

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20230017-EI

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

PROCEEDINGS: PREHEARING CONFERENCE

COMMISSIONERS
PARTICIPATING: ART GRAHAM
PREHEARING OFFICER

DATE: Tuesday, June 11, 2024

TIME: Commenced: 1:00 p.m.
Concluded: 1:15 p.m.

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

REPORTED BY: DEBRA R. KRICK
Court Reporter

PREMIER REPORTING
TALLAHASSEE, FLORIDA
(850) 894-0828

1 APPEARANCES:

2 CHRISTOPHER T. WRIGHT and JOEL T. BAKER,
3 ESQUIRES, 700 Universe Boulevard, Juno Beach, Florida
4 33408; appearing on behalf of Florida Power & Light
5 Company (FPL).

6 WALT TRIERWEILER, PUBLIC COUNSEL; CHARLES
7 REHWINKEL, DEPUTY PUBLIC COUNSEL, PATRICIA A.
8 CHRISTENSEN, ESQUIRE, OFFICE OF PUBLIC COUNSEL, c/o The
9 Florida Legislature, 111 West Madison Street, Room 812,
10 Tallahassee, Florida 32399-1400; appearing on behalf of
11 the Citizens of the State of Florida (OPC).

12 STEPHANIE U. EATON, ESQUIRE, Spilman Law Firm,
13 110 Oakwood Drive, Suite 500, Winston-Salem, NC;
14 appearing on behalf of Walmart, Inc., (Walmart).

15 SHAW STILLER and DANIEL DOSE, ESQUIRES, FPSC
16 General Counsel's Office, 2540 Shumard Oak Boulevard,
17 Tallahassee, Florida 32399-0850; appearing on behalf of
18 the Florida Public Service Commission (Staff).

19 KEITH HETRICK, GENERAL COUNSEL; MARY ANNE
20 HELTON, DEPUTY GENERAL COUNSEL, Florida Public Service
21 Commission, 2540 Shumard Oak Boulevard, Tallahassee,
22 Florida 32399-0850, Advisor to the Florida Public
23 Service Commission.

24

25

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

2 COMMISSIONER GRAHAM: Okay, everyone. My
3 iPhone 12 says it is Tuesday, June 11th at one
4 o'clock, so we will bring this Prehearing to order.

5 Staff, if I can get you to read the notice,
6 please.

7 MR. DOSE: Pursuant to notice issued June 4th,
8 2024, this time and place has been set for a
9 Prehearing Conference in Docket No. 20230017
10 regarding a petition for limited proceeding for
11 recovery of incremental storm restoration costs
12 related to Hurricanes Ian and Nicole by Florida
13 Power & Light Company. The purpose of the
14 prehearing is set out more fully in the notice.

15 COMMISSIONER GRAHAM: Okay. Thank you, staff.
16 Appearances.

17 MR. BAKER: Joel Baker appearing on behalf of
18 Florida Power & Light. And I would also like to
19 enter an appearance for Christopher Wright.

20 MS. EATON: Stephanie Eaton here for Walmart,
21 Inc.

22 MS. CHRISTENSEN: Patricia Christensen on
23 behalf of the Office of Public Counsel. I would
24 also like to put in an appearance for Walt
25 Trierweiler, the Public Counsel, and Charles

1 Rehwinkel.

2 MR. DOSE: Daniel Dose and Shaw Stiller for
3 Commission staff.

4 MS. HELTON: And Mary Anne Helton is here as
5 your Advisor, along with your General Counsel,
6 Keith Hetrick.

7 COMMISSIONER GRAHAM: Is there anybody else?

8 Okay. Staff, preliminary matters that we need
9 to address?

10 MR. DOSE: According to the prehearing
11 statements, it appears that there is no dispute as
12 to the issues. Further, OPC and FPL is have
13 provided an Attachment A, which is appended to the
14 draft Prehearing Order, and proposes to fully
15 resolve all issues in this docket.

16 It is staff's understanding that if Attachment
17 A is approved at the hearing, no vote will be
18 necessary on Issues 1 through 15 in the Prehearing
19 Order. If Attachment A is not approved, a vote on
20 Issues 1 through 15 would be needed. However,
21 Walmart is not a signatory to Attachment A, so it
22 may be appropriate to hear from Walmart on this
23 matter.

24 COMMISSIONER GRAHAM: Walmart, what is your
25 position on Attachment A?

1 MS. EATON: Walmart --

2 COMMISSIONER GRAHAM: Your mic is not on.

3 MS. EATON: Sorry about that.

4 Walmart only has positions as to two of the
5 issues, which we set forth in our prehearing --
6 prehearing statement. And on those issues, we
7 have -- or would agree to join stipulations with
8 OPC and FPL. And Walmart has no position on any
9 other issue in this matter.

10 So we were not sure whether the Commission
11 would like for Walmart to be a signatory to those
12 specific issues to the OPC/FPL stipulation, or just
13 recite that on the record, whatever the Commission
14 would like.

15 COMMISSIONER GRAHAM: Staff?

16 MS. HELTON: Mr. Chairman, I guess I am a
17 little bit confused. So you have no disagreement
18 with the stipulation that the parties have -- or
19 that Public Counsel and the utility have reached?

20 MS. EATON: We have no position on most of
21 those issues; but as to the two positions that
22 Walmart had some opinion on, which I think are
23 going to be Issues 13 and 14, we would join the
24 stipulation with OPC and FPL as to those issues.

25 MS. CRAWFORD: If I may, I see -- if I

1 understand correctly, Walmart and OPC are proposing
2 that the Commission approve Attachment A in lieu of
3 Issues 1 through 15. If the Commission were to
4 take up Attachment A in lieu of Issues 1 through
5 15, would that be agreeable to Walmart? Would you
6 have any objection to that doing -- taking place?

7 MS. EATON: No.

8 MS. CRAWFORD: Okay.

9 MS. EATON: No.

10 MS. CRAWFORD: Okay. I think --

11 MS. EATON: We just wanted to make it clear
12 that we had no position as to most of those issues,
13 but we do agree on Issues 13 and 14.

14 MS. CRAWFORD: Understood. Thank you.

15 MS. HELTON: Mr. Chairman, it sounds like she
16 has what would be, I guess, a Type 2 stipulation
17 agreement with respect to the bulk of the
18 attachment, but there is two -- two parts to it
19 that she would agree, and it could be a Type 1.

20 So it sounds to me, while this is irregular
21 from how we normally do things, it sounds to me
22 that that's something that the Commission could
23 vote on at the hearing scheduled for later.

24 COMMISSIONER GRAHAM: Okay. So we don't have
25 do anything with it now?

1 MS. HELTON: No, sir.

2 COMMISSIONER GRAHAM: Okay. Do any of the
3 other parties have any preliminary matters they
4 wish to address? Okay. I like that.

5 Let's proceed through the Prehearing Order.
6 We will go through each section. If there is any
7 corrections or changes that need to be made, please
8 let me know, raise your hand or yell out.

9 Section I.

10 Section II.

11 Section III.

12 Section IV.

13 Section VI.

14 MR. DOSE: The draft Prehearing Order reflects
15 the proposed order of witnesses at the hearing.
16 Staff believes that all witnesses listed in this
17 section and their testimony and prefiled exhibits
18 can be stipulated.

19 COMMISSIONER GRAHAM: Are all parties willing
20 to stipulate to witnesses? I am seeing --

21 MS. CHRISTENSEN: Yes.

22 MS. EATON: Yes.

23 MR. BAKER: Yes.

24 COMMISSIONER GRAHAM: I like that.

25 Okay. Let's move on to other matters to

1 address.

2 MR. DOSE: Staff will confirm that each
3 Commissioner that the identified witnesses can be
4 excused. If Commissioners do not have any
5 questions for these witnesses, the witnesses may be
6 excused from the hearing and their testimony and
7 exhibits entered into the record at the hearing as
8 though read.

9 COMMISSIONER GRAHAM: All right. Are we doing
10 this?

11 MS. CHRISTENSEN: We have no objection to
12 entering into the record the witnesses' testimony
13 and exhibits, which we can address at the hearing
14 as well.

15 MS. EATON: We have no objection either.

16 MR. BAKER: No objection.

17 COMMISSIONER GRAHAM: I tell you what, I must
18 be living right.

19 All right. Staff, section -- we will circle
20 back to Section V. Do any of the parties have any
21 further issues? Have we just taken care of all
22 that?

23 MS. CRAWFORD: Yes, sir.

24 COMMISSIONER GRAHAM: Okay. So where are we?
25 Do any of the parties have any further issues

1 regarding prefiled testimony and exhibits?

2 Positions -- do any of the parties have any
3 changes on their basic positions? I see everybody
4 nodding their head no.

5 Okay. So it's my understanding there is no
6 dispute on Issues 1 through 15. Are there any
7 changes in language?

8 MS. CHRISTENSEN: None.

9 MS. EATON: No.

10 MR. BAKER: No.

11 COMMISSIONER GRAHAM: Okay. I am more happy.

12 Staff, the parties said there is no changes.

13 Let's move on to comprehensive exhibit list.

14 MR. DOSE: Staff has prepared and circulated
15 to the parties a comprehensive exhibit list which
16 includes all prefiled exhibits, and also includes
17 those exhibits staff wishes to include in the
18 record. This includes the exhibits, data request
19 responses and responses to formal discovery that
20 are identified in Attachment A.

21 Staff has requested that the parties advise
22 whether there are any objections to the
23 comprehensive exhibit list or the entry of staff's
24 exhibits into the record.

25 COMMISSIONER GRAHAM: Are parties willing to

1 stipulate staff's exhibits?

2 MS. CHRISTENSEN: OPC has no objection to the
3 CEL and the entry of the exhibits, and we can
4 confirm that again at the time of the hearing.

5 COMMISSIONER GRAHAM: Walmart?

6 MS. EATON: Walmart has no objection either.

7 MR. BAKER: No objection from FPL.

8 COMMISSIONER GRAHAM: Okay. All right. Any
9 additional stipulations to be discussed that are
10 not already on the record?

11 Okay. Any pending motions?

12 MR. DOSE: There are no pending motions at
13 this time.

14 COMMISSIONER GRAHAM: Any confidential --
15 confidentiality requests?

16 MR. DOSE: There are two confidentiality
17 requests that are pending and will be addressed it
18 shortly.

19 COMMISSIONER GRAHAM: Are there any need for
20 briefs?

21 MR. BAKER: Not from FPL.

22 MS. EATON: No.

23 MS. CHRISTENSEN: None from OPC.

24 COMMISSIONER GRAHAM: I tell you what, it must
25 have been my Wheaties or you guys just love me

1 today.

2 Staff.

3 MR. DOSE: Nothing from staff.

4 COMMISSIONER GRAHAM: Okay. Rulings. Are the
5 parties willing to waive opening statements?

6 MS. CHRISTENSEN: Yes, OPC is willing to waive
7 opening statements since we have a stipulated
8 agreement between the parties.

9 MS. EATON: We would be willing to waive
10 opening statements as well. Though, in the
11 interest of the fact that Walmart doesn't have any
12 exhibits or any testimony, and is stipulating the
13 issues, we would request to be excused from the
14 hearing.

15 COMMISSIONER GRAHAM: We can definitely do
16 that.

17 MS. EATON: Thank you.

18 MR. BAKER: Hearing what we've heard, FPL
19 would also be good to waive opening.

20 COMMISSIONER GRAHAM: I was going to say, I
21 didn't think you were going to, because that would
22 have changed everything else.

23 Okay. Staff, it seems like there is no
24 opening statements.

25 MR. DOSE: That's correct.

1 COMMISSIONER GRAHAM: We've discussed briefs,
2 if necessary, that we're -- blah, blah, blah, blah,
3 blah.

4 Any other matters for the prehearing
5 conference?

6 MR. DOSE: Staff has none.

7 COMMISSIONER GRAHAM: Anything else for the
8 good of the order?

9 MS. EATON: I just wanted clarification as to
10 whether or not staff or the Commission would like
11 for me to be a signatory, or make some attachment
12 to Attachment A, that's the stipulation between OPC
13 and FPL, as to the issues for which Walmart is in
14 agreement.

15 MS. HELTON: I that I would probably be
16 preferable, so that that way, the record could be
17 clear, and it could be clearer for the
18 Commissioners when they are asked to vote on the
19 attachment at the hearing.

20 MS. EATON: Sure. We can -- we could
21 potentially just add -- add a page to the existing
22 stipulation that would reference the paragraphs for
23 which Walmart is in agreement.

24 Thank you.

25 MS. CHRISTENSEN: Commissioner, my

1 recollection is -- and while I don't need to make
2 an opening statement on the issues as they were
3 drafted, generally we have made just a brief
4 opening regarding the stipulation that's been
5 entered into by the parties, and I think we have,
6 in the other storm dockets, made a brief opening.
7 So if I can reserve that right, two, three minutes,
8 something like that, to -- to just acknowledge are
9 the stipulation and put forth OPC's, essentially,
10 position on the stipulation.

11 COMMISSIONER GRAHAM: Just so we can go on the
12 record letting everybody know how you came to the
13 decision you made?

14 MS. CHRISTENSEN: Essentially, uh-huh,
15 essentially, Commissioner.

16 COMMISSIONER GRAHAM: I don't have a problem
17 with that.

18 MR. BAKER: We would -- we would match that
19 request. I mean, if OPC would like two to three
20 minutes for an opening, we can also do an opening
21 of that length.

22 COMMISSIONER GRAHAM: Now, are we -- Walmart
23 is completely fine to be excused from the hearing?
24 We don't -- we are not running into any problems
25 with the attachments, her signing on to Attachment

1 A?

2 MS. HELTON: Right. I think that I would be
3 okay as long as she provides some written
4 documentation to that effect, I think that I would
5 make that cleaner, Mr. Chairman.

6 COMMISSIONER GRAHAM: And when do we expect
7 that? When do we need that?

8 MS. EATON: As soon as I get back to the
9 office, or, you know, to sign it and maybe even
10 tomorrow we could submit it to the -- to the
11 Commission.

12 COMMISSIONER GRAHAM: By the end of the day
13 tomorrow?

14 MS. EATON: That would be fine.

15 COMMISSIONER GRAHAM: I just want to make sure
16 we are not sitting around on hearing day looking
17 for it.

18 MS. EATON: Sure. No problem. And I
19 appreciate the request to be excused. I feel like
20 it's just most unnecessary given the stipulation on
21 the only two issues, and there is no -- no exhibits
22 or testimony in this particular docket.

23 Thank you.

24 COMMISSIONER GRAHAM: Staff, are we done?

25 MR. DOSE: I believe so.

1 COMMISSIONER GRAHAM: All right. I thank you
2 all very much for your time and your patience, and
3 we are adjourned.

4 MS. EATON: Thank you.

5 (Proceedings concluded.)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

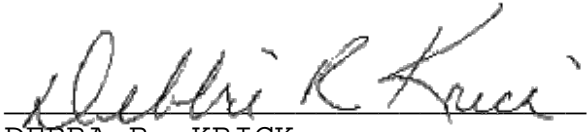
STATE OF FLORIDA)
COUNTY OF LEON)

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 25th day of June, 2024.


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