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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 20210158-EI

Limited proceeding to consider
Duke Energy Florida, LLC's
unopposed motion to approve rate
mitigation agreement.

_____ /

VOLUME 1

PAGES 1 - 25

PROCEEDINGS: HEARING

COMMISSIONERS
PARTICIPATING: CHAIRMAN GARY F. CLARK
COMMISSIONER ART GRAHAM
COMMISSIONER ANDREW GILES FAY
COMMISSIONER MIKE LA ROSA
COMMISSIONER GABRIELLA PASSIDOMO

DATE: Tuesday, November 2, 2021

TIME: Commenced: 11:25 a.m.
Concluded: 11:43 a.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: DEBRA R. KRICK
Court Reporter

PREMIER REPORTING
112 W. 5TH AVENUE
TALLAHASSEE, FLORIDA
(850) 894-0828

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4 TRIPLETT, ESQUIRE, 299 First Avenue North, St.
5 Petersburg, Florida 33701, appearing on behalf of Duke
6 Energy Florida (DUKE).

7 RICHARD GENTRY, PUBLIC COUNSEL; CHARLES
8 REHWINKEL, DEPUTY PUBLIC COUNSEL, ANASTACIA PIRRELLO,
9 ESQUIRE, Office of Public Counsel, c/o The Florida
10 Legislature, 111 W. Madison Street, Room 812,
11 Tallahassee, Florida 32399-1400, appearing on behalf of
12 the Citizens of the State of Florida (OPC).

13 JON C. MOYLE, JR., and KAREN A. PUTNAL,
14 ESQUIRES, Moyle Law Firm, P.A., The Perkins House, 118
15 North Gadsden Street, Tallahassee, Florida 32301,
16 appearing on behalf of Florida Industrial Power Users
17 Group (FIPUG).

18 ROBERT SCHEFFEL WRIGHT, JOHN T. LAVIA, III,
19 ESQUIRES, Gardner, Bist, Bowden, Dee, LaVia, Wright,
20 Perry & Harper, PA, 1300 Thomaswood Drive, Tallahassee,
21 Florida 32308, on behalf of Florida Retail Federation
22 (FRF).

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1 APPEARANCES (CONTINUED):

2 PETER J. MATTHEIS and MICHAEL K. LAVANGA,
3 ESQUIRES, Stone Mattheis Xenopoulos & Brew, PC, 1025
4 Thomas Jefferson St., NW, Eighth Floor, West Tower,
5 Washington, DC 20007, on behalf of Nucor Steel Florida,
6 Inc (Nucor).

7 JAMES W. BREW and LAURA WYNN BAKER, ESQUIRES,
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10 Washington, DC 20007, appearing on behalf of White
11 Springs Agricultural Chemicals, Inc. d/b/a PCS
12 Phosphate - White Springs (PCS Phosphate).

13 GEORGE CAVROS, ESQUIRE, 120 E. Oakland Park
14 Boulevard, Suite 105, Fort Lauderdale, Florida 33334,
15 appearing on behalf of Southern Alliance for Clean
16 Energy (SACE).

17 STEPHANIE U. EATON, ESQUIRE, 110 Oakwood
18 Drive, Suite 500, Winston-Salem, North Carolina 27103;
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20 Suite 101, Mechanicsburg, Pennsylvania 17050, appearing
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1 APPEARANCES (CONTINUED):

2 JENNIFER CRAWFORD AND RYAN SANDY, ESQUIRES,
3 FPSC General Counsel's Office, 2540 Shumard Oak
4 Boulevard, Tallahassee, Florida 32399-0850, appearing on
5 behalf of the Florida Public Service Commission Staff
6 (Staff).

7 KEITH HETRICK, GENERAL COUNSEL; MARY ANNE
8 HELTON, DEPUTY GENERAL COUNSEL, Florida Public Service
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10 Florida 32399-0850, Advisor to the Florida Public
11 Service Commission.

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EXHIBITS

NUMBER :		ID	ADMITTED
1	Comprehensive Exhibit List	16	16
2-3	As identified on the CEL	16	16

1 P R O C E E D I N G S

2 CHAIRMAN CLARK: All right. Let's go ahead
3 and get started. I am going to make an assumption
4 that we might be able to wrap this up before lunch.
5 If not, we will probably call a lunch break right
6 straight up at 12:00 even if we are not done. We
7 have lunch being delivered so we would like to have
8 it hot. We are going to try to stop at 12 o'clock
9 and take a short lunch break.

10 All right. Let's call this meeting to order.
11 I'm going to ask staff, if they would, to please
12 read the notice.

13 MS. CRAWFORD: Yes, sir.

14 By notice, this time and place has been
15 scheduled for a hearing in Docket No. 20210158-EI,
16 to consider Duke's Unopposed Motion to Approve Rate
17 Mitigation Agreement. The purpose of the hearing
18 is set forth more fully in the notice.

19 Staff notes that the Rate Mitigation Agreement
20 addresses issues or cost recovery associated with
21 three other Commission dockets: Dockets
22 20210001-EI, the Fuel Clause, 20210010-EI, the
23 Storm Protection Plan Cost Recovery Clause, and
24 Docket 20210097-EI, Duke's petition for recovery of
25 costs associated with Hurricanes Eta and Isaias.

1 And therefore, the Order on Procedure in the notice
2 of this hearing has been placed in those three
3 dockets, and parties to those proceedings have been
4 made parties to this proceeding.

5 And the purpose of today's hearing is to
6 address whether it's in the public interest to
7 approve Duke's Unopposed Motion to Approve Rate
8 Mitigation Agreement filed September 3rd, 2021.

9 CHAIRMAN CLARK: Thank you, Ms. Crawford.

10 Let's take appearances. We will begin with
11 Duke.

12 MS. TRIPLETT: Good morning. Dianne Triplett
13 on behalf of Duke Energy Florida.

14 CHAIRMAN CLARK: OPC.

15 MR. REHWINKEL: Good morning. Charles
16 Rehwinkel, Richard Gentry and Anastacia Pirrello on
17 behalf of Duke -- of Duke's customers. I am sorry.

18 CHAIRMAN CLARK: There we go.

19 MR. MOYLE: Good morning. Jon Moyle on behalf
20 of the Florida Industrial Power Users Group.

21 CHAIRMAN CLARK: Thank you.

22 FRF.

23 MR. WRIGHT: Good morning, Commissioners.
24 Robert Scheffel Wright on behalf of the Florida
25 Retail Federation.

1 Thank you.

2 CHAIRMAN CLARK: Nucor.

3 MR. LAVANGA: Good morning, Mr. Chairman.

4 Michael Lavanga on behalf of Nucor Steel Florida.

5 CHAIRMAN CLARK: PCS.

6 MR. BREW: Good morning. For PCS Phosphate,
7 James Brew and I would like to note and appearance
8 for Laura Baker.

9 CHAIRMAN CLARK: SACE.

10 MR. CAVROS: Good morning, Commissioners.
11 George Cavros on behalf of Southern Alliance for
12 Clean Energy.

13 CHAIRMAN CLARK: Walmart.

14 MS. EATON: Good morning, Commissioners.
15 Stephanie Eaton on behalf of Walmart.

16 CHAIRMAN CLARK: Staff.

17 MS. CRAWFORD: Jennifer Crawford and Ryan
18 Sandy Staff.

19 MS. HELTON: And Mary Anne Helton is here as
20 your Advisor, along with your General Counsel,
21 Keith Hetrick.

22 CHAIRMAN CLARK: All right. Thank you.

23 Did I get all the parties? I know I didn't do
24 them in order, but we got everybody, right?

25 All right. Let's begin with preliminary

1 matters.

2 MS. CRAWFORD: Staff is aware of none.

3 CHAIRMAN CLARK: All right. Moving straight
4 into public comment.

5 Do we have any public comment today,
6 Ms. Crawford?

7 MS. CRAWFORD: Nobody has identified
8 themselves prior to the hearing as wishing to
9 address the Commission. If you wish to solicit of
10 the audience --

11 CHAIRMAN CLARK: We will solicit the audience
12 for anyone here that is planning to make public
13 comment. Anyone?

14 All righty, we will move into opening
15 statements.

16 We are going to limit our opening statements,
17 please, to five minutes each. Duke will begin
18 first. The order will be -- I will call you out.
19 It will be easier that way.

20 Duke, you are up.

21 MS. TRIPLETT: Yes, sir. Thank you, and I do
22 not need five minutes.

23 Thank you to the Commission and to your staff
24 for your prompt consideration of this unopposed
25 motion. I would also like to thank the parties. I

1 think it's telling that all down the line I have
2 either folks that have signed this agreement or do
3 not oppose. And I think that's a testament to the
4 collaboration.

5 When we looked what was shaping up to be a
6 pretty tough year starting January 21, 2022, we had
7 some creative ideas. We sat down with these folks
8 and came up with an agreement that is in the public
9 interest. It reduces customers' bills starting
10 January 21, 2022, and specifically the residential
11 rate is going to be a little over \$5 of lower rates
12 than what otherwise would have been.

13 So again, we would ask that the Commission
14 approve the agreement as in the public interest.
15 Thanks.

16 CHAIRMAN CLARK: Thank you very much.

17 Next we will move to OPC.

18 MR. REHWINKEL: Thank you, Mr. Chairman.

19 The Public Counsel wants to thank your staff
20 first and foremost for taking the extraordinary
21 steps to bring this to you in time for the fuel
22 hearing.

23 And secondly, we would like to thank Duke for
24 their willingness to take these mitigation efforts
25 on behalf of their customers. And we submit that

1 this is in the public interest and we ask for your
2 favorable consideration.

3 Thank you.

4 CHAIRMAN CLARK: Thank you very much.

5 Mr. Moyle.

6 MR. MOYLE: Thank you, Mr. Chairman.

7 And I would echo what Dianne Triplett said,
8 that this has been a good process. It's not every
9 day where a utility reaches out and says, we would
10 like to talk to you about reducing your rates, do
11 you have interest in that. And surely we did, and
12 we were able to stitch together what is before you
13 today. We signed the joint motion and would ask
14 that it be supported.

15 Thank you.

16 CHAIRMAN CLARK: Thank you.

17 FRF, Mr. Wright.

18 MR. WRIGHT: Thank you, Mr. Chairman and
19 Commissioners.

20 Like my colleagues, I would first like to
21 thank you for the opportunity to address you, and
22 your staff for handling this so quickly with fairly
23 extensive discovery. Thanks very much for that.
24 Thanks to the utility, Duke Energy Florida. Thanks
25 to all the parties for working together. They were

1 good -- real good process and intense, and lots of
2 meetings, virtual mostly, to get this done.

3 We agree that this rate mitigation plan and
4 agreement are in the public interest and we urge
5 you to approve it.

6 Thanks very much.

7 CHAIRMAN CLARK: Thank very much.

8 Mr. Lavanga, Nucor.

9 MR. LAVANGA: Thank you, Mr. Chairman and
10 Commissioners.

11 Nucor supports this mitigation plan because we
12 believe it's good for customers and that it's in
13 the public interest. Although, fuel prices, and
14 particularly natural gas prices are by their nature
15 unpredictable, the run-up in fuel prices over the
16 last several months has been particularly severe,
17 so we appreciate DEF recognizing the negative
18 impacts that these steep cost increases would have
19 on its customers and Duke's willingness to work
20 proactively with the parties to develop a plan to
21 mitigate the impacts.

22 In our view, the key element of the mitigation
23 plan is the proposal to spread recovery of the 2021
24 under-recovery over two years instead of recovering
25 all of that cost in 2022. This proposal, along

1 with the other elements of the mitigation plan,
2 will help ease the burden on customers next year.

3 So in conclusion, we would like to thank Duke,
4 OPC and the other parties for their efforts in
5 reaching this agreement, and we strongly urge the
6 Commission to approve it.

7 CHAIRMAN CLARK: Thank you very much.
8 Mr. Brew.

9 MR. BREW: Thank you.

10 Just beyond ditto. PCS is a signatory to the
11 rate mitigation plan and we strongly support its
12 approval. I would echo both my appreciation for
13 Duke in sharpening their pencils and looking for
14 ways across several clauses to mitigate impacts and
15 for the staff to help putting this together.

16 Thank you.

17 CHAIRMAN CLARK: Mr. Cavros.

18 MR. CAVROS: Good morning, Commissioners.

19 SACE believes that the agreement before you is
20 reasonable and in the public interest. Florida
21 families and businesses are receiving a real hit to
22 their wallets as their power bills increase due to
23 fossil gas costs passed on to them by their
24 utilities. As you know, fossil gas prices are
25 projected to increase and remain high well into

1 next year. And also, as you know, customers have
2 little control over the fuel portion of their
3 bills. Bill impacts come at a time when many
4 customers are still struggling to pay their power
5 bills, coming out of the COVID crisis and, quite
6 frankly, many were struggling even before.

7 So we appreciate Duke's willingness to work
8 with the parties and the agreement before you today
9 is comprised of several elements that will
10 meaningfully mitigate bill impacts for Duke Energy
11 Florida customers next year. We respect --
12 respectfully request that you find it in the public
13 interest.

14 Thank you.

15 CHAIRMAN CLARK: Thank you, Mr. Cavros.

16 Ms. Eaton.

17 MS. EATON: Good morning.

18 Walmart has 73 retail units, one distribution
19 center and one E-commerce retail center served by
20 Duke Energy Florida, and therefore, given that
21 electricity is a significant operating cost for a
22 retailer like Walmart, it intervened in both the
23 storm protection docket as well as the rate case
24 that Duke filed earlier this year, and is
25 participating today as part of its intervention in

1 the storm protection docket.

2 Walmart also appreciates Duke advising the
3 consumer parties, including Walmart, of its intent
4 to file of this rate mitigation plan and providing
5 the parties the opportunity to review the plan
6 before filing it. Following its review view of the
7 plan, Walmart determined that it does not oppose
8 Duke's mitigation plan. And though it is not a
9 signatory, it is here today to state its position.

10 And I will note for the record that in the
11 actual motion that was filed before the Commission,
12 it correctly identifies Walmart as a party that
13 does not oppose the rate mitigation plan, but in
14 the actual plan that was attached, I think it was
15 simply a typographical error that would indicate we
16 were a party. So I did want to make that clear for
17 the record.

18 Again, we appreciate the Commission and the
19 Staff and all of the parties for allowing us to
20 participated to.

21 Thank you.

22 CHAIRMAN CLARK: Thank you very much, Ms.
23 Eaton.

24 Did I get everyone?

25 All right. Let's move to exhibits.

1 Ms. Crawford.

2 MS. CRAWFORD: Staff has prepared a
3 Comprehensive Exhibit List which consists of Duke's
4 Unopposed Motion with the attached Rate Mitigation
5 Agreement and Duke's responses to staff's data
6 requests. The list itself has been provided to the
7 parties, the Commissioners and the court reporter,
8 and staff requests that the list be marked as
9 Exhibit No. 1, with the other items marked as
10 identified on the list.

11 CHAIRMAN CLARK: The exhibits are so marked.

12 (Whereupon, Exhibit Nos. 1-3 were marked for
13 identification.)

14 MS. CRAWFORD: And staff would request that
15 Exhibits 1 through 3 be entered into the record.

16 CHAIRMAN CLARK: Without objection, they are
17 so entered.

18 (Whereupon, Exhibit Nos. 1-3 were received
19 into evidence.)

20 CHAIRMAN CLARK: All right. At this time, I
21 want to ask Duke's witness to take the stand.

22 Counsel, you can introduce your witness and
23 relay his area of expertise as it relates to the
24 mitigation agreement.

25 MS. TRIPLETT: Thank you, Mr. Chair, and he is

1 going to just sit right next to me if that's okay.

2 CHAIRMAN CLARK: That's fine.

3 MS. TRIPLETT: Do you want to swear him?

4 CHAIRMAN CLARK: Yes, would you please stand
5 and raise your right hand and repeat after me?

6 Whereupon,

7 CHRISTOPHER MENENDEZ

8 was called as a witness, having been first duly sworn to
9 speak the truth, the whole truth, and nothing but the
10 truth, was examined and testified as follows:

11 THE WITNESS: I do.

12 CHAIRMAN CLARK: Consider yourself sworn.

13 MS. TRIPLETT: Thank you, sir.

14 And this is Christopher Menendez, he is the
15 Director of Rates and Regulatory Planning. He was
16 involved in every step of the way in every part of
17 the negotiation of this agreement, in particular
18 the numbers. So I think between the two of us, if
19 y'all have questions not numbers, I could probably
20 handle it, and Mr. Menendez can step in if I need
21 help.

22 CHAIRMAN CLARK: All right. Thank you.

23 We will begin with staff.

24 Staff, do you have any questions for the
25 witness?

1 MS. CRAWFORD: Staff has no questions.

2 CHAIRMAN CLARK: All right. Commissioners?

3 Commissioner Fay.

4 COMMISSIONER FAY: Thank you, Mr. Chairman.

5 So I am going to direct you probably to, if
6 you have the motion itself that was filed. On
7 paragraph seven, it talks about the storm recovery
8 adjustment. And this -- I am okay if you want to
9 address it from a numbers perspective, but it's
10 more just sort of an operational question in that
11 can you explain to me -- it starts on the end of
12 page three, but it basically talks about, instead
13 of charges, those uncollected storm reserve,
14 reserving the right to collect the remainder of the
15 unrecovered storm balance, including any resulting
16 reserve deficiency if and when the storm reserve
17 returns to a debit balance in accordance with the
18 rule. Can you just explain to me how that would --
19 that would actually work from the utility's
20 perspective?

21 MS. TRIPLETT: I will try, and then Mr.

22 Menendez can chime in if I have gotten it wrong.

23 So how I think about this working is that we
24 have a storm reserve that, under the settlement, we
25 have the right to replenish that to \$132 million.

1 If this agreement is approved, it basically will
2 only be -- it's going to be a little less. I think
3 we indicated or maybe answered a discovery
4 question. But essentially that reserve will be
5 lower than the \$132 million.

6 And so, knock on wood, if we don't have any
7 storms that, named storms this year, what that
8 means is that next year, or the next time a named
9 storm impacts our service territory, we will be
10 starting from less than \$132 million in terms of
11 money available to pay for the restoration costs
12 associated with that storm, and -- and then once
13 that's depleted, then we would have the ability
14 under our settlement to come to the Commission with
15 a proceeding that says, okay, we had a named storm
16 and here is the amount of those restoration costs,
17 and here's what it would take to replenish back to
18 the \$132 million.

19 At that point, all the parties would reserve
20 their rights to look at the costs, including the
21 costs for Eta and Isaias, in order to determine if
22 they were prudently incurred. And then at that
23 point, we would be, you know, recovering from
24 customers storm surcharge and replenishing the
25 amount to the full \$132 million.

1 So it's a cash flow. It's a timing of cash,
2 essentially.

3 COMMISSIONER FAY: Yeah. Okay, that answers
4 my question. I mean, I think obviously there is
5 multiple parts to this mitigation, which I think
6 are great acknowledged so it's good to see an
7 additional component beyond just sort of the spread
8 of the additional costs that we have. So I
9 appreciate the utility working through that.

10 And I think overall, it's good. I guess we
11 will see how that mechanism works depending on what
12 number is added at the end of the day.

13 That's all I have, Mr. Chair. Thank you.

14 CHAIRMAN CLARK: Commissioners, any other
15 questions for the witnesses?

16 No other questions.

17 All right. Counsel, would you like your
18 witness excused?

19 MS. TRIPLETT: Yes, please. Thank you.

20 CHAIRMAN CLARK: All right. The witness is
21 excused. Thank you very much for that lengthy
22 testimony you gave.

23 (Witness excused.).

24 CHAIRMAN CLARK: All right. Do the parties
25 have any other matters that need to be addressed?

1 Any of the parties?

2 Staff?

3 MS. CRAWFORD: Staff has none.

4 I do note that if parties are willing to waive
5 the filing of post-hearing briefs, the Commission
6 may make a bench decision at this time.

7 If a bench vote is taken, the standard for
8 approving the Rate Mitigation Agreement is whether
9 approval of the agreement, when taken as a whole,
10 is in the public interest, and whether it results
11 in rates that are fair, just and reasonable.

12 CHAIRMAN CLARK: All right. Parties anyone
13 want to file a brief? No one is filing a brief.
14 Great.

15 Commissioners, if you are ready to make a
16 decision today, at your discretion, I will
17 entertain a motion.

18 Commissioner Fay.

19 COMMISSIONER FAY: Thank you, Mr. Chairman.

20 And, Mr. Chair, if you would allow it, I did
21 have a question for one of the parties before I
22 made my motion, if that's appropriate.

23 CHAIRMAN CLARK: Sure. We can back up.

24 COMMISSIONER FAY: Okay. Thank you.

25 I just wanted to get clarification, Walmart,

1 you, Ms. Eaton, you stated that you were -- you
2 were not opposed to this. I am having trouble
3 understanding how you are not onboard with it. Did
4 you want to put a comment on the record as to why
5 you made that decision?

6 MS. EATON: People far above my head made that
7 decision, so I can't explain all the reasons why.
8 I provided it to them to review, and they did
9 review it. They were very appreciative that they,
10 A, had a heads-up, and B, got the chance to review
11 it before it was filed, but they decided it they
12 were just not opposed as opposed to being a
13 signatory.

14 COMMISSIONER FAY: Okay. That's fine. I just
15 wanted to make sure I wasn't misinterpreting what
16 the agreement said since you were the only party
17 that --

18 MS. EATON: No. No. Not at all. I just
19 wanted to make the clarification on the record
20 about the two pleadings filed being inconsistent.

21 COMMISSIONER FAY: Great. Thanks.

22 MS. EATON: Thank you.

23 COMMISSIONER FAY: Yep. Thank you.

24 So with that, Mr. Chairman, I would move that
25 the Commission approve the motion to approve the

1 mitigation and find that it's in the public
2 interest.

3 COMMISSIONER GRAHAM: Second.

4 CHAIRMAN CLARK: I have a motion and a second
5 to approve the matter finding that it's in the
6 public interest.

7 Any discussion?

8 I would just make a quick note and observation
9 to thank you to all the parties for the outstanding
10 work that you did in putting this together. I
11 think that the bottom line is it's best -- it's
12 what's best for customers. I think that you did a
13 great job in coming up with strategies and my hat
14 is off to Duke for the concessions that you made in
15 regards to storm reserves. I know that that's a
16 critical tool that you use, but all of the parties
17 did a tremendous job in this and I believe, number
18 one, the customers benefit the most from this.
19 Thank you for that work.

20 Any other comments?

21 Any other questions?

22 On the motion, all in favor say aye.

23 (Chorus of ayes.)

24 CHAIRMAN CLARK: Opposed?

25 (No response.)

1 CHAIRMAN CLARK: Motion carries.

2 Any other business to come before the

3 Commission today? Any other matters?

4 MS. CRAWFORD: Staff is aware of none.

5 I would simply note that with your vote here
6 today, the order is due to issue by November 22nd.

7 CHAIRMAN CLARK: Very good.

8 Parties, anything else?

9 All right. We stand adjourned. Thank you so
10 much.

11 (Proceedings concluded.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, DEBRA KRICK, Court Reporter, do hereby
certify that the foregoing proceeding was heard at the
time and place herein stated.

IT IS FURTHER CERTIFIED that I
stenographically reported the said proceedings; that the
same has been transcribed under my direct supervision;
and that this transcript constitutes a true
transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative,
employee, attorney or counsel of any of the parties, nor
am I a relative or employee of any of the parties'
attorney or counsel connected with the action, nor am I
financially interested in the action.

DATED this 9th day of November, 2021.



DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #HH31926
EXPIRES AUGUST 13, 2024