as a whole and not get bogged down in reviewing every future project planned within the ambit of the Program. Over time the specific projects within a

Program can be influenced by permitting, individual land owners, other system impacts and may be reprioritized or replaced by other projects entirely, but the Company will always strive to meet the program goals set out in the plan. In short, the fluid nature of the planning process does not lend itself to project-specific review of a 3- or 10-year planning document.

Additionally, focusing SPPs on the Program level will mitigate against constant “SPP modification” filings when projects within an approved Program are shifted or eliminated (or new projects are added within a Program). Merely shifting or adding new projects within an approved program should not constitute a modification to the SPP requiring Commission approval (of course, to the extent cost recovery is sought through the SPP cost recovery clause, the Commission and intervenors would retain the right to review the Company’s decision during the annual recovery clause docket). However, adding new Programs to the SPP would constitute a modification to the approved Plan requiring Commission action. This framework is very similar to the procedure used for setting DSM goals and programs in one docket (held every 5-years) with subsequent cost recovery for implementing the plans (and additional opportunity to review more granular decisions) through the annual Energy Conservation Cost Recovery (ECCR) clause.

Time Horizon and Level of Detail – The Rule should differentiate the level of detail required to be included in the SPP with more detail required in the first 3 years and significantly less detail beyond that time. Estimated rate impacts associated with the SPP should only be required for the first 3 years as required by the SPP statute.

The 10-year plan should identify Program investments, goals, methods for identifying and selecting targets and how they are prioritized. It should also include a general description of how Programs will deliver value and generate benefits.

The Program’s included in the first 3 years of the planning horizon should be based upon specific projects and have more detailed cost estimates; however, the SPP should still be approved at the Program level as specific projects may move in time or be removed or added over the 3-year timeframe (as discussed above). As such, DEF proposes that specific projects underpinning SPP Programs projected for completion within the immediate 3-year time horizon should not be included in the SPP filing, but rather made available to Staff in response to a standard Data Request concurrent with the filing of the SPP (similar to the standard DR1 response filed along with the annual TYSP).

Sub-Paragraph (2)(a): the meaning of the word “existing” – DEF believes that the word “existing” in this sub-paragraph should not be interpreted to preclude cost-recovery of new assets added to or supplementing existing transmission and/or distribution facilities. It should be interpreted as distinguishing between new assets needed to serve new load as opposed to new assets that serve the function of strengthening existing infrastructure.

Examples of new assets that would be allowed under this interpretation could be:

- A new pole that is designed to be more resilient

- New technology or equipment that makes restoration more efficient and therefore reduces outage times
- A new line segment designed to increase the reliability of existing infrastructure

Examples of new assets that would not be allowed through the Storm Cost Recovery Clause are:

- New infrastructure to serve a new development
- New infrastructure extending beyond an IOU's service territory

A different interpretation could result in too narrow a definition of "Storm protection project" (please note, as discussed above, DEF believes the Commission should require plans at the Program level, not the project level) resulting in a failure to capture solutions intended to provide storm protection benefits but potentially requiring the installation of "new" (i.e., non "existing") assets or deployment of new technologies that do not specifically fit into the definition of transmission and distribution facilities. The Rule should be agnostic as to what asset is being invested in and more focused on the intended benefit of the new asset, so long as the asset is being added to existing Transmission or Distribution Facilities.

Sub-Paragraph (2)(b): definition of "transmission and distribution facilities" – The definition as currently framed is too narrow and should be expanded to encompass all transmission and distribution facilities; as mentioned above the Rule should be drafted to focus on the intent of the investment rather than the assets being installed. Additionally, the programs allowed for recovery should be broad enough that they may not necessarily fit into one of the discreet buckets identified in the draft rule but that harden the existing infrastructure in a way that will reduce outages and/or outage times in extreme weather events. One means of accomplishing this could be to reference the FERC accounts associated with Transmission (350-359), Distribution (360-374), and General (389-399).

2. Draft Rule 25-6.031, Storm Protection Plan Cost Recovery Clause

In general, a better understanding of the required scope will be critical to process efficiency.

Paragraph (6): Recoverable Costs – This language should more closely track the language used in other recovery clauses.

SPP costs recoverable through the clause shall include all costs or expenses incurred by an electric utility in development, administration and execution of its Storm Protection Plan. Examples of the types of costs recoverable through the clause include:

- In-service capital investments, including the electric utility's last authorized rate of return on equity thereon calculated at the utility's weighted average cost of capital using the return on equity most recently approved by the Commission in a rate case or settlement order.
- Depreciation Expense.

- Operation and maintenance expenses.
- Direct taxes and fees.

However, costs recovered through the clause shall not include costs recovered through the utility's base rates or any other cost recovery mechanism.

Paragraph (8) – As discussed above in reference to proposed Rule 25.6.030, the SPP should be approved at the Program level. Changes in timing of projects underlying the 3-year plan or the addition or removal of specific projects within an approved Program should not constitute a change or modification in the approved SPP. For example, if future TUG projects are recovered through the clause we would propose the FPSC approve the TUG Program costs as appropriate for recovery through the Clause, not the individual projects themselves. The various projects that are undertaken pursuant to that Program may then change from year to year based on several operational/situational factors. These changes are to be expected and should not require modification of the SPP. Alternately, if a completely new Program was developed, the IOU would need to submit this Program for approval to be included in a modified SPP (i.e., this approval should not require submittal of an entirely new SPP but rather a simple modification to the existing SPP). Once requested for inclusion in the SPP, costs associated with the new Program can be included for recovery subject to ultimate FPSC approval of the Program.

Sub-Paragraph (9)(a) – This subparagraph should make clear that the Status Report should discuss projects completed pursuant to an approved SPP Program in the past year and planned for completion in the coming year; it should not require an update on each project planned pursuant an approved SPP Program in either the more-detailed 3-year or broader 10-year planning horizons.

Sub-Paragraph (9)(b) – Delete each reference to “rate impacts” – rate impacts should not be calculated on a “per project” or “per program” basis, but should rather be based on the annual revenue requirements of the SPP as a whole. There is no need for rate impact calculations in the section related to discrete project status reports.

Add Paragraph (10) - Recovery of costs under this rule does not preclude the utility from recommending inclusion of such costs in base rates in a subsequent rate proceeding. In conjunction with a rate case or rate settlement, a utility should have the option of shifting programs from clause recovery to base rate recovery or base rate recovery to clause recovery, provided that no cost recovered through base rates can also be recovered through the clause.

3. Comments on whether existing PSC rules should be amended or repealed

Ideally, the Storm Hardening Rule (25.6.0342) should be repealed and any requirements that need to continue should be rolled into the SPP Rule (25.6.030). The over-arching goal should be to provide for an efficient process that accomplishes the Legislature's intent. If this cannot be completed in the initial drafting of the new SPP Rule the Commission should direct Staff to undertake this subsequent rule making immediately following adoption of the initial Rules.

4. Additional Topics:

- a. What process should be utilized by the Commission to consider petitions to approve utility Storm Protection Plans? What should be the timing of Storm Protection Plan filings and related Commission actions?

Section 366.96(6), requires IOUs to file updated SPPs at least every 3 years from the date of approval of the previous SPP. The Commission has existing requirements for IOUs to file Storm Hardening Plans at least every 3 years. Beyond timing, there are many other similarities in the two plans and DEF believes there are significant efficiencies to be gained by merging the requirements of the two plans and only having one proceeding.

There is no need for the Commission to specify when a SPP must be filed within a given year beyond the requirement that the IOU file at least every 3 years as required by statute. For the first SPP filing, it may make sense for some IOUs to file sooner than others based on unique timing issues or other activities. To the extent the Commission finds that there needs to be a “file by date” included in the SPP Rule, it should be a “file by no later than” date and should give the IOU’s enough time to incorporate the requirements of the final Rule.

The Plan should have detailed program cost information for the next 3-year time horizon and a Program plan for the full 10-year period. Estimated rate impacts should be included for the first 3 years of the Plan which will be subject to change based on actual costs incurred and changes in sales forecasts. The Commission should hold a hearing and take action on the Plan within 180 days of the filing.

- b. How, if at all, are the ten storm preparedness initiatives established by Order No. PSC-06-0351-PAA-EI, issued April 25, 2006, in Docket No. 060198-EI, impacted by SB 796?

To the extent the Commission sees value in specific initiatives continuing to be reported on, DEF recommends inclusion in the SPP. Specifically, initiatives 3 and 4 should be incorporated into the SPP. Initiative 5 is no longer needed. Additionally, initiatives 9 and 10 are mature and may no longer need to be reported.

- c. How, if at all, are the pole inspection and reporting requirements established by Order No. PSC-06-0144-PAA-EI, issued February 27, 2006, in Docket No. 060078-EI, impacted by SB 796?

The requirements of this Order should be met by including a section in the SPP that details the IOU’s wood pole inspection program consistent with what is included in the current Hardening plan.

- d. How, if at all, will the existing PSC rules included in this notice of rulemaking workshop be impacted by SB 796 and the new rules on Storm Protection Plans and the Storm Protection Plan Cost Recovery Clause?

To the extent specific requirements associated with the existing Storm Hardening Rule remain necessary, they should be folded into the SPP Rule; any requirements found in the current rules that are either duplicative or no longer necessary should be repealed. There will likely be impacts to how CIAC due is calculated on some future projects. For example, if a customer is requesting undergrounding and they are currently scheduled for hardening work under an approved SPP, there will likely need to be consideration of the avoided costs of that hardening included in the CIAC calculation.

- e. What should be the timing of utility Storm Protection Plan Cost Recovery Clause filings and related Commission actions, including the annual hearing?

To the extent the Commission sees value in having a timeline different than that of the existing cost recovery clause filings, DEF would recommend using a timeline like that used for the Nuclear Cost Recovery clause which would be a March true-up filing and a May A/E and Projection filing.

The annual hearing could be held in September or October.

DEF would also support a schedule that mirrors that of existing cost recovery clauses.

- f. How, if at all, does SB 796 impact the method of recovery of vegetation management expenses?

It gives the Utility the option to recover incremental vegetation management costs through the new clause. This could mean that in a rate case vegetation management costs could be shifted in full to the clause or a company could propose that certain costs be included in base rates and others in the new clause.

- g. What process should be utilized by the Commission to ensure that Storm Protection Plan costs do not include costs recovered through a utility's base rates?

DEF does not believe a specific process should be included in the new SPP Rule associated with the requirement that costs recovered through the SPP Clause not also be recovered through base rates or another clause. Depending on the type of cost under consideration and the specific facts at the time of the request, different costs may require different support to demonstrate what is appropriate for recovery through the clause.

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- h. For billing purposes, how will the factors established in the Storm Protection Plan Cost Recovery Clause be treated?

The billing factors will be established in a manner very similar to that of ECRC and ECCR. As part of the annual filings the IOUs will develop revenue requirements for the forecasted year. These revenue requirements will be allocated to the rate classes in a manner consistent with that most recently approved by the Commission. Rates will then be developed and included in the non-fuel energy or demand component of customer bills just like it is done for ECRC and ECCR. As is the case with all clause rates, the SPP Cost Recovery Clause rates will be reflected in the BA-1 Tariff.

Thank you for your assistance in this matter. Please feel free to call me at (850) 521-1428 should you have any questions concerning this filing.

Sincerely,

/s/ Matthew R. Bernier

Matthew R. Bernier

MRB/cmkn
Enclosure

1 **25-6.030 Storm Protection Plan.**

2 (1) Purpose and Procedures. The objective of a utility’s Transmission and Distribution
3 Storm Protection Plan (Storm Protection Plan) is to strengthen electric utility infrastructure to
4 withstand extreme weather conditions through overhead hardening and increased resilience of
5 the utility’s existing electric transmission and distribution facilities, undergrounding of electric
6 distribution facilities, and vegetation management, thereby reducing outage times and
7 restoration costs associated with extreme weather events and improving overall service
8 reliability. Each electric public utility must file a petition with the Commission for the
9 approval of a Storm Protection Plan that covers the utility’s immediate 10-year planning
10 period. Each utility must file, for Commission approval, an updated Storm Protection Plan at
11 least every 3 years.

12 (2) Definitions.

13 —(a) “Storm protection program” – For purposes of this rule, storm protection program
14 is a group of storm protection projects that are of a similar nature and when taken together
15 enhance the utility’s existing infrastructure for the purpose of reducing restoration costs,
16 reducing outage times, and improving overall service reliability.

17 (b) “Storm protection project” – For purposes of this rule, storm protection project means
18 the enhancement, replacement, or undergrounding of a specified portion of ~~existing~~
19 electric transmission or distribution facilities for the purpose of reducing restoration costs,
20 reducing outage times, and improving overall service reliability of the utility’s existing
21 infrastructure.

22 (bc) “Transmission and distribution facilities” – For purposes of this rule, transmission and
23 distribution facilities include all electric public utility owned facilities included in FERC
24 standard of accounts for Transmission (350-359), Distribution (360-374) and General (389-
25 399) ~~poles and fixtures, towers and fixtures, overhead conductors and devices, land and land~~
rights, roads and trails, underground conduits, and underground conductors.

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1 (3) Contents of the Plan. Each utility's Storm Protection Plan must contain a description of
2 how the proposed plan will ~~replace and~~ strengthen the utility's ~~existing~~ transmission and
3 distribution facilities ~~existing infrastructure~~ and manage vegetation ~~in order to~~ reduce
4 restoration costs and outage times associated with extreme weather events and enhance overall
5 service reliability. Each 10-year Storm Protection Plan must contain the following
6 information:

7 (a) A description of the criteria used to select and prioritize proposed storm protection
8 programs and projects.

9 (b) A description of the utility's proposed storm protection program, how they are
10 projected to strengthen the utility's existing transmission and distribution infrastructure and
11 how the program would result in reduction in outage times and restoration costs due to
12 extreme weather events.

13 (c) A description of the utility's service area, including areas prioritized for enhancement
14 and any areas where the utility has determined that the strengthening of the utility's existing
15 transmission and distribution facilities would not be feasible, reasonable, or practical. Such
16 description must include a general map, number of customers served within each area, and the
17 utility's reasoning for prioritizing certain areas for enhanced performance and for designating
18 other areas of the system as not feasible, reasonable, or practical.

19 (d) A description of the Vegetation Management program elements to include the general
20 schedule of VM work to be performed. Also include information on how any grid areas that
21 may be addressed more or less frequently are selected and prioritized.

22 (e) A 10-year scope, and projected range of cost and benefits should also be included.

23 (f) Any other factors the utility requests the Commission to consider.

24 (4) For the first 3 years of the Storm Protection Plan the following information must be
25 available upon request:

~~(b)~~ (a). A description list of each proposed known storm protection project that includes:

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- 1 1. The projected construction start and completion dates;
- 2 2. Estimated cost of the projects including both capital and operating expenses;
- 3 _____
- 4 3. A description of any alternative storm protection projects that were considered for
 5 that location, including the reasons for not selecting the alternative;
- 6 ~~3. A description of how the proposed storm protection project is projected to strengthen~~
 7 ~~the utility's existing transmission and distribution facilities and an estimate of the resulting~~
 8 ~~reduction in outage times and restoration costs due to extreme weather events;~~
- 9 4. A description of the affected existing facilities, including number and type(s) of
 10 customers served, historic service reliability performance during extreme weather events, and
 11 how this data was used to prioritize the proposed storm protection project;
- 12 ~~5. A cost estimate including capital and operating expenses, both fixed and variable;~~
- 13 ~~6. A comparison of the costs identified in (e) and benefits identified in (c); and~~
- 14 ~~7. Any other factors the utility requests the Commission to consider;~~
- 15 ~~(e) A description of the utility's service area, including areas prioritized for enhancement~~
 16 ~~and any areas where the utility has determined that the strengthening of the utility's existing~~
 17 ~~transmission and distribution facilities would not be feasible, reasonable, or practical. Such~~
 18 ~~description must include a general map, number of customers served within each area, and the~~
 19 ~~utility's reasoning for prioritizing certain areas for enhanced performance and for designating~~
 20 ~~other areas of the system as not feasible, reasonable, or practical;~~
- 21 (db) A description of each vegetation management activity including:
- 22 1. The projected locations and frequency;
- 23 2. The projected miles of affected transmission and distribution overhead facilities; and
- 24 3. The estimated annual labor and equipment costs for both utility and contractor
 25 personnel; and
4. An estimate of how the vegetation management activity will reduce outage times and

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Commented [BM1]: DEF believes the SPP should be presented and analyzed at the Program level, therefore we propose striking this subsection. If it is to remain, we propose replacing "project" with "Program"

Commented [BM2]: Proposed modification included in (3)(e), above

Commented [BM3]: Language has been moved to (3)(f), above

Commented [BM4]: Language has been moved to (3)(c), above

1 restoration costs due to extreme weather events specific to the portfolio of locations.
2 (ec) An estimate of the annual jurisdictional revenue requirements and resulting rate
3 impacts for ~~each~~ the first 3 years of the Storm Protection Plan for residential, commercial, and
4 industrial customers.

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6 *Rulemaking Authority 366.96, FS. Law Implemented 366.96, FS. History–New _____.*

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1 **25-6.031 Storm Protection Plan Cost Recovery Clause.**

2 (1) Purpose. The purpose of this rule is to establish a recovery mechanism for costs
3 prudently incurred to implement an approved Transmission and Distribution Storm Protection
4 Plan (Storm Protection Plan).

5 (2) After the Commission has issued a final order approving a utility's Storm Protection
6 Plan, a utility may file a petition for recovery of associated costs through the storm protection
7 plan cost recovery clause. A utility's petition shall be supported by testimony that provides
8 details on the annual activities and costs that are the subject of its petition.

9 (3) An annual hearing will be conducted to determine the reasonableness of projected
10 Storm Protection Plan costs, the prudence of actual Storm Protection Plan costs incurred by
11 the utility, and to establish Storm Protection Plan cost recovery factors.

12 (4) Deferred accounting treatment. Storm Protection Plan costs shall be afforded deferred
13 accounting treatment at the 30-day commercial paper rate, except for projected costs that are
14 recovered on a projected basis in one annual cycle.

15 (5) Subaccounts. To ensure separation of costs subject to recovery through the clause, each
16 utility filing for cost recovery shall maintain subaccounts for all items consistent with the
17 Uniform System of Accounts prescribed by this Commission, pursuant to Rule 25-6.014,
18 F.A.C.

19 (6) Recoverable costs.

20 (a) Storm Protection Plan costs recoverable through the clause shall include all costs or
21 expenses incurred by an electric utility in development, administration and execution of its
22 Storm Protection Plan, examples of the types of costs recoverable through the clause include:

23 1. In-service capital investments, including the electric utility's last authorized
24 rate of return on equity thereon calculated at the utility's weighted average cost of
25 capital using the return on equity most recently approved by the Commission in a

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1 rate case or settlement order;

2 2. Depreciation Expense;

3 3. Operation and maintenance expenses; and

4 4. Direct taxes and fees.

5 (b) Recoverable costs shall not include costs recovered through the utility's base rates
6 or any other cost recovery mechanism.

7 ~~(b) The utility may recover the annual depreciation expense on capitalized Storm~~
8 ~~Protection Plan expenditures using the utility's most recent Commission approved~~
9 ~~depreciation rates. The utility may recover a return on the undepreciated balance of the costs~~
10 ~~calculated at the utility's weighted average cost of capital using the return on equity most~~
11 ~~recently approved by the Commission in a rate case or settlement order.~~

Commented [BM5]: These items are captured via additions made to (a)

12 (7) Pursuant to the order establishing procedure in the annual cost recovery proceeding, a
13 utility shall submit the following each year for Commission review and approval as part of its
14 cost recovery filings:

15 (a) Final True-Up for Previous Years. A utility shall submit its final true-up of Storm
16 Protection Plan revenue requirements based on actual costs for the prior year and previously
17 filed costs and revenue requirements for such prior year and a description of the work actually
18 performed during such year.

19 (b) Estimated True-Up and Projections for Current Year. A utility shall submit its
20 actual/estimated true-up of projected Storm Protection Plan revenue requirements based on a
21 comparison of current year actual/estimated costs and the previously-filed estimated-projected
22 costs and revenue requirements for such current year and a description of the work projected
23 to be performed during such year.

24 (c) Projected Costs for Subsequent Years. A utility shall submit its projected Storm
25 Protection Plan costs and revenue requirements for the subsequent year and a description of
the work projected to be performed during such year.

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1 (d) True-Up of Variances. The utility shall report and explain observed true-up variances
2 including sales forecasting errors variances, changes in the utility's prices of services and/or
3 equipment, and changes in the scope of work relative to the estimates provided pursuant to
4 subparagraphs (7)(b) and (7)(c). ~~The utility shall also provide explanations for variances~~
5 ~~regarding the deployment of the approved Storm Protection Plan.~~

6 (e) Proposed Storm Protection Plan Cost Recovery Factors. The utility shall provide the
7 calculations of its proposed factors to be effective for the 12-month billing period beginning
8 with the first billing cycle for January ~~+~~following the annual proceeding.

9 (8) Any request to modify an approved Storm Protection Plan must be through a petition
10 filed pursuant to Rule 25-6.030, F.A.C., separate from any petition for cost recovery. Once a
11 Storm Protection Plan modification has been approved, the utility may file a petition to revise
12 its cost recovery factors to reflect the modification.

13 (9) Contemporaneously with the required filing in paragraph (7)(a) of this rule, a utility
14 must submit a status report on the utility's Storm Protection Plan ~~projects~~. The status report
15 shall include:

16 (a) Identification of all projects completed in the True-up period ~~or planned for~~
17 ~~completion~~;

18 (b) Actual costs ~~and rate impacts~~ associated with each completed project as compared to
19 the estimated costs ~~and rate impacts~~ for each project; ~~and~~.

20 ~~(c) Estimated costs and rate impacts associated with each project planned for completion.~~

21 (10) Recovery of costs under this rule does not preclude the utility from recommending
22 inclusion of such costs in base rates in a subsequent rate proceedings.

23 *Rulemaking Authority 366.96, FS. Law Implemented 366.96, FS. History—New _____.*

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