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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

| | |
|---|---|
| In re: Environmental cost recovery clause. | DOCKET NO. 20260007-EI<br>ORDER NO. PSC-2026-0386-PHO-EI<br>ISSUED: October 27, 2026 |

# PREHEARING ORDER

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on October 20, 2026, in Tallahassee, Florida, before Commissioner Gary F. Clark, as Prehearing Officer.

APPEARANCES:

MARIA JOSE MONCADA and JOEL T. BAKER, ESQUIRES, 700 Universe Boulevard, Juno Beach, Florida 33408-2863.
On behalf of FLORIDA POWER & LIGHT COMPANY (FPL)

DIANNE M. TRIPLETT, ESQUIRE, 299 First Avenue North, St. Petersburg, Florida 33701
MATTHEW R. BERNIER and STEPHANIE CUELLO, ESQUIRES, 106 East College Avenue, Suite 800, Tallahassee, Florida 32301.
On behalf of DUKE ENERGY FLORIDA, LLC (DEF)

MALCOLM N. MEANS, J. JEFFRY WAHLEN, and MATTHEW J. JONES, ESQUIRES, Ausley McMullen, Post Office Box 391, Tallahassee, Florida 32302.
On behalf of TAMPA ELECTRIC COMPANY (TECO)

WALT TRIERWEILER, CHARLES J. REHWINKEL, and AUSTIN WATROUS, ESQUIRES, c/o The Florida Legislature, 111 West Madison Street, Suite 812, Tallahassee, Florida 32399-1400.
On behalf of the OFFICE OF PUBLIC COUNSEL (OPC)

JON C. MOYLE, JR. and KAREN A. PUTNAL, ESQUIRES, Moyle Law Firm, P.A., 118 North Gadsden Street, Tallahassee, Florida 32301.
On behalf of FLORIDA INDUSTRIAL POWER USERS GROUP (FIPUG)

JAMES W. BREW, LAURA WYNN BAKER, and SARAH B. NEWMAN, ESQUIRES, Stone, Mattheis, Xenopoulis & Brew, PC, 1025 Thomas Jefferson Street, NW, Eighth Floor, West Tower, Washington, D.C. 20007.
On behalf of White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs (PCS Phosphate)

PETER J. MATTHEIS, MICHAEL K. LAVANGA, and JOSEPH R. BRISCAR, ESQUIRES, Stone, Mattheis, Xenopoulis & Brew, PC, 1025 Thomas Jefferson Street, NW, Eighth Floor, West Tower, Washington D.C. 20007.
On behalf of Nucor Steel Florida, Inc. (Nucor)

CARLOS M. MARQUEZ II and JACOB D. IMIG, ESQUIRES, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.
On behalf of the Florida Public Service Commission Staff (Staff)

MARY ANNE HELTON, ESQUIRE, Deputy General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.
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Florida Public Service Commission General Counsel

## I. CASE BACKGROUND

The Environmental Cost Recovery Clause (ECRC) allows investor-owned electric utilities to seek recovery of environmental compliance costs for approved environmental programs on an annual basis, pursuant to Section 366.8255, Florida Statutes (F.S.). As part of the Florida Public Service Commission's (Commission) continuing environmental cost recovery proceeding, an administrative hearing in this docket is set for November 3–6, 2026.

## II. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, F.A.C., this Prehearing Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

## III. JURISDICTION

The Commission is vested with subject matter jurisdiction to approve environmental cost recovery pursuant to Section 366.8255, F.S. This hearing shall be governed by Chapters 120 and 366, F.S., and Chapters 25-6, 25-22, and 28-106, F.A.C., as well as any other applicable provisions of law.

## IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Information for which proprietary confidential business information status is requested pursuant to Section 366.093, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Section 119.07(1), F.S., pending a formal ruling on such request by the Commission or pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Section 366.093, F.S. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

It is the policy of the Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, F.S., to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any "proprietary confidential business information," as that term is defined in Section 366.093(3), F.S., at the hearing shall adhere to the following:

(1) When confidential information is used in the hearing that has not been filed as prefiled testimony or prefiled exhibits, parties must have 17 copies for the Commissioners, necessary Staff, and the court reporter, in red envelopes clearly marked with the nature of the contents and with the confidential information highlighted. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.

(2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Office of Commission Clerk's confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C., if continued confidentiality of the information is to be maintained.

## V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties (and Staff) has been prefiled and will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to timely and appropriate objections. Upon insertion of a witness's testimony, exhibits appended thereto may be marked for identification. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to three minutes.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple "Yes" or "No" answer shall be so answered first, after which the witness may explain his or her answer. After all parties and Staff have had the opportunity to cross-examine the witness, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

The parties shall avoid duplicative or repetitious cross-examination. Further, friendly cross-examination will not be allowed. Cross-examination shall be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Any party conducting what appears to be a friendly cross-examination of a witness should be prepared to indicate why that witness's direct testimony is adverse to its interests.

All parties must refer to the Exhibit Number established by the Comprehensive Exhibit List when referencing an exhibit during cross-examination.

## VI. ORDER OF WITNESSES

| Witness | Proffered By | Issue No. |
|---|---|---|
| Direct | | |
| Richard L. Hume | FPL | 1–9, 15, 17, 19, 20 |
| Michael Sole | FPL | 1–4, 14, 16, 18 |
| Christopher A. Menendez[1] | DEF | 1–13, 20 |

[1] By notice dated May 20, 2026, DEF witness Menendez adopted the prefiled direct testimony, prefiled exhibits, and discovery responses of Gary P. Dean.

| Witness | Proffered By | Issue No. |
|---|---|---|
| Eric Szkolnyj | DEF | 1–3 |
| Reginald Anderson | DEF | 1–3 |
| Wyatt Grant | DEF | 1–3, 10, 12 |
| M. Ashley Sizemore | TECO | 1–9, 20 |
| Byron T. Burrows | TECO | 3 |

If the parties and Staff are later willing to excuse witnesses, Staff shall confirm with each hearing Commissioner whether a particular witness may be excused. If no Commissioner has any question for those witnesses, then the witnesses may be excused from the hearing with his or her testimony entered into the record as though read and exhibits admitted.

## VII. BASIC POSITIONS

**FPL:** FPL's 2027 ECRC factors are reasonable and should be approved. The Commission should also approve FPL's proposed (1) Per- and Polyfluoroalkyl Substances (PFAS) project; (2) Eagle Permit Compliance Project; and (3) Little Manatee River Minimum Flow Compliance Project.

**DEF:** DEF's positions to specific issues are listed below.

**TECO:** The Commission should approve the compliance programs described in the testimony and exhibits of TECO witnesses M. Ashley Sizemore and Byron T. Burrows for environmental cost recovery. The Commission should also approve TECO's calculation of its environmental cost recovery final true-up for the period January 2025 through December 2025, the actual/estimated environmental cost recovery true-up for the current period January 2026 through December 2026, and the utility's projected ECRC revenue requirement, and the utility's proposed ECRC factors for the period January 2027 through December 2027.

**OPC:** The Utilities bear the burden of proof to justify the recovery of costs they request in this docket and must carry this burden regardless of whether or not the intervenors provide evidence to the contrary. Further, the Utilities bear the burden of proof to support their proposal(s) seeking the Commission's adoption of policy statements (whether new or changed) or other affirmative relief sought. Even if the Commission has previously approved a program, recovery of a cost, factor, or adjustment as meeting the Commission's own requirements, the Utilities still bear the burden of demonstrating that the costs submitted for final recovery meet any

statutory test(s) and are reasonable in amount and prudently incurred. Further, the Utilities bear the burden of proof to support that all costs sought to be recovered through this clause are correctly clause recovery costs and not base rate costs. Further, recovery of all costs is constrained by the Commission's obligation to set fair, just, and reasonable rates, based on projects and/or costs that are prudent in magnitude and/or costs prudently incurred pursuant to Section 366.01, F.S. Additionally, the provisions of Chapter 366, F.S., must be liberally construed to protect the public welfare.

The Commission must independently determine that each cost submitted for recovery, deferred or new, meets each element of the statutory requirements for recovery through this clause, as set out in Section 366.8255, F.S. Specifically, each activity proposed for recovery must be legally *required* to comply with a governmentally imposed environmental regulation that was enacted, became effective, or whose effect was triggered after the utility's last test year upon which rates are based, and such costs may not be costs that are recovered through base rates or any other cost recovery mechanism. Any decision by the Commission on a new project submitted for approval and cost recovery must be limited to the scope and documented cost information provided to the Commission in the utility filing in this docket.

**FIPUG:** The Utilities bear the burden of proof to justify the recovery of costs they request in this docket as reasonable and prudent. The Utilities must carry this burden regardless of whether FIPUG or other parties introduce evidence to the contrary. The Utilities must also carry their burden of proof to support their proposal(s) asking the Commission's adoption of policy statements (whether new or changed) or other affirmative relief sought. The amounts approved in this docket should reflect the sums set forth by FPL as filed in this docket, consistent with the terms of the settlement agreement in Docket No. 20250011-EI.

**PCS Phosphate:** PCS Phosphate generally adopts the positions taken by OPC unless a differing position is specifically stated.

**NUCOR:** Nucor's basic position is that DEF bears the burden of proof to justify the costs it seeks to recover through the ECRC and any other relief DEF requests in this proceeding.

**STAFF:** Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions stated herein.

## VIII. ISSUES AND POSITIONS

Generic Environmental Cost Recovery Issues

**ISSUE 1: What are the final environmental cost recovery true-up amounts for the period January 2025 through December 2025?**

**FPL:** $15,962,579 over-recovery. (Hume, Sole)

**DEF:** $2,110,646 over-recovery. (Menendez, Anderson, Szkolnyj, Grant)

**TECO:** The appropriate final environmental cost recovery true-up amount for this period is an over-recovery of $1,488,013. (Sizemore)

**OPC:** OPC is not in agreement at this time that the Utilities have demonstrated that they have met their burden to demonstrate that these costs are reasonable and/or prudent. A significant percentage of the costs on a customer's bill are based on clause recovery in this docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. OPC is not in a position to agree, given these circumstances, that the final environmental cost recovery true-up amounts for the period January 2025 through December 2025, proposed for recovery from customers, can necessarily be deemed reasonable and prudent.

**FIPUG:** Adopt position of OPC.

**PCS Phosphate:** Agree with OPC.

**NUCOR:** Regarding DEF, agree with OPC. For all other utilities, Nucor takes no position.

**STAFF:** Staff has no position at this time.

**ISSUE 2: What are the actual/estimated environmental cost recovery true-up amounts for the period January 2026 through December 2026?**

**FPL:** $5,681,995 over-recovery. (Hume, Sole)

**DEF:** $943,318 under-recovery. (Menendez, Anderson, Szkolnyj, Grant)

**TECO:** The actual/estimated environmental cost recovery true-up amount for the period is an under-recovery of $2,931,558. (Sizemore)

**OPC:** OPC is not in agreement at this time that the Utilities have demonstrated that they have met their burden to demonstrate that these costs are reasonable and/or prudent. A significant percentage of the costs on a customer's bill are based on clause recovery in this docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. OPC is not in a position to agree, given these circumstances, that the estimated/actual environmental cost recovery true-up amounts for the period January 2026 through December 2026, proposed for recovery from customers, can necessarily be deemed reasonable or prudent.

**FIPUG:** Adopt position of OPC.

**PCS Phosphate:** Agree with OPC.

**NUCOR:** Regarding DEF, agree with OPC. For all other utilities, Nucor takes no position.

**STAFF:** Staff has no position at this time.

**ISSUE 3: What are the projected environmental cost recovery amounts for the period January 2027 through December 2027?**

**FPL:** $403,577,012. (Hume, Sole)

**DEF:** $19,644,561. (Menendez, Anderson, Szkolnyj, Grant)

**TECO:** The appropriate amount of environmental costs projected to be recovered for the period January 2027 through December 2027 is $19,854,336. (Sizemore, Burrows)

**OPC:** OPC is not in agreement at this time that the Utilities have demonstrated that they have met their burden to demonstrate that these costs are reasonable and/or prudent. A significant percentage of the costs on a customer's bill are based on clause recovery in this docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. OPC is not in a position to agree, given these circumstances, that the projected environmental cost recovery amounts for the period January 2027 through December 2027, proposed for recovery from customers, can necessarily be deemed reasonable.

**FIPUG:** Adopt position of OPC.

**PCS Phosphate:** Agree with OPC.

**NUCOR:** Regarding DEF, agree with OPC. For all other utilities, Nucor takes no position.

**STAFF:** Staff has no position at this time.

**ISSUE 4: What are the environmental cost recovery amounts, including true-up amounts, for the period January 2027 through December 2027?**

**FPL:** $381,932,438. (Hume, Sole)

**DEF:** $18,477,234. (Menendez)

**TECO:** The total environmental cost recovery amount, including true-up amounts, for the period January 2027 through December 2027 is $21,315,941 after the adjustment for taxes. (Sizemore)

**OPC:** OPC is not in agreement at this time that the Utilities have demonstrated that they have met their burden to demonstrate that these costs are reasonable and/or prudent. A significant percentage of the costs on a customer's bill are based on clause recovery in this docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. OPC is not in a position to agree, given these circumstances, that the environmental cost recovery amounts, including true-up amounts, for the period January 2027 through December 2027 proposed for recovery from customers can necessarily be deemed reasonable or prudent.

**FIPUG:** Adopt position of OPC.

**PCS Phosphate:** Agree with OPC.

**NUCOR:** Regarding DEF, agree with OPC. For all other utilities, Nucor takes no position.

**STAFF:** Staff has no position at this time.

**ISSUE 5: What depreciation rates should be used to develop the depreciation expense included in the total environmental cost recovery amounts for the period January 2027 through December 2027?**

**FPL:** The depreciation rates used to calculate the depreciation expense should be the rates that are in effect during the period the allowed capital investment is in service. For the period January 2027 through December 2027, the depreciation rates used to calculate the depreciation expense were those approved in Order No. PSC-2026-0022-S-EI. (Hume)

**DEF:** The depreciation rates used to calculate depreciation expense should be the rates that are in effect during the period the allowed capital investment is in service. (Menendez)

**TECO:** TECO used the depreciation rates approved by the Commission in Order No. PSC-2025-0038-FOF-EI, issued on February 3, 2025, in Docket No. 20230139-EI, however, in the case of Bayside assets, TECO used the proposed depreciation rates from the 2026 Bayside Agreement, approved in Order No. PSC-2026-0297-FOF-EI, issued on August 24, 2026, in Docket No. 20260062-EI. (Sizemore)

**OPC:** OPC is not in agreement at this time that the Utilities have demonstrated that they have met their burden to demonstrate that these costs are reasonable and/or prudent. A significant percentage of the costs on a customer's bill are based on clause recovery in this docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. OPC is not in a position to agree, given these circumstances, what depreciation rates should be used to develop the depreciation expense included in the total environmental cost recovery amounts for the period January 2027 through December 2027, and proposed for recovery from customers, can necessarily be deemed reasonable.

**FIPUG:** Adopt position of OPC.

**PCS Phosphate:** Agree with OPC.

**NUCOR:** Regarding DEF, agree with OPC. For all other utilities, Nucor takes no position.

**STAFF:** Staff has no position at this time.

**ISSUE 6: What are the appropriate jurisdictional separation factors for the projected period January 2027 through December 2027?**

**FPL:**

ENERGY

| | |
|---|---|
| Retail Energy Jurisdictional Factor - Total Sales | 93.8651% |
| Retail Energy Jurisdictional Factor - Base/Solar | 95.7084% |
| Retail Energy Jurisdictional Factor - Intermediate | 93.9915% |
| Retail Energy Jurisdictional Factor - Peaking | 95.5772% |

DEMAND

| | |
|---|---|
| Retail Demand Jurisdictional Factor - Transmission | 89.3622% |
| Retail Demand Jurisdictional Factor - Base/Solar | 95.9061% |
| Retail Demand Jurisdictional Factor - Intermediate | 95.1431% |
| Retail Demand Jurisdictional Factor - Peaking | 93.6420% |
| Retail Demand Jurisdictional Factor - Distribution | 100.0000% |

GENERAL PLANT

| | |
|---|---|
| Retail General Plant Jurisdictional Factor - Labor | 96.8271% |

(Hume)

**DEF:** The separation factors are below and are consistent with Docket No. 20240025 - Petition for Rate Increase by Duke Energy Florida, LLC - Joint Motion for Approval of Settlement Agreement, filed July 15, 2024, and approved by the Commission on August 21, 2024.

Transmission Demand – 70.369%
Distribution Primary Demand – 100.000%

Production Demand:
Production Base – 100.000%
Production Intermediate – 95.212%
Production Peaking – 97.632%
Production A&G – 97.366%

(Menendez)

**TECO:** Energy: 100.00%

Demand: 100.00%

(Sizemore)

**OPC:** OPC is not in agreement that the Utilities have demonstrated that they have met their burden to demonstrate that these separation factors are reasonable and/or prudent. A significant percentage of the costs on a customer's bill is based on clause recovery in this docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. OPC does not agree, given these circumstances, that the appropriate jurisdictional separation factors proposed for the projected period January 2027 through December 2027 can necessarily be deemed reasonable or prudent.

**FIPUG:** Adopt position of OPC.

**PCS Phosphate:** Agree with OPC.

**NUCOR:** Regarding DEF, agree with OPC. For all other utilities, Nucor takes no position.

**STAFF:** Staff has no position at this time.

**ISSUE 7: What are the appropriate environmental cost recovery factors for the period January 2027 through December 2027 for each rate group?**

**FPL:** FPL's ECRC factors for the period January 2027 through December 2027 are:

| RATE CLASS | ECRC Factor (cents/kWh) |
|---|---|
| RS1/RTR1/RS-2EV | 0.320 |
| GS1/GST1 | 0.310 |
| GSD1/GSDT1/HLFT1/GSD1-EV | 0.265 |
| OS2 | 0.185 |
| GSLD1/GSLDT1/CS1/CST1/HLFT2/GSLD-1EV | 0.238 |
| GSLD2/GSLDT2/CS2/CST2/HLFT3/GSLD-2EV | 0.224 |
| GSLD3/GSLDT3/CS3/CST3/LLCS-1/LLCS-2 | 0.201 |
| SST1T | 0.172 |
| SST1D1/SST1D2/SST1D3 | 0.252 |
| CILC D/CILC G | 0.209 |
| CILC T | 0.185 |
| MET | 0.243 |
| OL1/SL1/SL1M/PL1/OSI/II | 0.055 |
| SL2/SL2M/GSCU1 | 0.188 |
| Total | 0.291 |

(Hume)

**DEF:** The appropriate recovery factors are as follows:

| **Rate Class** | **ECRC Factors** |
|---|---|
| Residential | 0.047 cents/kWh |
| General Service Non-Demand | |
| @ Secondary Voltage | 0.045 cents/kWh |
| @ Primary Voltage | 0.045 cents/kWh |
| @ Transmission Voltage | 0.044 cents/kWh |
| General Service 100% Load Factor | 0.042 cents/kWh |
| General Service Demand | |
| @ Secondary Voltage | 0.043 cents/kWh |
| @ Primary Voltage | 0.043 cents/kWh |
| @ Transmission Voltage | 0.042 cents/kWh |
| Curtailable | |
| @ Secondary Voltage | 0.042 cents/kWh |
| @ Primary Voltage | 0.042 cents/kWh |
| @ Transmission Voltage | 0.041 cents/kWh |
| Interruptible | |
| @ Secondary Voltage | 0.041 cents/kWh |
| @ Primary Voltage | 0.041 cents/kWh |
| @ Transmission Voltage | 0.040 cents/kWh |
| Lighting | 0.035 cents/kWh |

(Menendez)

**TECO:** The appropriate environmental cost recovery factors are as follows:

| **Rate Class** | **Factor (¢/kWh)** |
|---|---|
| RS | 0.111 |
| GS, CS | 0.104 |
| GSD, SBD | |
| Secondary | 0.094 |
| Primary | 0.093 |
| Transmission | 0.092 |
| GSLDPR/GSLDTPR | 0.085 |

| | |
|---|---|
| GSLDSU/ GSLDTSU<br>SBLDSU/SBLDTSU | 0.085 |
| LS1, LS2 | 0.066 |
| Average Factor<br>(Sizemore) | 0.102 |

**OPC:** The factors should be based on costs deemed reasonable and prudent in a hearing.

**FIPUG:** Adopt position of OPC.

**PCS Phosphate:** Agree with OPC.

**NUCOR:** Regarding DEF, agree with OPC. For all other utilities, Nucor takes no position.

**STAFF:** Staff has no position at this time.

**ISSUE 8: What should be the effective date of the new environmental cost recovery factors for billing purposes?**

**FPL:** The environmental cost recovery factors should be effective for meter readings beginning January 1, 2027. These charges should continue in effect until modified by subsequent order of the Commission. (Hume)

**DEF:** The factors should be effective beginning with the specified environmental cost recovery cycle and thereafter for the period January 2027 through December 2027. Billing cycles may start before January 1, 2027, and the last cycle may read after December 31, 2027, so that each customer is billed for 12 months regardless of when the adjustment factor became effective. These charges will continue in effect until modified by the Commission. (Menendez)

**TECO:** The factors should be effective beginning with the specified environmental cost recovery cycle and thereafter for the period January 2027 through December 2027. Billing cycles may start before January 1, 2027, and the last cycle may read after December 31, 2027, so that each customer is billed for 12 months regardless of when the adjustment factors became effective. These charges will continue in effect until modified by subsequent order of the Commission. (Sizemore)

**OPC:** The effective date for any rate change should be the first day of the first billing cycle in January 2027.

**FIPUG:** Adopt position of OPC.

**PCS Phosphate:** Agree with OPC.

**NUCOR:** Regarding DEF, agree with OPC. For all other utilities, Nucor takes no position.

**STAFF:** Staff has no position at this time.

**ISSUE 9: Should the Commission approve revised tariffs reflecting the environmental cost recovery amounts and environmental cost recovery factors determined to be appropriate in this proceeding?**

**FPL:** Yes. The Commission should approve FPL's tariffs reflecting the environmental cost recovery amounts and environmental cost recovery factors as presented in this proceeding. (Hume)

**DEF:** Yes. (Menendez)

**TECO:** Yes, the Commission should approve revised tariffs reflecting the environmental cost recovery and amounts and factors determined to be appropriate in this proceeding. (Sizemore)

**OPC:** The tariffs ultimately approved should be based on costs deemed reasonable or prudent in a hearing.

**FIPUG:** Adopt position of OPC.

**PCS Phosphate:** Agree with OPC.

**NUCOR:** Regarding DEF, agree with OPC. For all other utilities, Nucor takes no position.

**STAFF:** Staff has no position at this time.

Utility-Specific Environmental Cost Recovery Issues

**Duke Energy Florida, LLC**

**ISSUE 10: Should the Commission approve Duke Energy Florida, LLC's Aqueous Film-Forming Fire Foam project for cost recovery through the environmental cost recovery clause?**

**DEF:** Yes. DEF's proposed Aqueous Film-Forming Fire Foam project meets the recovery criteria established in Order No. 94-044-FOF-EI, in that:

(a) all expenditures will be prudently incurred after April 13, 1993;

(b) the activities are legally required to comply with a governmentally imposed environmental regulation enacted, became effective, or whose effect was triggered after the utility's last test year which rates are based; and

(c) none of the expenditures are being recovered through some other cost recovery mechanism or through base rates.

House Bill 1019 (the "Joe Castello Act") requires the discontinuation of sale, purchase, and distribution of aqueous film-forming foam (AFFF) at facilities due to the presence of PFAS in the firefighting foam and was signed into law by the governor in June 2026. The law requires that AFFF be phased out of facilities by July 1, 2029. This will require removing AFFF from six sites impacted by the law: Anclote, Bartow, Bayboro, Hines Energy, Intercession City, and Osprey Energy facilities. (Grant, Menendez)

**OPC:** OPC is not in agreement at this time that DEF has demonstrated that it has met its burden to demonstrate that these costs are reasonable and/or prudent. A significant percentage of the costs on a customer's bill are based on clause recovery in this docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. OPC is not in a position to agree, given these circumstances, DEF's Aqueous Film-Forming Fire Foam project and related costs, proposed for recovery from its customers, can necessarily be deemed reasonable or prudent.

**FIPUG:** No position.

**PCS Phosphate:** Agree with OPC.

**NUCOR:** Agree with OPC.

**STAFF:** Staff has no position at this time.

**ISSUE 11: How should the approved costs related to Duke Energy Florida, LLC's Aqueous Film-Forming Fire Foam project be allocated to the rate classes?**

**DEF:** Operational and Maintenance (O&M) and Capital costs associated with the Aqueous Film-Forming Fire Foam project should be allocated to rate classes on a Demand basis. (Menendez)

**OPC:** No position.

**FIPUG:** No position.

**PCS Phosphate:** No position.

**NUCOR:** No position.

**STAFF:** Staff has no position at this time.

**ISSUE 12: Should the Commission approve Duke Energy Florida, LLC's Per- and Polyfluoroalkyl Substances Drinking Water project for cost recovery through the environmental cost recovery clause?**

**DEF:** Yes. DEF's proposed PFAS Drinking Water project meets the recovery criteria established in Order No. 94-044-FOF-EI, in that:

(a) all expenditures will be prudently incurred after April 13, 1993;
(b) the activities are legally required to comply with a governmentally imposed environmental regulation enacted, became effective, or whose effect was triggered after the utility's last test year which rates are based; and
(c) none of the expenditures are being recovered through some other cost recovery mechanism or through base rates.

In April of 2024, the U.S. Environmental Protection Agency (EPA) issued a new rule regulating six PFAS chemicals in drinking water. (40 CFR Part 141, Subpart Z). This rule sets maximum contaminant levels for these parameters. To comply with the new rule, initial sampling needs to be conducted for the impacted sites. The rule requires two rounds of sampling between five to seven months apart. DEF has three sites that this rule impacts: Crystal River North, Citrus Combined Cycle and Hines Energy. Sampling will start in 2026 and end in early 2027. (Grant, Menendez)

**OPC:** OPC is not in agreement at this time that DEF has demonstrated that it has met its burden to demonstrate that these costs are reasonable and/or prudent. A significant percentage of the costs on a customer's bill are based on clause recovery in this docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. OPC is not in a position to agree, given these circumstances, DEF's PFAS Drinking Water project and related costs, proposed for recovery from its customers, can necessarily be deemed reasonable or prudent.

**FIPUG:** No position.

**PCS Phosphate:** Agree with OPC.

**NUCOR:** Agree with OPC.

**STAFF:** Staff has no position at this time.

**ISSUE 13: How should the approved costs related to Duke Energy Florida, LLC's Per- and Polyfluoroalkyl Substances Drinking Water project be allocated to the rate classes?**

**DEF:** O&M and Capital costs associated with the PFAS Drinking Water project should be allocated to rate classes on a Demand basis. (Menendez)

**OPC:** No position.

**FIPUG:** No position.

**PCS Phosphate:** No position.

**NUCOR:** No position.

**STAFF:** Staff has no position at this time.

**Florida Power & Light Company**

**ISSUE 14: Should the Commission approve Florida Power & Light Company's Little Manatee River Minimum Flow Compliance project for cost recovery through the environmental cost recovery clause?**

**FPL:** Yes. On August 18, 2026, the Florida Department of Environmental Protection (DEP) issued a Notice of Intent to Modify Conditions of Certification for FPL's Manatee Power Plant Unit 3 to incorporate revised river withdrawal schedules reflecting the minimum flows and levels adopted for the Upper Little Manatee River under Chapter 373, F.S., and Rule 40D-8.041(24), F.A.C. Compliance requires FPL to complete operational changes and physical modifications at the Manatee Plant by July 1, 2027, including pump, valve, and piping modifications; river level and flow instrumentation upgrades; control system enhancements; reliability improvements; data collection systems; removal of an existing flow-restricting weir; and ongoing maintenance, calibration, quality assurance, and reporting. These requirements were not known or anticipated when FPL prepared the minimum filing requirements (MFRs) for its 2025 rate case and are not reflected in current base rates, and FPL is not recovering these costs through any other mechanism. FPL requests that the prudently incurred costs be eligible for ECRC recovery, with any 2026 or 2027 costs reflected in subsequent true-up filings. (Sole)

**OPC:** OPC is not in agreement at this time that FPL has demonstrated that it has met its burden to demonstrate that these costs are reasonable and/or prudent. A significant percentage of the costs on a customer's bill are based on clause recovery in this docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. OPC is not in a position to agree, given these circumstances, FPL's Little Manatee River Minimum Flow Compliance project and related costs, proposed for recovery from its customers, can necessarily be deemed reasonable or prudent.

**FIPUG:** No position.

**PCS Phosphate:** No position.

**NUCOR:** No position.

**STAFF:** Staff has no position at this time.

**ISSUE 15: How should the approved costs related to Florida Power & Light Company's Little Manatee River Minimum Flow Compliance project be allocated to the rate classes?**

**FPL:** The costs associated with the Little Manatee River Minimum Flow Compliance project should be allocated to the rate classes based on 100% Coincident Peak (CP) Demand, consistent with the cost-allocation methodology for cost recovery clause factors approved in FPL's 2025 rate case settlement, Order No. PSC-2026-0022-S-EI in Docket No. 20250011-EI. (Hume)

**OPC:** No position.

**FIPUG:** No position.

**PCS Phosphate:** No position.

**NUCOR:** No position.

**STAFF:** Staff has no position at this time.

**ISSUE 16: Should the Commission approve Florida Power & Light Company's Eagle Permit Compliance project for cost recovery through the environmental cost recovery clause?**

**FPL:** Yes. The Eagle Permit Compliance project facilitates compliance with the U.S. Fish and Wildlife Service's Eagle General Permit requirements under the Bald and Golden Eagle Protection Act and the implementing regulations at 50 C.F.R. §§ 22.210 and 22.260, which allow FPL to obtain and maintain a permit authorizing certain incidental eagle takes associated with operating electric utility infrastructure if it implements measures to reduce the risk of eagle injury and mortality. Required compliance activities include updating FPL's Avian Protection Plan and avian habitat risk models, establishing a baseline inventory of eagle-risk poles, developing retrofit strategies, implementing data collection and quality assurance processes, conducting permit compliance monitoring, and supporting audits and reporting. FPL did not know it would need to undertake this scope of activities when it prepared the MFRs for its 2025 rate case, so these costs are not reflected in current base rates, and FPL is not recovering them through any other mechanism. (Sole)

**OPC:** OPC is not in agreement at this time that FPL has demonstrated that it has met its burden to demonstrate that these costs are reasonable and/or prudent. A significant percentage of the costs on a customer's bill are based on clause

recovery in this docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. OPC is not in a position to agree, given these circumstances, FPL's Eagle Permit Compliance project and related costs, proposed for recovery from its customers, can necessarily be deemed reasonable or prudent.

**FIPUG:** No position.

**PCS Phosphate:** No position

**NUCOR:** No position.

**STAFF:** Staff has no position at this time.

**ISSUE 17: How should the approved costs related to Florida Power & Light Company's Eagle Permit Compliance project be allocated to the rate classes?**

**FPL:** The costs associated with the Eagle Permit Compliance project should be allocated to the rate classes based on 100% CP Demand, consistent with the cost-allocation methodology for cost recovery clause factors approved in FPL's 2025 rate case settlement, Order No. PSC-2026-0022-S-EI in Docket No. 20250011-EI. (Hume)

**OPC:** No position.

**FIPUG:** No position.

**PCS Phosphate:** No position.

**NUCOR:** No position.

**STAFF:** Staff has no position at this time.

**ISSUE 18: Should the Commission approve Florida Power & Light Company's Per- and Polyfluoroalkyl Substances project for cost recovery through the environmental cost recovery clause?**

**FPL:** Yes. The PFAS project is necessary to comply with federal and state environmental requirements related to per- and polyfluoroalkyl substances. Specifically, the project supports compliance with the U.S. Environmental

Protection Agency's PFAS drinking-water testing and monitoring requirements under 40 C.F.R. Parts 141 and 142, as well as Florida's statutory requirements governing the phase-out and replacement of aqueous film-forming foam (AFFF). Project costs include PFAS sampling, laboratory analysis, monitoring, reporting, maintenance associated with new or upgraded potable water treatment systems, and, depending on sampling results and compliance needs, future treatment upgrades and AFFF replacement. These compliance obligations arose after FPL prepared the MFRs supporting its 2025 rate case. The federal PFAS drinking-water standards remained subject to legal challenge until the D.C. Circuit's January 2026 decision, and Florida's AFFF phase-out requirements were not enacted and effective until July 2026. Accordingly, the associated costs are not reflected in FPL's current base rates and are not being recovered through any other mechanism. (Sole)

**OPC:** OPC is not in agreement at this time that FPL has demonstrated that it has met its burden to demonstrate that these costs are reasonable and/or prudent. A significant percentage of the costs on a customer's bill are based on clause recovery in this docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. OPC is not in a position to agree, given these circumstances, FPL's PFAS project and related costs, proposed for recovery from its customers, can necessarily be deemed reasonable or prudent.

**FIPUG:** No position.

**PCS Phosphate:** No position.

**NUCOR:** No position.

**STAFF:** Staff has no position at this time.

**ISSUE 19: How should the approved costs related to Florida Power & Light Company's Per- and Polyfluoroalkyl Substances project be allocated to the rate classes?**

**FPL:** The costs associated with the PFAS project should be allocated to the rate classes based on 100% CP Demand, consistent with the cost-allocation methodology for cost recovery clause factors approved in FPL's 2025 rate case settlement, Order No. PSC-2026-0022-S-EI in Docket No. 20250011-EI. (Hume)

**OPC:** No position.

**FIPUG:** No position.

**PCS Phosphate:** No position.

**NUCOR:** No position.

**STAFF:** Staff has no position at this time.

Close the Docket Issue

**ISSUE 20: Should this docket be closed?**

**FPL:** No. This is a continuing docket and should remain open. (Hume)

**DEF:** No. While a separate docket number is assigned each year for administrative convenience, this is a continuing docket and shall remain open. (Menendez)

**TECO:** No. While a separate docket number is assigned each year for administrative convenience, the ECRC is a continuing docket and shall remain open.

**OPC:** No position.

**FIPUG:** No.

**PCS Phosphate:** No position.

**NUCOR:** No position.

**STAFF:** No. While a separate docket number is assigned each year for administrative convenience, the ECRC is a continuing docket and should remain open.

## IX. EXHIBIT LIST

| Witness | Proffered By | Exhibit No. | Description | Issue No. |
|---|---|---|---|---|
| Direct | | | | |
| Richard L. Hume | FPL | RLH-1 | 2025 ECRC Final True-Up Forms 42-1A through 42-9A for the period January 2025 through December 2025 | 1 |

| Witness | Proffered By | Exhibit No. | Description | Issue No. |
|---|---|---|---|---|
| Richard L. Hume | FPL | RLH-2 | 2026 ECRC Actual/Estimated True-up Forms 42-1E through 42-9E for the period January 2026 through December 2026 | 2, 17, 19 |
| Richard L. Hume | FPL | RLH-3 | 2027 ECRC Projection Filing Forms 42-1P through 42-8P for the period January 2027 through December 2027 | 3–9, 17, 19, 20 |
| Michael Sole (*co-sponsor*) | | | (Form 42-5P, co-sponsored by Michael Sole) | 3–4, 14, 16, 18 |
| Richard L. Hume | FPL | RLH-4 | 2027 ECRC Projection Filing (Calculation of Stratified Separation Factors) | 6 |
| Michael Sole | FPL | MS-1 | DEP Notice of Intent to Modify Conditions of Certification | 14 |
| Michael Sole | FPL | MS-2 | Proposed Conditions of Certification for Manatee Unit 3 | 14 |
| Michael Sole | FPL | MS-3 | DEP Final Order Modifying Conditions of Certification | 14 |
| Christopher A. Menendez[2] | DEF | GPD-1 | Forms 42-1A through 42-9A for the period January 2025 through December 2025 | 1 |
| Christopher A. Menendez | DEF | CAM-2 | Forms 42-1E through 42-9E for the period January 2026 through December 2026 | 2 |
| Christopher A. Menendez | DEF | CAM-3 | Forms 42-1P through 42-8P for the period January 2027 through December 2027 | 1–13 |
| Eric Szkolnyj | DEF | CAM-3 | Form 42-5P, page 23 | 1–3 |
| Reginald Anderson | DEF | CAM-3 | Form 42-5P, pages 7 and 20–22 | 1–3 |

[2] By notice dated May 20, 2026, DEF witness Menendez adopted the prefiled direct testimony, prefiled exhibits, and discovery responses of Gary P. Dean.

| Witness | Proffered By | Exhibit No. | Description | Issue No. |
|---|---|---|---|---|
| Wyatt Grant | DEF | WG-1 | Review of Integrated Clean Air Compliance Plan | 1 |
| Wyatt Grant | DEF | CAM-3 | Form 42-5P, pages 1–4, 6–19, and 24–28 | 1–3, 10, 12 |
| M. Ashley Sizemore | TECO | MAS-1 | Final Environmental Cost Recovery Forms 42-1A through 42-9A for the period January 2025 through December 2025 | 1, 4 |
| M. Ashley Sizemore | TECO | MAS-2 | Environmental Cost Recovery Forms 42-1E through 42-9E for the period January 2026 through December 2026 | 2, 4 |
| M. Ashley Sizemore | TECO | MAS-3 | Environmental Cost Recovery Forms 42-1P through 42-8P for the period January 2027 through December 2027 | 3–9 |

## X. PROPOSED STIPULATIONS

There are no proposed stipulations at this time.

## XI. PENDING MOTIONS

There are no pending motions at this time.

## XII. PENDING CONFIDENTIALITY MATTERS

There are no pending confidentiality requests.

## XIII. POST-HEARING PROCEDURES

If no bench decision is made, each party shall file a post-hearing statement of issues and positions. A summary of each position, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of this Prehearing Order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is

longer than 50 words, it must be reduced to no more than 50 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, F.A.C., a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages and shall be filed at the same time.

## XIV. RULINGS

Opening statements, if any, shall not exceed three minutes per party.

Staff shall have administrative authority to excuse witnesses as set forth in Section VI of this Order.

It is therefore,

ORDERED by Commissioner Gary F. Clark, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Gary F. Clark, as Prehearing Officer, this 27th day of October, 2026.



GARY F. CLARK
Commissioner and Prehearing Officer
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

CMM

## NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission (Commission) is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural, or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court in the case of an electric, gas, or telephone utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural, or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.