

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for limited proceeding for recovery of incremental storm restoration costs related to Hurricanes Irma and Nate, by Duke Energy Florida, LLC.

DOCKET NO. 20170272-EI  
ORDER NO. PSC-2018-0103-PCO-EI  
ISSUED: February 26, 2018

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman  
JULIE I. BROWN  
DONALD J. POLMANN  
GARY F. CLARK

ORDER APPROVING INTERIM STORM RECOVERY CHARGE

BY THE COMMISSION:

Background

On December 28, 2017, Duke Energy Florida, LLC (DEF) filed a petition for a limited proceeding seeking authority to implement an interim storm restoration recovery charge to recover a total of \$513.2 million for the incremental restoration costs related to Hurricanes Irma and Nate and to replenish its storm reserve. In its petition, DEF asserted that, as a result of Hurricanes Irma and Nate, it incurred total retail recoverable costs of approximately \$425 million, less its pre-storm reserve balance of \$54 million, resulting in net recoverable costs of \$371 million. In addition, DEF proposes to replenish its storm reserve to the \$132 million balance that existed in February 2012. Interest, bond issuance expense, and the regulatory assessment fee gross-up adds an additional \$10.2 million to the amount of recoverable costs.

DEF filed its petition pursuant to the provisions of the 2017 Second Revised and Restated Settlement Agreement (2017 Settlement) approved by the Commission in Order No. PSC-2017-0451-AS-EU.<sup>1</sup> Pursuant to the 2017 Settlement, DEF can recover storm costs, without a cap on the level of charges on customer bills, on an interim basis beginning 60 days following the filing of a petition for recovery. Although the 2017 Settlement provides for a 12-month recovery period, DEF recognizes that the imposition of the full storm recovery amount over 12 months would result in an interim storm restoration recovery surcharge of over \$15 per 1,000 kWh on a residential customer bill. Therefore, to mitigate this large rate increase, DEF proposes to spread the storm recovery amount over 36 months effective March 1, 2018, which would result in an

<sup>1</sup> Order No. PSC-2017-0451-AS-EU, issued November 20, 2017, in Docket No. 20170183-EI, In re: Application for limited proceeding to approve 2017 second revised and restated settlement agreement, including certain rate adjustments, by Duke Energy Florida, LLC.

interim storm restoration recovery surcharge of \$5.20 per 1,000 kWh on a residential customer bill.

On January 24, 2018, DEF filed a Motion to Approve Implementation Stipulation to implement the 2017 Settlement. On February 5, 2018, DEF filed its Notice of Amendment to Implementation Stipulation (implementation stipulation). All signatories to the 2017 Settlement joined in and support the implementation stipulation.

We have jurisdiction over this matter pursuant to Sections 366.04, 366.05, 366.06, and 366.076, Florida Statutes.

### Decision

DEF filed a petition for a limited proceeding seeking authority to implement an interim storm restoration recovery charge to recover a total of \$513.2 million for the incremental restoration costs related to Hurricanes Irma and Nate and to replenish its storm reserve. The requested recovery of \$513.2 million represents net retail recoverable costs of approximately \$371 million, plus an additional \$132 million to replenish its storm reserve to the balance that existed in February 2012. In addition, the \$513.2 million includes an additional \$10.2 million for interest, bond issuance costs, and a regulatory assessment fee true-up. The petition was filed pursuant to the provisions of the 2017 Settlement we approved in Order No. PSC-2017-0451-AS-EU. Pursuant to Paragraph 38 of the 2017 Settlement, DEF can begin recovery of storm costs, without a cap, 60 days following the filing of a petition for recovery. In order to limit the monthly charge to customers, DEF has requested an interim storm restoration recovery charge of \$5.20 on a monthly 1,000 kWh residential bill to be recovered over a 36-month period, effective March 1, 2018 through February 28, 2021.

In its petition, DEF asserts that it incurred total retail recoverable costs of approximately \$371 million as a result of Hurricanes Irma and Nate. DEF further asserts that this amount was calculated in accordance with the Incremental Cost and Capitalization Approach (ICCA) methodology prescribed in Rule 25-6.0143, Florida Administrative Code. The net retail recoverable costs of \$371 million were determined by reducing the \$425 million total recoverable costs by the pre-storm storm reserve balance of \$54 million. Paragraph 38 of the 2017 Settlement also allows DEF to request the replenishment of its storm reserve to \$132 million.

In its petition, DEF filed a proposed Eighty-First Revised Tariff Sheet No. 6.105 to implement the approved storm recovery charge. However, following our approval of the implementation stipulation, DEF withdrew its proposed tariff. DEF's implementation stipulation is attached to this Order in Attachment A. It seeks to avoid volatility in customer rates by recognizing and then utilizing annual tax reform benefits resulting from the 2017 Tax Act as a direct offset to avoid implementing separate cost recovery of storm damage costs that customers would have otherwise have been obligated to pay. With our approval of the implementation, DEF shall be entitled to record a monthly storm reserve accrual equal to one-twelfth of our approved annual revenue requirement impact of the Tax ACT and credit the retail storm reserve from January 2018 through full recovery of our final approved actual storm recovery amount.

Once the final approved actual storm recovery amount has been recovered, or offset, DEF shall reduce base rates in the manner prescribed in the 2017 Settlement.

Our approval of an interim storm restoration recovery charge is preliminary in nature and is subject to true-up pending further review once the total actual storm restoration costs are known. After the actual costs are reviewed for prudence and reasonableness, and are compared to the actual amount recovered through the interim storm restoration recovery charge, a determination will be made whether any over/under recovery has occurred. The disposition of any over/under recovery, and associated interest, shall be considered by us at a later date.

Based on our review of the information provided by DEF in its petition, we hereby authorize DEF to implement an interim storm restoration recovery charge subject to true-up. Once the total actual storm costs are known, DEF shall be required to file documentation of the storm costs for our review and true-up of any excess or shortfall. This is not a confirmation or endorsement of the prudence of DEF's forecasted costs and plans. This order only allows DEF to begin recovery on an interim basis in accordance with the 2017 Settlement agreement. This interim recovery is subject to true-up following a hearing or formal proceeding where the veracity and prudence of DEF's actual restoration costs can be fully vetted.

Additionally, we find that the implementation stipulation is in the public interest and hereby approve DEF's Amended Implementation Stipulation.

Based on the foregoing, it is

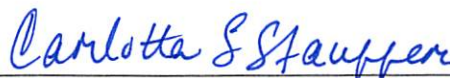
ORDERED by the Florida Public Service Commission that Duke Energy Florida, LLC is hereby authorized to implement an interim storm restoration recovery charge as amended. It is further

ORDERED that Duke Energy Florida, LLC's Amended Implementation Stipulation is hereby approved. It is further

ORDERED that Duke Energy Florida, LLC shall file with this Commission documentation of the actual storm costs once those costs are known. It is further

ORDERED that this docket shall remain open for future disposition by this Commission.

By ORDER of the Florida Public Service Commission this 26th day of February, 2018.



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CARLOTTA S. STAUFFER  
Commission Clerk  
Florida Public Service Commission  
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

KRM

#### NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.



**Amended Implementation Stipulation**

1. The 2017 Second Revised and Restated Settlement Agreement ("Agreement") was approved by the Commission in Order No. PSC-2017-0451-AS-EU. As explained more fully below, the signatories to the Agreement enter into this Stipulation to implement specific provisions related to the timing of rate treatment of certain events contemplated in the Agreement that have become manifest (i.e., storm restoration costs and federal tax reform).
2. Paragraph 38(c) of the Agreement grants Duke Energy Florida, LLC ("DEF") the right to recover, on an interim basis, storm damage costs sixty days after filing a petition with the Commission. Pursuant to this paragraph, on December 28, 2017, DEF filed for the recovery of \$513 million estimated for storm damage costs associated with Hurricanes Irma and Nate and replenishment of DEF's retail storm damage reserve to the level specified in the Agreement. To reduce rate impacts to customers, DEF proposed to recover this amount over three years, resulting in approximately \$171 million of costs to be recovered from customers annually starting in March 2018. The Commission has opened Docket No. 20170272-EI to consider DEF's request.
3. Paragraph 16 of the Agreement provides a mechanism for calculating and implementing the impact of tax reform on DEF's rates, which will inure to the benefit of customers on the effective date of tax reform changes. On December 22, 2017, the President signed the Tax Cuts and Jobs Act ("Tax Act") into law. Part of the Tax Act includes a reduction in the corporate tax rate from 35 percent to 21 percent. DEF, using the methodologies set forth in Paragraphs 16(b) and 16(c) of the Agreement, has preliminarily estimated the impact of the Tax Act to result in a reduction in revenue requirements of approximately \$135 million per year (after taking into account the \$50 million accelerated depreciation of Crystal River ("CR") Units 4 and 5 as expressly provided in the Agreement). DEF and the other signatories to the Agreement agree that the \$135 million estimated annual Tax Act revenue requirement impact is based on preliminary data and is subject to final true-up. As specified in the Agreement, DEF is obligated to reduce customer base rates within 120 days of the December 22, 2017 enactment date, or by April 21, 2018, upon a thorough review of the effects of the Tax Act on base revenue requirements to account for the impacts of the Tax Act. Any final true-up associated with further refinement of the estimate and recognition of the pre-implementation will be reflected in the amount recognized consistent with paragraph 5 below.
4. The storm damage costs are allocated to customer rate classes in the same manner as base rates. Absent this Implementation Stipulation, DEF would be authorized to increase rates by an average of \$171 million per year starting in March 2018, and would subsequently reduce base rates at a later date in 2018 by an estimated \$135 million per year. The Signatory Parties seek to avoid this volatility in customer rates and agree that DEF should effectively utilize the annual Tax Act benefits to avoid implementing the charge to customers for storm damage costs that they would have otherwise been obligated to pay. To accomplish this goal, DEF shall, after Commission approval of the interim storm restoration recovery charge, withdraw the tariff sheets it filed with its December 28, 2017 filing. The parties request that the Commission consider this stipulation in conjunction with its approval of this interim charge. Because those tariff sheets also included the impact of the Asset Securitization Charge True-Up (Docket

2015071-EI), DEF shall simultaneously submit revised tariff sheets to reflect only the changes associated with the Asset Securitization Charge True-Up.

5. Based on the current storm restoration cost estimates, which are subject to change pending a final Commission order in Docket No. 20170272-EI and the yet-to-be filed docket regarding the Tax Act, DEF projects that the full estimated storm costs shall be recovered by approximately mid-2021. The signatories agree that DEF shall be entitled to record a monthly storm reserve accrual equal to one-twelfth of the annual Commission-approved revenue requirement impact of the Tax Act and credit the retail storm reserve from January 2018 through full recovery of the final Commission-approved actual storm recovery amount, and that a specific condition of the net bill impacts of this stipulation is that the Commission will issue an order explicitly authorizing such action. The signatories agree that once the final Commission-approved actual storm recovery amount has been recovered, DEF shall reduce base rates in the manner prescribed in the Agreement and commensurate with the Commission-approved Tax Act savings beginning in the month following the final month of storm recovery (including reserve replenishment). DEF agrees to file tariff sheets at least 60 days before this date to reflect the reduced rates.
6. All signatories maintain and do not waive their rights to raise any argument that is allowed under the Agreement with respect to the reasonable and prudent level of storm damage costs and the calculation of the Tax Act impacts. It is the intent of the parties, and a condition of this stipulation, that the two distinct proceedings contemplated in Paragraphs 38(c) and 16 shall be conducted as if this stipulation did not exist and that final determinations of actual storm costs and tax savings be made independently and separately.
7. The parties intend that the storm damage costs be transparent and ascertainable on a stand alone basis and that the benefits of the Tax Act impacts be transparent and ascertainable on a stand alone basis. DEF shall file quarterly a storm cost overview which accounts and reports on the storm damage costs, the costs remaining to be satisfied, the projected date such costs will be satisfied and the amount of Tax Act savings applied to storm damage costs.