

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricanes Elsa, Eta, Isaias, Ian, Nicole, and Tropical Storm Fred, by Duke Energy Florida, LLC.

DOCKET NO. 20230020-EI

FILED: June 14, 2024

**POST HEARING STATEMENT OF ISSUES AND POSITIONS OF
WHITE SPRINGS AGRICULTURAL CHEMICALS, INC. D/B/A
PCS PHOSPHATE – WHITE SPRINGS**

White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs (“PCS”), pursuant to the *Order Establishing Procedure*, Order No. PSC-2023-0333-PCO-EI, issued November 2, 2023, hereby submits this Post Hearing Statement of Issues and Positions.

I. STATEMENT OF POSITIONS

This docket concerns Duke Energy Florida, LLC’s (“DEF” or “Duke”) recovery of costs it incurred related to several hurricanes and a tropical storm during 2022 and 2023. Most of the issues (Issues No. 1 through 15, 18 and 19) were resolved by the parties through Type 2 stipulations and approved by the Commission during the hearing held on May 21, 2024.¹ The remaining disputed issues center on the cost recovery method of storm restoration costs.

Specifically, PCS takes the following positions:

ISSUE 16: Should any cost recovery approved in this docket be recovered from demand-metered customers through the demand charge?

PCS Phosphate: ***No. PCS supports continuation of the cost recovery method that DEF proposed and the Commission approved in its two interim orders issued in March and December 2023 as appropriate and in the public interest.***

ISSUE 17: If applicable, how should any under-recovery or over-recovery be handled?

PCS Phosphate: ***PCS supports the cost recovery methods that DEF proposed in this proceeding, but PCS does not oppose Walmart’s suggestion that any

¹ Hearing Transcript at 85:18-87:20.

demonstrated over-recovery be refunded in the same manner as those costs were collected (i.e., on an \$/kWh basis).***

II. RELEVANT BACKGROUND

On January 23, 2023, DEF petitioned the Commission for interim rate recovery of its estimated costs to restore service and repair its system related to Hurricanes Elsa, Eta, Isaias, Nicole and Tropical storm Fred.² On March 23, 2023, the Commission approved DEF's filing for an interim storm restoration recovery charge for the period April 2023 through March 2024 for those estimated restoration costs.³ On October 16, 2023, due to Hurricane Idalia, DEF petitioned to modify the interim surcharge and extend recovery through December 2024.⁴ In total, the interim surcharges were designed to recover \$534 million from DEF's customers over this period.⁵ The Commission approved the revised interim surcharge as DEF proposed.⁶ In both interim cost recovery orders, the Commission approved DEF's proposal to collect these charges on an energy (\$/kWh) basis.

As DEF witness Christopher Menendez observed, this approach to rate recovery of storm restoration costs is consistent with accepted Commission practice for comparable storm surcharges approved by the Commission since 2004.⁷ Mr. Menendez correctly noted that Florida Power & Light Company and Tampa Electric Company also have a long-standing practice of recovering

² Petition by Duke Energy Florida, LLC for Limited Proceeding for Recovery of Incremental Storm Restoration Costs Related to Hurricanes Elsa, Eta, Isaias, Ian, Nicole, and Tropical Storm Fred (Jan. 23, 2023).

³ *Order Approving Duke Energy Florida, LLC's Interim Storm Cost Recovery Charge*, Order No. PSC-2023-0111-PCO-EI, issued on March 23, 2023.

⁴ Docket No. 20230116-EI, *In re: Petition by Duke Energy Florida, LLC for limited proceeding for recovery of incremental storm restoration costs related to Hurricane Idalia*, Petition at 1 (Oct. 16, 2023).

⁵ *Id.* at 4-5.

⁶ *Order Approving Duke Energy Florida, LLC's Interim Storm Cost Recovery Charge*, Order No. PSC-2023-0375-PCO-EI, issued on December 19, 2023 ("December Interim Order").

⁷ Hearing Transcript at 99:1-3.

their storm surcharges on an energy basis, and indeed both utilities have ongoing dockets for storm restoration costs which provide for interim storm restoration surcharges to be billed on an energy basis.⁸

As a matter of administrative convenience, (*i.e.*, as a preferred approach to further extending the interim surcharge), DEF proposes to provide a true-up amount of any over- or under-recovery in DEF’s April 2025 Capacity Cost Recovery Clause (“CCR”) True-Up filing and recover or return that amount through its 2026 CCR charge.⁹

On March 15, 2024, Walmart submitted testimony by Lisa V. Perry in which Walmart recommended that “any cost recovery approved in this docket be recovered from demand-metered customers through a demand charge, *i.e.*, on a \$/kW basis, and not through the energy charge, or on a \$/kWh basis, as proposed by the Company.”¹⁰ Walmart clarified that it does not ask the Commission to re-visit dollars already collected through the interim surcharge, and it supports refunding on an energy basis any over-collection of dollars recovered through the interim surcharge compared to DEF final actual costs, but it asks that any remaining under-recovery be collected using its proposed rate design.¹¹

III. ARGUMENT

In brief, the Commission approved interim cost recovery method is appropriate for all remaining prudently incurred costs to be recovered from DEF consumers in this docket. A rate design change is unnecessary, and probably impractical, for any remaining un-recovered balance of restoration costs under the interim surcharge. DEF proposes to recover any final true-up amount

⁸ *Id.* at 99:3-18.

⁹ *Id.* at 93:10-17.

¹⁰ *Id.* at 121:20-23.

¹¹ Prehearing Statement of Walmart, Inc. at 3 (Apr. 29, 2024).

through its annual CCR filling (which is recovered on a demand basis for demand metered loads), so there is no dispute as to that cost recovery at all. Finally, the Commission should not pre-determine the type of cost recovery that might be applied in future dockets since speculating on what facts and circumstances might be applicable is neither necessary nor in the public interest.

A. The Commission Should Approve DEF's Proposed Treatment of Storm Restoration Costs in this Docket as Reasonable.

DEF witness Menendez's testimony that the rate recovery method (*i.e.*, on an energy basis) that DEF proposed and the Commission approved for both the initial and revised interim surcharges is appropriate and fully consistent with long-standing Commission practice is not in dispute. In recommending its preferred rate design, Walmart does not offer an assessment of the types of costs incurred (*i.e.*, whether they are more demand or energy-related).¹²

Within a customer class, all customers are not similarly situated, and very high load factor customers may prefer that comparatively more of the dollars assigned to that class be recovered on a demand rather than an energy basis, just as residential customers with comparatively high usage may prefer that more of their bill be captured in fixed customer rather than energy charges. The underlying arithmetic for what Walmart proposes may be accurate for a particular customer, but that does not imply that there are unacceptable intra-class subsidies in effect. Walmart witness Perry does not attempt to provide any analysis or quantification of such purported intraclass subsidies.¹³ The cost recovery method approved by the Commission in its cost recovery orders is appropriate and consistent with established practice. Consequently, PCS urges the Commission to approve continued recovery of DEF's storm restoration costs in this docket as DEF proposes.

¹² Hearing Transcript at 123:17-124:20.

¹³ *Id.* at 139:9-140:18.

The following three groups of storm-related costs, based on cost recovery timing rather than types of costs, should be distinguished:

1. Amounts already recovered from DEF ratepayers pursuant to the Commission's Interim Orders,
2. Amounts authorized for recovery under the Interim Orders but not yet billed or collected, and
3. Amounts to be recovered in a final true-up of actual, prudently incurred costs compared to dollars collected based on the approved surcharge.

We briefly take the pending cost groups in turn.

First, as to dollars already billed to DEF customers pursuant to the interim surcharge, there is no rational basis to consider refunding and re-billing those same dollars using a different rate design for reasons that are readily apparent, and Walmart does not ask the Commission to even contemplate that path.

Second, as to remaining interim surcharge dollars to be billed pursuant to the Commission's Interim Orders, Walmart did not seek timely rehearing of either Interim Order. Hence the Commission should not re-visit how the collections already authorized through December 2024 should be collected. Moreover, as discussed above, even if questions regarding rate recovery of the remaining surcharge dollars were timely, Walmart has not shown that the approved surcharge is in any way inappropriate. Finally, DEF witness Menendez states that it is "impractical to make a change to the storm surcharge rates in the middle to tail end of a storm cost recovery cycle."¹⁴ PCS agrees that, as a practical matter, with only a few months remaining to the

¹⁴ *Id.* at 100:4-9 & 111:22-112:2.

interim surcharge, it seems unlikely that following the issuance of a Commission order, that DEF could revise and implement the required billing systems much before the expiration of interim cost recovery. In short, an exercise in this regard appears pointless.

Third, DEF proposes to recover or refund any over or under-recovery of its approved actual costs compared to what has been collected through the interim surcharge through its annual update to its CCR clause.¹⁵ To be fully consistent, those costs logically should be recovered through further months of surcharges or a sur-credit, but DEF deemed it more administratively convenient to move those costs into its annual CCR clause update. Since the Commission has approved recovery of \$442.1 million for the Storms, plus \$91.9 million for Hurricane Idalia through the interim surcharge, and DEF's September true-up filing for the Storms claimed actual costs that were less than the estimated amount,¹⁶ PCS expects that any remaining true-up costs will be comparatively small and have a small or immaterial effect on customer bills. Consequently, PCS considered DEF's proposal approach to be practical, if not consistent from a rate-setting perspective. Also, since this approach on the true-up cost recovery meets Walmart's request, there is no issue in dispute. In sum, from all pertinent perspectives, DEF's proposed rate recovery for the storm restoration costs is appropriate, consistent with established practice, and no reasoned basis has been offered for disrupting remaining collections concerning these storm costs.

Walmart has requested that any true-up under-recovery to be recovered on a demand basis while asking that any over-recovery be refunded on an energy basis.¹⁷ At the same time,, Walmart

¹⁵ *Id.* at 93:10-17.

¹⁶ The December Interim Order approved revised surcharge recovery designed to approve \$166.1 million through December 2024, with \$73.9 million of that amount tied to as-yet unrecovered restoration costs from the prior storms. DEF's September 2023 true-up filing for the Storms claimed actual costs of \$431.4 million against an estimated cost of \$442.1 million. *See* December Interim Order at pp. 1-2.

¹⁷ Hearing Transcript at 129:13-18.

is a party to a stipulation in FPL’s ongoing storm restoration docket, Docket No. 20230017-EI, which includes a provision to apply any “true-up rates through the non-fuel energy charge on customers’ bills” regardless of whether the true-up results in an excess or shortfall.¹⁸ While PCS does not oppose Walmart’s suggestion that any demonstrated over-recovery be refunded in the same manner as those costs were collected (i.e., on a \$/kWh basis), PCS prefers that a consistent approach be applied to any final cost true-up.

B. There is No Rational Basis for the Commission to Speculate Prospectively on Cost Recovery and Rate Design Concerning Possible Future Storm Cost Recovery Petitions.

To the extent that Walmart’s request in this docket aims to direct rate recovery in possible future storm cost-related proceedings, the Commission should reject the gambit and decline to speculate on potential proceedings for which there are no pertinent facts today. Such a Walmart request would be transparently premature, and this docket does not invite questions of generic rate-setting policy. If the Commission wishes to prospectively alter the way it allows cost recovery for storm restoration charges, a rulemaking would be the appropriate forum.

IV. CONCLUSION

For the reasons stated herein, PCS Phosphate urges the Commission to (1) affirm its interim orders and approve the cost recovery of the storm surcharge costs on an energy basis, and (2) allow DEF to charge or credit any final true-up over- or under-recovery through the Capacity Cost Recovery Clause as proposed by Duke in this proceeding. Finally, PCS urges the Commission to avoid speculating on rate-setting for possible future proceedings.

¹⁸ Docket No. 20230017-EI, *In re: Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricanes Ian and Nicole*, by Florida Power & Light Company, Stipulation (June 12, 2024).

Respectfully submitted,

/s/ James W. Brew

James W. Brew

Laura W. Baker

Sarah B. Newman

Stone Mattheis Xenopoulos & Brew, PC

1025 Thomas Jefferson St NW

Suite 800 West

Washington, D.C. 20007

(202) 342-0800

(202) 342-0807 (fax)

jbrew@smxblaw.com

lwb@smxblaw.com

sbn@smxblaw.com

*Counsel for White Springs Agricultural
Chemicals, Inc. d/b/a PCS Phosphate – White
Springs*

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Posthearing Statement of Issues and Positions of White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs has been furnished by electronic mail this 14th of June 2024, to the following:

Duke Energy
Matthew R. Bernier/Stephanie A. Cuello
106 E. College Avenue, Suite 800
Tallahassee FL 32301
FLRegulatoryLegal@duke-energy.com
matthew.bernier@duke-energy.com
stephanie.cuello@duke-energy.com

Duke Energy
Dianne M. Triplett
299 First Avenue North
St. Petersburg FL 33701
Dianne.triplett@duke-energy.com

Walmart Inc.
Derrick Price Williamson/Steven W. Lee
c/o Spilman Law Firm
Mechanicsburg PA 17050
dwilliamson@spilmanlaw.com
slee@spilmanlaw.com

Walmart Inc.
Stephanie U. Eaton
c/o Spilman Law Firm
Winston-Salem NC 27103
seaton@spilmanlaw.com

Office of Public Counsel
Charles Rehwinkel
c/o The Florida Legislature
Tallahassee FL 32399
rehwinkel.charles@leg.state.fl.us

Office of the General Counsel
Florida Public Service Commission
Suzanne Brownless
sbrownle@psc.state.fl.us

/s/ Laura Wynn Baker

Laura Wynn Baker