

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 20220050-EI

Dated: September 6, 2022

**DUKE ENERGY FLORIDA, LLC'S POST-HEARING STATEMENT
OF ISSUES, POSITIONS, AND BRIEF IN SUPPORT**

Duke Energy Florida, LLC (“DEF” or the “Company”), pursuant to Commission direction and the Order Establishing Procedure No. PSC-2022-0119-PCO-EI, hereby files its Post-Hearing Statement of Issues, Positions, and Brief in support of its 2023-2032 Storm Protection Plan (“2023 SPP” or the “Plan”). The preponderance of the evidence introduced at hearing established that DEF’s 2023 SPP complies with all requirements of Rule 25-6.030, F.A.C., is in the public interest pursuant to section 366.96(5), Florida Statutes, and should be approved without modification. The Plan strikes the appropriate balance between the legislature’s goal of protecting and hardening the grid against extreme weather events to reduce restoration costs and customer outages and customer costs.

In support, DEF states:

I. Introduction

In 2019, the Florida Legislature enacted section 366.96, Florida Statutes (the “SPP Statute”). The Legislature declared it to be “in the state’s interest to strengthen electric utility infrastructure to withstand extreme weather conditions by promoting the overhead hardening of electrical transmission and distribution facilities, the undergrounding of certain electrical distribution lines, and vegetation management.” § 366.96(1)(c), Fla. Stat. Further, the Legislature found that “[p]rotecting and strengthening transmission and distribution electric utility

infrastructure from extreme weather conditions can effectively reduce restoration costs and outage times to customers and improve overall service reliability for customers[]” and “[i]t is in the state’s interest for each utility to mitigate restoration costs and outage times to utility customers when developing transmission and distribution storm protection plans.” *Id.* at (1)(d)-(e).

The SPP Statute directs each public utility to file, pursuant to Commission Rule, a transmission and distribution storm protection plan that covers the immediate 10-year planning period. Further, the SPP Statute specifies that “[e]ach plan must explain the systematic approach the utility will follow to achieve the objectives of reducing restoration costs and outage times associated with extreme weather events and enhancing reliability.” *Id.* at (3). While the Legislature provided the Commission the discretion to determine the required elements of each Company’s filing, *see id.*, the Legislature also provided clear direction on what the Commission is required to consider when reviewing the filed plans:

- (a) The extent to which the plan is expected to reduce restoration costs and outage times associated with extreme weather events and enhance reliability, including whether the plan prioritizes areas of lower reliability performance.
- (b) The extent to which storm protection of transmission and distribution infrastructure is feasible, reasonable, or practical in certain areas of the utility’s service territory, including, but not limited to, flood zones and rural areas.
- (c) The estimated costs and benefits to the utility and its customers of making the improvements proposed in the plan.
- (d) The estimated annual rate impact resulting from implementation of the plan during the first 3 years addressed in the plan.

Id. at (4)(a)-(d). Finally, the SPP Statute requires the Commission to determine, within 180 days of a Plan’s filing, “whether it is in the public interest to approve, approve with modification, or deny the plan.” *Id.* at (5).

In response to the legislature’s directive, the Commission enacted two rules to implement and administer the various provisions of the SPP Statute, Rule 25-6.030, F.A.C. (the “SPP Rule”)

and Rule 25-6.031, F.A.C. (the “SPPCRC Rule”).¹ The SPP Rule requires each utility to file an updated Storm Protection Plan at least every three years covering the utility’s immediate ten-year planning period and provides the required components of each company’s filing. *See* Rule 25-6.030(1) & (3), F.A.C.

In April of 2020, DEF filed its first SPP pursuant to the newly enacted SPP Statute and SPP Rule. *See* Docket No. 20200069-EI (“DEF 2020 SPP”). By Order No. PSC-2020-0293-AS-EI, the Commission approved a settlement agreement that resolved all issues in DEF’s 2020 SPP docket, including an express agreement that the record supported a finding that all ten (10) SPP programs included in the 2020 SPP were in the public interest.² (“2020 SPP Settlement Agreement”). As a part of the 2020 SPP Settlement Agreement, DEF agreed to file its next Plan in 2022 rather than 2023 as would have otherwise been required by the SPP Rule.

Accordingly, DEF filed its 2023-2032 SPP in Docket No. 20220050-EI on April 11, 2022. As demonstrated below, the 2023 SPP is in the public interest and should be approved as filed.

II. Issues and Positions³

Issue 1C: Does DEF’s Storm Protection Plan contain all of the elements required by Rule 25-6.030, Florida Administrative Code?

DEF: *Yes, DEF’s 2023-2032 Storm Protection Plan includes all of the elements required by Rule 25-6.030, Florida Administrative Code.

¹ The SPPCRC Rule, which is not at issue in this proceeding, *see* Order No. PSC-2022-0292-PCO-EI, establishes the mechanism for recovery of prudently incurred SPP costs. The SPPCRC is scheduled for hearing in November. *See* Docket No. 20220010-EI.

² DEF’s 2020 SPP included the following ten programs: Feeder Hardening Program; Lateral Hardening Program; Self-Optimizing Grid – SOG Program; Underground Flood Mitigation Program; Distribution Vegetation Management Program; Transmission Structure Hardening Program; Substation Flood Mitigation Program; Loop Radially-Fed Substations Program; Substation Hardening Program; and Transmission Vegetation Management Program. *See* Order No. PSC-2020-0293-As-EI, at p. 6.

³ DEF took no position on any of the other companies’ specific issues in its prehearing statement, and accordingly will not address those issues in this filing.

Issue 2C: To what extent is DEF's Storm Protection Plan expected to reduce restoration costs and outage times associated with extreme weather events and enhance reliability?

DEF: *As detailed in Exhibit No. 4, after full deployment of DEF's 2023 SPP, DEF projects an average, annual reduction in outage times of approximately 399.4 million customer minutes of interruption, as well as average, annual reduction in restoration costs of approximately \$56.5 million. Program-specific reductions in outage times and restoration costs are shown on Exhibit No. 3.

Issue 3C: To what extent does DEF's Storm Protection Plan prioritize areas of lower reliability performance?

DEF: *The prioritization methodology for each SPP Program includes the "Probability of Damage" from extreme weather events for each major asset component. Historical reliability performance of these assets is correlated with simulated future weather exposure conditions. This technique prioritizes areas of lower reliability performance. This is more fully described in Exhibit No. 3.*

Issue 4C: To what extent is DEF's Storm Protection Plan regarding transmission and distribution infrastructure feasible, reasonable, or practical in certain areas of the Company's service territory, including, but not limited to, flood zones and rural areas?

DEF: *DEF's SPP is feasible, reasonable, and practical throughout the Company's service territory. The model used to produce DEF's SPP, detailed in Exhibit No. 3 and Exhibit No. 4, considered the geographic location and characteristics of each asset as part of the analysis of the feasibility and reasonableness of implementing the various SPP Programs at each given location.*

Issue 5C: What are the estimated costs and benefits to DEF and its customers of making the improvements proposed in the Storm Protection Plan?

DEF: *The estimated benefits are provided in DEF’s position on Issue 2C, and the estimated costs are shown on Exhibit No. 3, page 56.*

Issue 6C: What is the estimated annual rate impact resulting from implementation of DEF’s Storm Protection Plan during the first 3 years addressed in the plan?

DEF:

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Estimated SPP Rate Impacts			
Residential \$/1,000 kWh	2023	2024	2025
(1) Estimated SPP Rate Impact	\$4.21	\$6.52	\$8.75
(2) Typical Commercial % Increase from prior year Bill	1.0%-1.2%	1.4%-1.6%	1.3%-1.5%
(3) Typical Industrial % Increase from prior year Bill	0.8%-1.2%	1.2%-1.7%	1.1%-1.6%

Estimates the first three years of the SPP Residential Rate factor.

Commercial & Industrial % increase incorporates base rate increases set forth in DEF’s 2021 Settlement, approved in Order No. PSC-2021-0202A-AS-EI.

*

Issue 10C: Is it in the public interest to approve, approve with modification, or deny DEF’s Storm Protection Plan?

DEF: *DEF’s 2023 SPP is in the public interest and should be approved without modification. DEF demonstrated by a preponderance of the evidence that its 2023 SPP is estimated to provide the outage reduction and restoration cost reductions the Legislature has determined to be in the public interest, and does so in a cost-effective manner.*

Issue 11C: Should this docket be closed?

DEF: *Yes, after the Commission enters its final order, this docket should be closed.*

III. Brief in Support of DEF's Positions

As outlined above, the ultimate issue to be determined in this docket is whether DEF's 2023 SPP is in the public interest. *See* 366.96(5), Fla. Stat.; Order No. PSC-2022-0292-PHO, EI, Issue 10C. Because DEF's 2023 SPP meets all the filing requirements of Rule 25-6.030, F.A.C., and because DEF has shown by the preponderance of the evidence that its Plan meets the Legislature's intended goals of reducing restoration costs and outage times to customers, DEF's 2023 SPP is in the public interest and should be approved as filed.

A. Each of DEF's SPP Programs Qualify for Inclusion in the 2023 SPP

DEF's 2023 SPP includes ten (10) proposed SPP Programs, each of which was also included in DEF's 2020 SPP. *See* Ex. No. 3, Tr. 125; Tr. 212-14. DEF's proposed Plan is expected to reduce average, annual storm restoration costs by over \$50 million, while reducing average, annual customer minutes of interruption ("CMI") by close to 400 million minutes. *See* Ex. No. 4. The expected benefits meet the intent of the SPP Statute and Rule and thus the 2023 SPP is in the public interest and should be approved. *See* § 366.96(3) & (5), Fla. Stat.; Rule 25-6.030(3)(a) & (b), F.A.C. (requiring the SPP to describe how "implementation of the proposed [Plan] will strengthen the electric utility infrastructure to withstand extreme weather conditions . . ." and how "implementation of the proposed [Plan] will reduce restoration costs and outage times associated with extreme weather conditions therefore improving overall service reliability.").

With regards to eligibility of the proposed programs for Plan inclusion in 2023 and 2024, pursuant to DEF's 2021 Rate Settlement Agreement, the signatories "agree[d] that DEF has properly removed all costs associated with the Storm Protection Plan ('SPP') from the costs included in DEF's MFRs . . . as all such costs spent on approved SPP programs are properly

recoverable through the SPP Cost Recovery Clause (‘SPPCRC’).”⁴ As OPC recognized in its Unopposed Motion to Accept Amended Testimony,⁵ the testimonies of Messrs. Mara and Kollen, as originally filed, appeared to conflict with paragraph 4 of the 2021 Settlement Agreement. As a result, after discussions with the Company, OPC amended its testimony “to communicate to the Commission that OPC is not asserting that the costs included in the six programs should be excluded from the SPP in a way that would make them ineligible for recovery in the SPPCRC in the years 2023 or 2024. To the extent it becomes necessary, the OPC is willing to stipulate to the recoverability of these costs in the SPPCRC for these years, consistent with Paragraph 4 of the 2021 Settlement Agreement.” OPC Motion, ¶ 6. Pursuant to section 366.96(7), Florida Statutes, “[t]he commission shall conduct an annual proceeding to determine the utility’s prudently incurred transmission and distribution storm protection plan costs and allow the utility to recover such costs through a charge separate and apart from its base rates, to be referred to as the storm protection plan cost recovery clause.” This section makes it clear that the prerequisite for cost recovery through the SPPCRC is incurring the costs pursuant to an approved SPP; that is, for costs to be “properly recoverable” through the SPPCRC, *see* 2021 Settlement Agreement, at ¶4, the costs must be incurred implementing programs that are included in an approved SPP. *See* § 366.96(7), Fla. Stat. DEF notes that the other intervener parties to this docket have adopted OPC’s positions with respect to each identified issue,⁶ and thus, it follows that there is no challenge to the inclusion

⁴ *See* Order No. 2021-0202-AS-EI, p. 17. The signatories to the 2021 Settlement Agreement include the OPC, PCS Phosphate, FIPUG, and NUCOR. *See id.* at p. 42-44, 49; Tr. 314.

⁵ *See* Document No. 04308-2022, filed June 27, 2022 (“OPC Motion”).

⁶ There are two exceptions: Walmart has taken no position on Issue 5C (which waives the right to take a position on that issue now, *see* Order No. PSC-2022-0119-PCO-EI, p. 8), and Walmart’s position on Issue 10C did not substantively assert that DEF’s Plan was or was not in the public interest, but rather argued the Commission should direct DEF to continue to collaborate with interested stakeholders in anticipation of the next SPP update. DEF remains willing to continue to collaborate with interested stakeholders, and therefore has no objections to Walmart’s position on this issue.

of any of DEF’s SPP programs for years 2023 and 2024 nor to the recoverability of the reasonable and prudent costs to implement those programs through the SPPCRC for those years.

Regarding 2025, OPC has maintained the dubious position that programs it has previously agreed are “properly recoverable” through the SPPCRC in 2023 and 2024 (and indeed, in 2020 through 2022⁷) are inexplicably, after five years of inclusion in the SPP, ineligible for inclusion in the Plan (and therefore for recovery through the SPPCRC) in 2025 and beyond. *See* Tr. 677⁸; Order No. PSC-2022-0291-PHO-EI, pp. 33-34 (OPC’s position asserting six (6) proposed programs⁹ “do[] not comply with 25-6.030” absent the impact of the 2021 Settlement).

OPC’s arguments against the SPP-eligibility of these programs are two-fold: first, for programs or projects to qualify for SPP inclusion, they must both reduce outage restoration costs and reduce outage times, *see id.* at p. 23; Tr. 678-79; and second, programs or projects that, absent the enactment of the SPP Statute and Rule, would have traditionally been performed and the costs recovered through base rates are ineligible for the SPP, *see* Tr. 682, 697, 699, 702-03, 705, 707, & 712-13.¹⁰ As explained below, the Commission should reject OPC’s arguments as both are based on misreading of the controlling statute and rule.

First, OPC errs by myopically focusing on each program¹¹ in isolation and arguing that programs must both reduce outage restoration costs and outage times; OPC’s position, as explained

⁷ *See* Tr. 125; Tr. 212-14; 2020 SPP Settlement Agreement.

⁸ “Specifically, the portions of my testimony recommending rejection of programs or subprograms under the heading of ‘Does not comply with 25-6.030’ as shown in the table on page 13 should not be considered for the rate recovery years 2023 and 2024 where they conflict with the provisions of this order.”

⁹ The six programs OPC incorrectly contends do not comply with the Rule are: Self-Optimizing Grid (“SOG”), Underground (“UG”) Flood Mitigation, Transmission Structure Hardening, Transmission Substation Flood Mitigation, Transmission Loop Radially Fed Substations, and Transmission Substation Hardening. *See id.*; Tr. 685.

¹⁰ OPC expressed this argument in various ways in its testimony and through its questioning of DEF’s witnesses, such as general maintenance that is the core function of a utility (*e.g.*, Tr. 681-82, 725, 1292), replacing aging and/or deteriorating infrastructure (*e.g.*, Tr. 219-21, 699-700, 702), or generally more appropriate for inclusion in base rates (*e.g.*, Tr. 697, 699).

¹¹ OPC actually takes the argument a step further, arguing that the same analysis should be applied at the individual project level. *See* Tr. 678-79. As discussed herein, the argument fails at the program level and therefore at the project level as well.

by Mr. Mara, relies on a narrow reading the SPP Rule’s definitions of “storm protection program” and “storm protection project.” Tr. 678. While the definitions speak for themselves, these two rule provisions must be read together with the remainder of the Rule to effectuate the legislative intent evidenced in the SPP Statute. *See Bank of N.Y. Mellon v. Glenville*, 252 So. 3d 1120, 1128 (Fla. 2018) (“This Court has long recognized that the ‘plain language’ approach ‘is subject to the qualification that if a part of a statute appears to have a clear meaning if considered alone but when given that meaning is inconsistent with other parts of the same statute or others *in pari materia*, the Court will examine the entire act and those *in pari materia* in order to ascertain the overall legislative intent.”) (quoting *Fla. State Racing Comm’n v. McLaughlin*, 102 So. 2d 574, 575-76 (Fla. 1958)). Moreover, the SPP statute must be liberally construed to protect the public welfare. § 366.01, Fla. Stat. (“The regulation of public utilities as defined herein is declared to be in the public interest and ***this chapter shall be deemed to be an exercise of the police power of the state for the protection of the public welfare and all the provisions hereof shall be liberally construed for the accomplishment of that purpose.***”).¹²

In this instance, the Legislature included specific findings regarding the public interest (“state’s interest”) it is seeking to further and protect:

- (c) It is in the ***state’s interest*** to strengthen electric utility infrastructure to withstand extreme weather conditions by promoting the overhead hardening of electrical transmission and distribution facilities, the undergrounding of certain electrical distribution lines, and vegetation management.
- (d) Protecting and strengthening transmission and distribution electric utility infrastructure from extreme weather conditions can effectively reduce restoration costs and outage times to customers and improve overall service reliability for customers.
- (e) It is in the ***state’s interest*** for each utility to mitigate restoration costs and outage times to utility customers when developing transmission and distribution storm protection plans.

¹² All emphasis in quotations is added, unless otherwise noted.

§ 366.96(1)(c)-(e), Fla. Stat. The narrow interpretation offered by OPC would ultimately harm the public interest by inappropriately curtailing the very investments the Legislature has determined are in the state's interest, contrary to the legislative directives found in both sections 366.01 and 366.96.

When given its proper interpretation, it is clear the SPP Rule was not intended to limit the programs utilities could offer in their respective SPPs. The SPP Statute, which provides the sole authority for the SPP Rule, *see* § 120.536(1), Fla. Stat., clearly and unequivocally states it is the **Plan** that the Legislature intended the Commission to evaluate for its effectiveness in achieving the dual goals identified in the statute. *See* § 366.96(3), Fla. Stat. (“Each **plan** must explain the systematic approach the utility will follow to achieve the objectives of reducing restoration costs and outage times associated with extreme weather events and enhancing reliability.”); *id.* at (4)(a) (“In its review of each transmission and distribution storm protection **plan** filed pursuant to this section, the commission shall consider: (a) The extent to which the **plan** is expected to reduce restoration costs and outage times associated with extreme weather events and enhance reliability...”). It is axiomatic that an administrative rule may not modify or contravene (i.e., limit) the statute being implemented. § 120.52(8)(c), Fla. Stat. (defining an invalid exercise of delegated legislative authority as a “rule [that] enlarges, **modifies, or contravenes the specific provisions of law implemented . . .**”); *see R.C. v. Dep’t of Agric. & Cons. Svcs.*, 323 So. 3d 275, 284 (Fla. 1st DCA 2021) (*Thomas, J., concurring*) (“Just as a court cannot add words to this statute, neither may the Department add words that were not enacted by general law.”). It follows that the Commission’s *interpretation* of the Rule must also be consistent with, and not modify or contravene, the enabling legislation.

As noted above, the very programs OPC asserts “do not comply” with the SPP Rule were approved for inclusion in DEF’s 2020 SPP -- which means the programs were found to be consistent with the rule requirements. *See* Order No. PSC-2020-0293-AS-EI.¹³ Now, for the first time, OPC offers a new, narrow interpretation of the SPP Rule that it contends demonstrates those very same programs do not now, and therefore logically did not previously, comply with the Rule at all.

OPC’s narrow interpretation of the SPP Rule should be rejected as it is inconsistent with the express purpose and plain meaning of the enabling legislation which requires the Commission to determine if the plan as whole achieves the desired goals; as Mr. Lloyd testified, “OPC has lost the forest for the trees.” Tr. 1375. That said, as discussed below, even if the Commission did accept OPC’s incorrect legal analysis, DEF’s programs are still appropriate as they all accomplish the dual goals of the SPP Statute and Rule. *See* Ex. 3; Ex. 4; §§ III.A.i.-vi., *infra*.¹⁴

OPC next contends work that traditionally may have been performed under, and the costs recovered through, traditional base rates is somehow ineligible for inclusion in the SPP. Put simply, there is no basis in the SPP Statute or Rule for such a conclusion.

At the outset, OPC’s argument fails as a simple matter of logic. The SPP Statute was enacted in 2019, the Rule was developed in 2019 and became effective in 2020. However, the

¹³ DEF acknowledges the 2020 SPP was approved as part of a settlement, and therefore the Commission was not asked to resolve a dispute regarding the application of the Rule to the Plan or programs included therein. Nonetheless, because the Commission’s authority is limited to those powers conferred by the legislature, *see* § 120.52(8), Fla. Stat. (limiting an agency’s authority to those actions within “the powers, functions, and duties delegated by the Legislature”), the parties to a settlement cannot confer authority on the Commission it has not otherwise been granted (*e.g.*, the authority to approve a program or plan that did not meet the requirements of the Rule or underlying statute) without violating separation of powers principles. *See R.C.*, 323 So. 3d at 284 (*Thomas, J., concurring*). DEF also notes that neither it nor any other party to the 2020 SPP Settlement Agreement sought a waiver of the Rule requirements leading to the conclusion that Commission determined the programs met the requirements of the Rule.

¹⁴ As discussed above, OPC has challenged six (6) of DEF’s ten (10) programs, and thus those programs are discussed herein. However, the evidence shows that each of DEF’s programs will reduce restoration costs and outages. *See* Ex. 3; Ex. 4.

utilities have been performing storm hardening, at the Commission’s direction, since 2006. *See* Rule 25-6.0342, F.A.C. (*Electric Infrastructure Storm Hardening*), *repealed* June 2, 2020; Order No. PSC-2007-1021-FOF-EI (approving DEF’s first storm hardening plan including the 10 initiatives required by Order No. PSC-2006-0351-PAA-EI). These storm hardening efforts were *all* undertaken and included within the companies’ base rates, yet the SPP Statute was specifically contemplated to build off those previous efforts. *See Bill Analysis & Fin. Impact Statement CS/CS/CS/SB 768*, Senate Approps. Cmte., Apr. 15, 2019, p. 1 (“CS/CS/CS/SB 796 creates a recovery clause for storm protection costs instead of recovering these costs through base rates, as is done now.”) (“Bill Analysis”); *id.* at p. 9 (“The PSC indicated that the intent of the bill appears to promote an incremental increase of the same types of activities and costs that are already described by the existing storm hardening plans.”). There is no indication in the SPP Statute or the accompanying Bill Analysis that the Legislature intended to disqualify from the SPPs any and all work that may have been previously accomplished under base rates. At best, OPC’s argument should be a cost recovery issue; that is, costs recovered through the SPPCRC cannot be recovered through some other mechanism. *See* § 366.96(8), Fla. Stat.; *see also* Order No. PSC-2022-0292-PCO-EI.¹⁵ DEF agrees, but it simply does not follow from a recitation of this prohibition that costs *previously* recovered through base rates prior to the creation of the SPPCRC cannot be recovered through the clause now, so long as they are not *still* being recovered through some other mechanism, such as base rates.

Additionally, OPC’s argument that replacement of “aging infrastructure” cannot be performed within the Plan likewise must fail. Logically, any infrastructure being replaced as part

¹⁵ “Witness Kollen’s testimony conflates the portions of the SPP hearing guidelines contained within the Statute and the SPP Rule with the SPPCRC guidelines found within the Statute and Rule. . . . OPC’s argument conflating the two ignores the plain reading of the separate and distinct guidelines for the SPP as opposed to the SPPCRC.” *Id.* at p. 5.

of a hardening program will be “aging” to one degree or another. Tr. 1272-74. OPC argues that “simply replacing old equipment does not constitute storm hardening,” unless the new infrastructure exceeds the strength required by the NESC. Tr. 681. OPC’s contention relies on Mr. Mara’s opinion, given with no citation to any other authority, that “[h]ardening means to design and build components of the system to a strength that would not normally be required.” Tr. 679. “Hardening” is not defined in either the SPP Statute or Rule, and therefore, it is appropriate to give the term its ordinary dictionary meaning. *Daniel v. State*, 317 So. 3d 1278, 1280 (Fla. 5th DCA 2021) (citing *Debaun v. State*, 213 So. 3d 747, 751-52 (Fla. 2017)). The dictionary definition of “harden” is “to make *hard or harder*.”¹⁶ OPC’s argument fails to recognize that replacing an “aging” component that was designed and built to the *then-current* standard with a new component designed and built to the *current* standard, effectively hardens the system even if it does not go *beyond* the current standards. Tr. 1292-93.

OPC’s argument that replacing aging infrastructure is not a “storm hardening” effort because it does not “strengthen” the facilities, Tr. 680-81, also ignores the Legislature’s determination that “***Protecting and*** strengthening transmission and distribution electric utility infrastructure from extreme weather conditions can effectively reduce restoration costs and outage times to customers and improve overall service reliability for customers.” § 366.96(1)(d), Fla. Stat. Said differently, OPC’s focus on whether a program acts to strengthen facilities ignores the Legislature’s determination that protecting the facilities from damage also contributes towards the goals of reducing restoration costs and customer outages – often in a *more* cost-effective manner. Tr. 1276.

¹⁶ See <https://www.merriam-webster.com/dictionary/harden> (last visited Aug. 30, 2022).

Similarly, OPC contends that DEF has a “core responsibility to maintain a safe operating system” and “aging infrastructure and deteriorated equipment needs to be maintained in safe operating condition.” Tr. 681. DEF agrees with these statements, but they miss the point. DEF has and does maintain a safe operating system, but notwithstanding, the system has sustained damage during extreme weather events – for example, the transmission towers damaged during hurricane Michael. In response to that damage, and as directed by the Legislature, DEF has developed the Tower Upgrade subprogram within the Structure Hardening Program to systematically upgrade the types of towers that have been shown to be more vulnerable during extreme weather events to strengthen the system to withstand the impacts of extreme weather. *See* Ex. 3; Ex. 4; Tr. 1271-73; Tr. 1294-95. OPC simply has not pointed to any SPP Program being undertaken because the transmission or distribution system has not been properly maintained, nor could it.

The Programs were designed as part of an integrated Plan intended to strengthen and protect the system against the effects of extreme weather, Tr 1274-75, 1288, 1335-36, that those Programs include replacement of aging infrastructure or could have been performed under base rates if not for the creation of the SPP and SPPCRC simply is of no legal importance.¹⁷ Neither the SPP Statute nor SPP Rule include the limitation against inclusion of such work that OPC is now trying to graft upon them. *See* § 366.96(4)(a)-(d), Fla. Stat. (setting out the factors the Commission “shall consider” when reviewing a utility’s Plan but omitting any reference to whether similar work was previously performed under base rates); *see also* Bill Analysis, pp. 1 & 9.

¹⁷ Notably, OPC has not argued that all Programs or sub-programs that were previously performed under base rates should be excluded from the Plan, e.g., Transmission wood pole replacements and the vegetation management programs have not been challenged. *See, e.g.*, Tr. 685.

Finally, OPC contends that *none* of the utilities' (including DEF's) proposed SPP Programs are cost-effective, arguing that no program has benefits that outweigh the costs. Tr. 908-09. This contention is flatly refuted by Mr. Lloyd's rebuttal testimony. Tr. 1338; 1355; *see* Ex. 3. Mr. Kollen argues that "DEF [] used a flawed form of a benefit/cost test to rank their programs and projects and to determine the maximum expenditure levels for its programs." Tr. 909. OPC's issue with DEF's benefit/cost analysis concerns the assignment of a value to avoided CMI using the Interruption Cost Estimator ("ICE"); Mr. Kollen argued the "societal value of customer interruptions is a highly subjective quantitative measure based on interpretations of a range of customer survey results. The societal value of customer interruptions is not a cost that actually is incurred or avoided by the utility or customer and should be excluded from the justification of SPP programs and projects using benefit cost analyses." Tr. 905.

DEF disagrees. At the outset, OPC's position has remained consistent that the SPP Rule *requires* a quantification of the estimated benefits resulting from the SPP in order to perform a "useful comparison" of costs to benefits.¹⁸ Mr. Kollen testified:

The SPP Rule requires the utility to provide "[a] comparison of the costs identified in subparagraph (3)(d)3. and the benefits identified in subparagraph (3)(d)1." Rule 25-6.030(3)(d)4., F.A.C. ***The context and juxtaposition of the terms "costs" and "benefits" strongly imply a comparison of dollar costs and dollar benefits, not a comparison of dollar costs and qualitative benefits.*** The latter comparison provides no useful decision-making information because it does not provide a useful threshold decision criterion to qualify programs and projects, does not provide a framework for ranking programs and projects, and does not allow a rational quantitative basis for the magnitude of programs and projects that may be included.

¹⁸ *See, e.g.*, Tr. 139-40 (Mr. Rehwinkel questioning Mr. Lloyd: "Q Okay. And do you measure reductions in costs in terms of dollars? A Yes. Q Okay. And that's on the same footing as the way you measure costs, which are in dollars, is that right? A Yes, sir. Q And you provided the comparison of costs in dollars and benefits in dollars for each of your programs specifically to comply with the SPP rule subsection (3)(d)(4) requirement, is that right? A Yes, sir."); *see also* Tr. 908.

Tr. 907-08. DEF did exactly what Mr. Kollen suggested was required by providing a quantification of the dollar benefits resulting from avoiding millions of CMI. Tr. 1338, 1342-43; *see* Ex. 3; Ex. 4.

To the extent Mr. Kollen has issues with the ICE calculator itself as a tool for arriving at the quantification he himself claims is required, Mr. Lloyd explained the ICE calculator's pedigree:

The ICE model was developed by Lawrence Berkeley National Laboratory ("LBNL") and Nexant, Inc. This tool is designed for electric reliability planners at utilities, government organizations, and other entities that are interested in estimating interruption costs and/or the benefits associated with reliability improvements in the United States. The ICE Calculator is funded by the Energy Resilience Division of the U.S. Department of Energy's Office of Electricity. This non-electric benefit model has been used throughout the industry and in regulatory proceedings.

Tr. 1343. Other than arguing the tool was "subjective" and based on "customer surveys," Mr. Kollen expressed no other, and truly no reasonable, objection to the tool itself. OPC has argued that utilities are required to quantify the expected benefits of its Plan; without agreeing that the SPP Rule requires such a quantification, the fact is DEF performed the calculations and showed that the Plan's (and each Program's) benefits exceed the costs. That the OPC argues against the inclusion and consideration by the Commission of the quantification of direct customer benefits, which OPC has otherwise argued is required, is baffling to say the least.

In sum, OPC's interpretation of the SPP Rule and attempt to include additional limitations and requirements should be rejected.

Notwithstanding, even if the Commission accepted OPC's interpretations of the SPP Rule (which as shown above, it should not), DEF's SPP 2023 should *still* be approved without modification. As explained below, if a particular program is primarily intended to provide one of the named benefits (e.g., reducing outage times), it would nonetheless contribute toward the other

(e.g., reducing restoration costs). Thus, each of DEF's SPP Programs will reduce restoration costs and customer outages, and therefore comply with OPC's narrow construction of the Rule.¹⁹

i. Self-Optimizing Grid ("SOG")

The SOG program is appropriate for the SPP, even if the Commission were to accept OPC's interpretation of the SPP Rule, as it both reduces storm related outages and will result in a reduction in storm restoration costs because DEF will be able to better identify and target the source of the remaining outages. Tr. 1348; Ex. No. 3, p. 27-28. That is, by automatically rerouting power around trouble areas, DEF will be able to quickly restore power to customers with the ability to receive it (reducing outages) and DEF will better be able to quickly locate the cause of the remaining outages and direct restoration personnel to that area more efficiently, thus reducing restoration time which is the predominant driver of restoration costs.

OPC's witness Mara contends the SOG program will not reduce restoration costs because the cost of remedying the cause of the outage (e.g., removing a tree from a line and possibly replacing a pole) is not reduced by the program. Tr. 696. This argument ignores the cost savings clearly identified in DEF's SPP – by identifying the location of the damage more efficiently, DEF will better be able to target restoration efforts reducing the time required to restore customers. Ex. 3. As outside resources brought onto the system to assist with restoration are compensated based on the length of time they are engaged, and not based on the number of poles they repair, anything that shortens the length of the restoration effort will reduce restoration costs, even if that reduction is difficult to quantify. *See* Tr. 1268. Thus, OPC's contention should be rejected.

Next, Mr. Mara argues SOG will not function during extreme weather events, arguing "during an extreme weather event it is doubtful that adjacent feeders will be available because

¹⁹ No party contends the Distribution Feeder and Lateral Hardening Programs or the Distribution and Transmission Vegetation Management Programs do not comply with the SPP Rule, and thus those Programs are not addressed.

these adjacent feeders will likely have suffered an outage as well.” Tr. 696. At the outset, it is difficult to contemplate an argument more based on pure speculation. Moreover, if taken to its logical extreme, once any feeder is damaged, then every adjacent feeder is also damaged, and then the next adjacent feeder must also be damaged, meaning damage to one feeder will result in cascading damage to all feeders in any given area (if not on the whole system). This is both nonsensical and also belied by DEF’s own experience. In the approximately five (5) years DEF has been implementing SOG, it has found that roughly 25% of all CMI reduction occurred during extreme weather events. *See* Ex. No. 53.

The SOG Program should be retained in DEF’s 2023 SPP.

ii. Underground (“UG”) Flood Mitigation

The UG Flood Mitigation Program is intended to harden existing UG infrastructure to better withstand storm surge and other sources of flooding; it is expected to reduce storm restoration costs and reduce outage times. Ex. No. 3, p. 32. Mr. Mara contends that the UG Flood Mitigation program simply replaces “aging infrastructure,” Tr. 699, but as Mr. Lloyd explained in his rebuttal testimony, Mr. Mara’s conclusion is based on a misunderstanding, as the information he discussed in his testimony concerned base-rate projects. *See* Tr. 1349-51. Moreover, Mr. Lloyd also explained that, while it was possible that UG Flood Mitigation projects could potentially include replacement of existing infrastructure, the driving purpose of the program is to harden existing infrastructure located in flood prone areas, *see id.* at p. 1350, and as Ms. Howe explained, the FEMA flood plain designations evolve over time, such that an area that may not have been “flood prone” at the time of original construction now qualifies and would benefit from this hardening program. *See* Tr. 1276-77.

The UG Flood Mitigation Program will both reduce outage times and reduce restoration costs, and should be included in the SPP.

iii. Transmission Structure Hardening

The Structure Hardening Program includes multiple subprograms, including “wood to non-wood upgrades, tower upgrades, adding cathodic protection, automating gang operated air break switches [‘GOAB’], Overhead Groundwire upgrades [‘OHGW’], and structure inspections.” Ex. 3, p. 37. Upon completion, this Program is conservatively estimated to save customers an average of \$14-\$18 million a year and avoid approximately 13-17 million minutes of customer interruptions per year. *See id.* at p. 41. However, as Ms. Howe explained, the potential impacts of *not* performing this work could be far greater:

Sequential failures within the system can cause significant disruption to power flows and cause extensive customer interruptions as could occur during extreme weather events and therefore it is critical to harden these facilities for extreme weather events and to reliably serve our customers. The BES transmission system is the linkage between the generation facilities to our 69kV system and distribution system that ultimately serves our customers’ homes and businesses. Thus, although strengthening the BES may not have a direct impact or quantifiable reduction to customer outages due to the inherent redundancy of the BES, it is a critical component to reliably serving our customers and as such it would defy all logic and sound planning to deny DEF (or any utility) the ability to include such hardening programs and projects in an SPP intended to strengthen the grid as a whole . . .”

Tr. 1266-67; *see also* Ex. 3, p. 41 (“Transmission system damage can result *in severe consequences in both cost and outage duration*. The estimation of benefits represents an annual average expected value based on historical data and does not represent what could happen in individual events or scenarios in which severe damage occurs on critical parts” of the system).

In short, this Program is critical to the success of the SPP and the ability of the grid to withstand the effects of extreme weather.

OPC argued that certain subprograms should be excluded from the Plan, including tower upgrade, cathodic protection, OHGW, and GOAB – that is, every component of the Program except for wood pole change-outs and inspections. *See* Tr. 701-08. As discussed below, OPC’s contentions should be rejected, and the Program approved as is.

a) Tower Upgrade subprogram

As discussed above, this subprogram will upgrade a specific type of tower that hurricane Michael showed to be more vulnerable to the effects of extreme weather. Contrary to OPC’s contention, this will not be a “like for like” replacement of aging infrastructure, Tr. 703, but will upgrade the towers to the latest NESC and internal construction standards. Tr. 1271-73. Moreover, again contrary to OPC’s arguments, the towers did not suffer from a design flaw, did not fail to meet strength requirements when constructed, and are not aged beyond their useful life. *See* Tr. 702-03. Replacing infrastructure that experience has proven to be more vulnerable to extreme weather will without doubt strengthen the system, reducing restoration costs and outages for customers. *See* Tr. 1272-73.

b) Cathodic Protection subprogram

The Cathodic Protection (“CP”) subprogram “includes anode installations to mitigate active groundline corrosion on the lattice tower system. The anodes serve as sacrificial assets that corrode in place of structural steel, preventing loss of structure strength to corrosion.” Ex. 4, p. 39. “The program also installs reinforcement kits on structures with existing groundline corrosion that are in otherwise good health. . . . Restoring groundline capacity of the structure allows the structure to perform as originally designed for a greater period of time at a fraction of the cost to customers compared to structure replacement.” Tr. 1276. This subprogram will benefit the system by reducing the chances of tower failures, thereby avoiding customer outages. *See id.* OPC argues

the CP subprogram should be excluded because it does not strengthen the assets, but rather “limits the strength reduction” and “increase[s] the service life of the tower.” Tr. 704-05.

As discussed above, this argument completely ignores the statutory acknowledgement that “[p]rotecting . . . utility infrastructure from extreme weather conditions can effectively reduce restoration costs and outage times to customers and improve overall service reliability for customers.” See § 366.96(1)(d), Fla. Stat.; Tr. 1275-76. This subprogram should be continued as part of the 2023 SPP.

c) OHWG subprogram

Overhead ground wire is static conductor that serves to protect the system from the impacts of lightning strikes; due to the frequency of lightning events in Florida, static wire deterioration occurs when the protective galvanization has been sacrificed and static in this condition is more prone to failure. See Ex. 3; Tr. 1273-74. That is, it is not unexpected that the static conductor will need to be replaced from time to time to maintain its functionality. Tr. 1274 (“if replaced, [it] will strengthen and better protect the system against the effects of extreme weather relative to the state of the system as it exists today. The OHGW is a contributor to CMI and restoration costs during extreme weather events and therefore, its enhancement serves to strengthen the system.”).

OPC argues that the OHGW subprogram should be performed within base rates and is inappropriate for the SPP because “[t]he replaced conductor does not *add strength* or resiliency compared to the *original well-maintained structure*.” Tr. 705. Once again, OPC has failed to consider the value the Legislature recognized in *protecting* the system against the effects of extreme weather as a means of reducing restoration costs and outages. See *supra* § III.A.b.iii. Moreover, OPC is apparently trying to create a new standard for a permissible program (strengthening the system over its original strength) that is not found in the SPP Statute or Rule,

and which ignores the reality that electric infrastructure is constantly exposed to the elements and therefore certain components thereof should be expected to deteriorate over time from their original strength yet still perform their function, albeit not to the level they could if replaced with new components. Tr. 1270, 1273-74. The OHGW subprogram is therefore a common sense, cost-effective means to protect the system and reduce restoration costs and outages. *See id.*; Ex. 3; Ex. 4.

d) GOAB subprogram

The GOAB subprogram will allow DEF to perform remote switching to isolate damaged sections of the Transmission system, thereby minimizing customer interruptions and allowing restoration efforts to more precisely target the damaged portion of the system. Ex. 3. Under current state, the switching function must be performed manually, which adds additional outage time for customers and prolongs restoration efforts. *See id.*; Tr. 1275. Mr. Mara contends that this subprogram does not qualify for the SPP because he does not believe it will reduce restoration costs. *See* Tr. 707. Again, Mr. Mara is focusing on the costs of physically clearing an outage (e.g., removing a tree from a line and repairing that line) without considering the reduction on time to perform restoration efforts, ignoring that the largest driver of restoration costs is contractor costs. *See supra* p. 17. The ability to more precisely target the damaged sections of the system will lead to reduced time outside contractors and mutual aid partners are required to be on the system, which will drive down restoration costs. Tr. 1275. This reduction in restoration costs is in addition to the benefits of reduced customer outages and the benefits that flow from reduced outages and outage durations – in some cases a potential reduction from hours to minutes. *See id.*

The GOAB subprogram should be retained, and the Structure Hardening program should be included in the SPP without modification.

iv. Transmission Substation Flood Mitigation

The Transmission Substation Flood Mitigation subprogram is intended to harden ten (10) substations most vulnerable to flood damage based on the most recent flood plain and storm surge data. Ex. 3, p. 47. Substations are analyzed using NOAA and FEMA flood modeling, Tr. 232; Ex. 4, and potential flood mitigation measures may include containment curbing, pumps, pits, walls, and total station rebuilds to increase elevation or other measures. See Ex. 4, p. 40. OPC contends that there has only been one instance in the past three (3) years where flood mitigation measures were required, and therefore the risk of flooding is low, and the Program is unnecessary. Tr. 708-10. OPC also argues that the substations should have been sited on land “suitable for safe and reliable electric service,” Tr. 708, and the NESC requires “facilities to be designed for the Basic Flood Elevation (100-year flood level) plus two feet.” *Id.* Ms. Howe’s testimony established that all substations on DEF’s system were built to the standards that existed at the time of construction. Tr. 1276-77. Mr. Mara has failed to consider both the changing FEMA flood plain and updated NESC code, *id.* at 1277, and has based his conclusion on three years of recent experience, whereas DEF has modeled its system and determined the locations most vulnerable to flooding and storm surge based on the updated FEMA flood plains and over 200 years of storm data. See Ex. 4.

Mitigating the risk of flood damage to the most vulnerable substations will reduce both restoration costs and outages, Ex. 3, p. 47; this Program is appropriate and should be included in the SPP.

v. Transmission Loop Radially Fed Substations

This program is targeted at single-feed substations more likely to experience long outage durations during extreme weather events, resulting in a more networked, resilient system. See Ex.

3, p. 49. OPC contends that the program is inappropriate for the SPP because if DEF were to prioritize strengthening the transmission lines through replacing wood with non-wood poles, “the likelihood of transmission failure is greatly reduced and the need for a loop transmission feed is eliminated.” Tr. 711. While DEF agrees that hardened structures are less likely to fail during extreme weather, there is no guarantee that all structures can survive every instance of extreme weather, and because the loss of the radial line would have great impact on the customers fed from that line, customers who tend to be in more remote or rural locations, Tr. 237-38, the need to build a more resilient system and avoid prolonged customer outages simply cannot be eliminated through hardening the lines.

This program will reduce customer outages and restoration costs and should be included in the SPP. Tr. 1304-05.

vi. Transmission Substation Hardening

The Substation Hardening Program will upgrade oil breakers to state-of-the-art gas or vacuum breakers, to mitigating the risk of catastrophic failure and extended outages during extreme weather events, and upgrade electromechanical relays to digital relays, which will provide increase communications and enable DEF to respond and restore service more quickly from extreme weather events. *See* Ex. 3, p. 50.

As Ms. Howe explained, the breakers being replaced are similar to breakers in a residence; their purpose is to protect the wiring and a failure can have serious consequences to the rest of the system. *See* Tr. 220; Tr. 221 (“It really doesn't make sense to harden and protect the lines if you are, similar to your home, if you are going to upgrade the wiring, or replace the wiring in your home, you wouldn't -- it wouldn't make sense to just leave the old fuse panel there. The intent is that a comprehensive upgrade, or a comprehensive protection of the system.”). The oil-filled

breakers being replaced are more susceptible to failure during extreme weather because of the increased usage, and a failure can result in thousands of customers losing service. *See* Tr. 221-22. Replacing these breakers will both reduce outage times and restoration costs by protecting “downstream” assets. *See* Ex. 3, p. 51.

The digital relays control the functionality of the breakers, “[a]nd they are critical for the protection, for the performance of the grid.” *See* Tr. 220-21. “Upgrading to modern relay designs with communication capabilities and microprocessor technologies will enable quicker restoration from outage events. Another benefit is increased overall system intelligence, which will improve restoration planning.” Ex. 3, p. 51.

OPC contends this program should be eliminated, arguing again that the program will not stop outages from occurring, and therefore not reduce restoration costs. Tr.712. Once again, OPC fails to recognize that accelerating restoration times reduces restoration costs in the form of reduced contractor payments. *See* Ex. 3, p. 51 (“Digital relays will be installed to add remote monitoring and operations to key assets, which allows for rapid service response and better protection and monitoring of equipment during extreme weather events. Restoration times will be reduced due to remote monitoring and control which will allow quicker pinpointing and resolution of issues.”).

Each of DEF’s SPP Programs contribute to the Plan’s effectiveness in reducing outage times and restoration costs as required by section 366.96(3), Florida Statutes. Moreover, as demonstrated above and by a preponderance of the evidence in the record, even if the Commission were to accept OPC’s inappropriately narrow construction of the SPP Rule, each of the Programs include in the 2023 SPP will reduce outage times and restoration costs and are therefore

appropriately included in the Plan. The Plan is in the public interest and should be approved as filed. *See* § 366.96(5), Fla. Stat.

IV. The Scope, Size and Costs of the Plan are Appropriate

In addition to arguing specific proposed SPP Programs and sub-programs are ineligible for inclusion in the 2023 SPP, which as discussed above is based upon either an overly narrow interpretation of the SPP Rule without considering the plain language and intent of the SPP Statute, or a misunderstanding/misinterpretation of the Programs and their customer benefits (or both), OPC has presented its belief that DEF's proposed investment is too large. *See, e.g.*, Tr. 683-86; Tr. 892-96. OPC's position appears to be based upon a combination of factors, its belief that DEF's 2023 SPP represents a "substantial increase" in capital investment relative to DEF's previously approved 2020 SPP, Tr. 684, and concerns regarding the customer rate impacts of the SPP (and other unrelated bill impacts) given the current inflationary pressures, *see* Tr. 30-31.

Regarding the misconception regarding the respective capital investment amounts in the respective plans, Mr. Menendez explained:

To call the proposed Plan's capital expenditures "a substantial increase" is a gross mischaracterization of the data being compared. Without going line by line through his table and pointing out exceptions by program, I can state in fact, that the investment levels presented over the common years 2023-2029 decreased in total in DEF's 2023 SPP; the years that extend beyond DEF's 2020 SPP (i.e., 2030-2032) are merely an extension of the 2029 investment levels. The "significant increase" Mr. Mara identified is simply a result of comparing the first three years of DEF's original SPP, where the SPP programs were either in the planning stage or the infancy of implementation, with three years of investments in programs that are fully up and running, delivering value to our customers.

Tr. 1401; *see also* 1414-15, 1418.²⁰ That is, the “substantial increase” OPC points to is truly a product of an apples-to-oranges comparison; the difference is driven by the relatively low capital investment amounts realized in the first three (3) years of DEF’s 2020 SPP (during that plan’s ramp-up period) versus the last three (3) years of the proposed Plan (during Program implementation in earnest). While the nominal investment level in the 2023 SPP increased when compared to the 2020 SPP, because DEF did not fully begin funding and implementing the 2020 SPP until its third year, a comparison of total capital investment amounts in the two plans is truly a comparison of eight (8) years of investment versus ten (10) years of investment. Tr. 1401, 1403, 1418-20. Moreover, as Mr. Menendez indicated, when the common years in the 2020 and 2023 Plans are compared (*i.e.*, 2023-2029), the 2023 Plan actually represents a *decrease* in both capital (approximately \$57.4 million) and O&M (approximately \$28.7 million), for a total decrease over the common years of more than \$86 million. *See* Tr. 1403.

OPC next contends that DEF’s proposed investments are too large given other unrelated increases and the current, general economic climate, including higher than normal inflation. Tr. 684, 896; Tr. 259-263. In response to these factors, OPC argues that the proposed investments

²⁰ OPC also asked a series of questions regarding the impetus for the Plan’s investment level and consideration of customer rate impacts versus shareholder considerations. *See, e.g.*, Tr. 274-80. As indicated at the hearing and in response to similar discovery responses, “DEF selected the [investment level] option which we felt was the best balance between the investments necessary to achieve the SPP benefits for our customers.” Tr. 279; Ex. 104, Q. 77. Further, “DEF establishes its overall SPP program spend, including capital expenditures, with considerations of the impact to customer rates as a key consideration, but must also balance this impact with the goals and requirements of the [SPP] statute and rule and the outage risk a non-hardened grid creates during extreme weather events. The establishment of SPP program spend is accomplished at the outset of the plan development process and therefore represents an express decision not to expend greater amounts which would have a greater impact on customer rates.” Ex. 70, Q. 78; *see also*, Tr. 270, 275, 296-97; Ex. 4, p. 23 (showing funding, and thus rate impact, as a key consideration in Plan development). Along the same lines, OPC asked a series of questions regarding presentations by Duke Energy Corporate officers to investors at public earnings calls discussing proposed capital investments, including the SPP. *See* Tr. 281-85, 1416-19; Tr. 31 (opening statement of OPC that utilities are “touting the shareholder benefits of lucrative returns on these enormous capital spends”). Of course, the simple fact that planned investments are discussed with investors is not indicative of the purpose of the investment; as a publicly traded company, Duke Energy Corporation (DEF’s parent company) is required to periodically inform the public of planned investments, even those that require regulatory approval and are therefore subject to modification. *See, e.g.*, 17 C.F.R. § 229.303(b)(1)ii. (requiring disclosure of planned capital expenditure commitments in certain SEC filings).

should be reduced to or below 2020 plan levels for certain identified programs, *see* Tr. 692, 694-95, or otherwise the total investment contemplated by the Plan should simply be arbitrarily reduced without any identified level of “appropriate” investment. *See, e.g.*, Tr. 684, 896.

While the Company recognizes and appreciates the current economic climate and its impacts on individuals and businesses, it cannot agree that reducing the proposed Plan’s investment level is appropriate given the detrimental impact Plan investment reductions would have on the projected Plan benefits.

As Mr. Mara acknowledges, reducing the proposed investments will result in delays to achieving the goals and benefits of the proposed Plan. *See* Tr. 685-86. This Commission has already recognized the significant customer benefits storm hardening activities. *See Review of Florida’s Electric Utility Hurricane Preparedness and Restoration Actions 2018*, p. 1 (Fla. P.S.C. July 2018) (“Florida’s aggressive storm hardening programs are working. . . . The length of outages was reduced markedly from the 2004-2005 storm season.”).²¹ The value of storm hardening was also recognized by the legislature:

The Legislature finds that:

(c) It is *in the state’s interest to strengthen electric utility infrastructure* to withstand extreme weather conditions by promoting the overhead hardening of electrical transmission and distribution facilities, the undergrounding of certain electrical distribution lines, and vegetation management.

(d) *Protecting and strengthening transmission and distribution electric utility infrastructure* from extreme weather conditions *can effectively reduce restoration costs and outage times to customers and improve overall service reliability* for customers.

(e) It is *in the state’s interest for each utility to mitigate restoration costs and outage times to utility customers* when developing transmission and distribution storm protection plans.

(f) *All customers benefit from the reduced costs of storm restoration.*

²¹ Available at *UtilityHurricanePreparednessRestorationActions2018.pdf (state.fl.us)* (last visited Aug. 23, 2022).

§ 366.96(1)(c)-(f), Fla. Stat. It follows that if it is *in the state's interest* to protect and strengthen utility infrastructure in order to deliver the identified benefits, then it is *not in the state's interest* to delay those benefits. *See* Tr. 299 (“when you decrease the investment, you are also decreasing the benefits. And while you can delay or defer investment and benefits, you cannot delay or defer the extreme weather. That extreme weather is going to come regardless.”).

Indeed, as Mr. Lloyd explained, delaying the projected benefits can have real world consequences for DEF’s customers:

[A] reduction of CMI savings, you know, in the 40 million minutes for that reduction in spend. And 40 million minutes may not be something that, you know, anyone can wrap their head around. So I always like to think about what those customer impacts are going to be like. And 40 million minutes on an average storm year would be like extending the restoration efforts for as many customers as we have in north Florida or in a single day. One day. So one more day without hospitals, one more day without schools, one more day with lift stations not functioning, one more day without communications, one more day of life stopped for a number of customers equal to our north Florida territory. That's a lot of customers that would be impacted if we reduce the spend in our SPP.

Tr. 1371-72. Over the three (3) year period the Plan would be in effect prior to the next update filing (*i.e.*, 2023-2025), the customer rate impact savings that corresponds with the 40 million minutes of lost annual CMI reduction Mr. Lloyd referenced above is shown on Ex. 104. As that exhibit shows, the reduction in capital spend resulting in the lost benefits described above sounds substantial, but the resulting rate savings projected to be realized through 2025 by a standard residential customer under such a scenario is far from it. *See id.* As Mr. Menendez explained, the 2023 SPP’s impact on residential rates is approximately 1% per year, which is also in line with the projected impact on commercial and industrial customers. Tr. 1421; Ex. 3, p. 56. Given that Florida remains constantly at risk of extreme weather events, and that the substantial storm hardening benefits identified in the Plan will take time to realize, *see* Ex. 3, a decision to decrease

these necessary investments and delay these valuable benefits due to current, yet not necessarily future or long-lasting economic conditions, would be shortsighted.

The preponderance of evidence provided at hearing demonstrates that the 2023 SPP's benefits exceed its costs, and that it is in the public interest for the Plan to be approved as filed.

V. Conclusion

DEF's proposed 2023 SPP properly balances the projected customer costs and resulting benefits as required by the SPP Statute and Rule. Ex. 3; Ex. 4. Each Program included within the 2023 SPP is cost-effective, Tr. 1338, and the Plan will provide significant reductions in restoration costs and customer outages while improving overall reliability. See Ex. 3; Ex. 2.

DEF respectfully requests that the Commission issue an Order finding the 2023 SPP has complied with all requirements of Rule 25-6.030, F.A.C., finding that it is in public interest pursuant to section 366.96(5), Florida Statutes, and approving it without modification.

Respectfully submitted this 6th day of September, 2022.

/s/ Matthew R. Bernier

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via electronic mail to the following this 6th day of September, 2022.

/s/ Matthew R. Bernier

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