

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Storm Protection Plan,
pursuant to Rule 25-6.030, F.A.C., Tampa
Electric Company.

DOCKET NO. 20220048-EI

In re: Review of Storm Protection Plan,
pursuant to Rule 25-6.030, F.A.C., Florida
Public Utilities Company.

DOCKET NO. 20220049-EI

In re: Review of Storm Protection Plan,
pursuant to Rule 25-6.030, F.A.C., Duke
Energy Florida, LLC.

DOCKET NO. 20220050-EI

In re: Review of Storm Protection Plan,
pursuant to Rule 25-6.030, F.A.C., Florida
Power & Light Company.

DOCKET NO. 20220051-EI
ORDER NO. PSC-2022-0226-PCO-EI
ISSUED: June 24, 2022

FIRST ORDER MODIFYING ORDER ESTABLISHING PROCEDURE
AND GRANTING DUKE ENERGY FLORIDA'S
MOTION TO MODIFY REBUTTAL TESTIMONY FILING DATE

Docket No. 20220050-EI was opened to review the Storm Protection Plan (SPP) filed by Duke Energy Florida, LLC's (DEF) under Section 366.95(5), Florida Statutes (F.S.). Order No. PSC-2022-0119-PCO-EI, issued on March 17, 2022, established hearing procedures, hearing dates, and consolidated DEF's SPP for purposes of hearing with the SPP dockets for Florida's other investor-owned electric utilities. The Office of Public Counsel (OPC), Florida Industrial Power Users Group (FIPUG), White Springs Agricultural Chemicals Inc. d/b/a PCS Phosphate – White Springs (PCS Phosphate), Walmart Inc. (Walmart), and Nucor Steel Florida, Inc. (NUCOR) are parties to the DEF docket.

On June 15, 2022, DEF filed a Motion to Modify Rebuttal Testimony Filing Date, specifically seeking to move its rebuttal testimony filing date to July 1, 2022. DEF represents that it has discussed these matters with the parties and that OPC supports the motion, while PCS Phosphate, NUCOR, Walmart, and FIPUG do not oppose the motion.

DEF's Motion to Modify Rebuttal Testimony Filing Date

DEF requests that its rebuttal testimony filing date be extended to July 1, 2022, from the June 21, 2022, filing date. In support of its motion, DEF represents that the pre-filed expert testimony of two of OPC's expert witnesses is in conflict with the 2021 Settlement Agreement (SA), approved by Order No. PSC-2021-0202-AS-EI, as amended by PSC-Order-2021-0202A-

AS-EI, in Docket No. 20210016-EI, in which several parties, including OPC, were signatories. DEF asserts that the conflicting language is contained in paragraph 4 of the SA, which provides: “The Parties agree that DEF has properly removed all costs associated with the Storm Protection Plan (“SPP”) from the costs included in DEF’s MFRs, attached hereto as Exhibit 1, as all such costs spent on approved SPP programs are properly recoverable through the SPP Cost Recovery Clause (“SPPCRC”).”

DEF requests additional time to explore the matters related to the motion with OPC and seeks to resolve the issues related to this conflict prior to DEF’s filing of its rebuttal testimony.

Analysis and Ruling

Pursuant to Rule 28-106.211, Florida Administrative Code (F.A.C.), the Prehearing Officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case. Additionally, Rule 28-106.204, F.A.C., provides that the presiding officer shall conduct such proceedings and issue such orders as are deemed necessary to dispose of issues raised by the motion.

After reviewing the motion, it appears that allowing DEF more time to file its rebuttal testimony will allow for the opportunity for additional discussion and to promote clarification of the alleged conflict between OPC and DEF. DEF filed its motion for extension of time prior to the expiration of the deadline and provided good cause for the request in accordance with Rule 28-106.204(4), (F.A.C.). There is no opposition to this Motion and DEF has set forth sufficient facts upon which to grant an extension. Accordingly, DEF’s Motion to Modify Testimony Filing Date is hereby granted.

At this time, Section IX of the Order Establishing Procedure (OEP) shall be modified for DEF only, and the new due date for DEF to file rebuttal testimony is July 1, 2022. However, in recognition of the reduced number of days for the parties to participate in discovery based on DEF’s rebuttal testimony, the turnaround time for DEF to provide responses to discovery based upon its rebuttal testimony is hereby reduced from 10 days, as provided in the current OEP, to 7 days. All other dates and provisions of the initial OEP are affirmed and this order only applies to the DEF SPP docket (Docket No. 20220050-EI).

Based on the foregoing, it is

ORDERED by Commissioner Mike La Rosa, as Prehearing Officer, that the Duke Energy Florida’s Motion to Modify Rebuttal Testimony Filing Date is granted. It is further

ORDERED that Duke Energy Florida’s Rebuttal Testimony due date is July 1, 2022. It is further

ORDERED that the turnaround time for Duke Energy Florida to provide responses to discovery based upon its rebuttal testimony is hereby reduced to 7 days. It is further

ORDERED that Order No. PSC-2022-0119-PCO-EI, is reaffirmed to the extent it is not inconsistent with this Order.

By ORDER of Commissioner Mike La Rosa, as Prehearing Officer, this 24th day of June, 2022.



Mike La Rosa
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.

WLT

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service 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, or the First District Court of Appeal, in the case of a water or wastewater 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.