

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of 2020-2029 Storm Protection  
Plan pursuant to Rule 25-6.030, F.A.C.,  
Florida Public Utilities Company.

DOCKET NO. 20200068-EI  
ORDER NO. PSC-2020-0097-PCO-EI  
ISSUED: April 6, 2020

ORDER GRANTING FLORIDA PUBLIC UTILITIES COMPANY'S  
MOTION TO CLOSE DOCKET

The 2019 Florida Legislature enacted Section 366.96, Florida Statutes (F.S.), entitled “Storm protection plan cost recovery.” Section 366.96(3), F.S., requires each public utility to file a transmission and distribution storm protection plan (storm protection plan) that covers the immediate 10-year planning period, and explains 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. Pursuant to Sections 366.96(5) and 366.96(6), F.S., every three years, the Florida Public Service Commission (Commission) is required to determine whether it is in the public interest to approve, approve with modification, or deny each utility’s storm protection plan no later than 180 days after the utility files a plan that contains all of the elements required by Commission Rule. Rules 25-6.030 and 25-6.031, Florida Administrative Code (F.A.C.), implement Section 366.96, F.S.<sup>1</sup>

To facilitate the filing and review of each utility’s storm protection plans, Commission staff opened a docket for each investor-owned electric utility on March 3, 2020.<sup>2</sup> On March 11, 2020, Order No. PSC-2020-0073-PCO-EI was issued to establish the procedures for the Commission’s review of each utility’s storm protection plans, and to consolidate Docket Nos. 20200067-EI, 20200068-EI, 20200069-EI, 20200070-EI, and 20200071-EI for the purpose of the hearing. The order also set April 10, 2020, as the filing date for each investor-owned electric utility to file its storm protection plan.

FPUC’s Motion

On March 17, 2020, Florida Public Utilities Company (FPUC) submitted a Motion to Suspend or Close Docket (Motion). In the Motion, FPUC requests that it be allowed to defer filing a storm protection plan for a period of one year. In support of its Motion, FPUC notes that

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<sup>1</sup> Rules 25-6.030 and 25-6.031, F.A.C., were put into effect on February 18, 2020, pursuant to Order No. PSC-2020-0038-FOF-EU, issued on January 29, 2020, in Docket No. 20190131-EU, *In re: Proposed adoption of Rule 25-6.030, F.A.C., and Rule 25-6.031, F.A.C., Storm Protection Plan Cost Recovery Clause*.

<sup>2</sup> See Docket No. 20200067-EI, *In re: Review of 2020-2029 Storm Protection Plan pursuant to Rule 25-6.030, F.A.C., Tampa Electric Company*; Docket No. 20200068-EI, *In re: Review of 2020-2029 Storm Protection Plan pursuant to Rule 25-6.030, F.A.C., Florida Public Utilities Company*; Docket No. 20200069-EI, *In re: Review of 2020-2029 Storm Protection Plan pursuant to Rule 25-6.030, F.A.C., Duke Energy Florida, LLC*; Docket No. 20200070-EI, *In re: Review of 2020-2029 Storm Protection Plan pursuant to Rule 25-6.030, F.A.C., Gulf Power Company*; and Docket No. 20200071-EI, *In re: Review of 2020-2029 Storm Protection Plan pursuant to Rule 25-6.030, F.A.C., Florida Power & Light Company*.

prior to the 2019 Legislative session (in October 2018), FPUC incurred extraordinary and significant costs associated with the removal of debris and damaged equipment following Hurricane Michael, as well as the additional expense of extensive capital projects to rebuild its system in its Northwest Division. These matters are already being considered by the Commission in Docket Nos. 20190155-EI and 20190156-EI.<sup>3</sup>

FPUC argues that the rebuilding process and the regulatory proceedings already underway are using the full capacity of FPUC's limited resources, and that FPUC is unable to develop a storm protection plan that would meet the criteria of Rule 25-6.030, F.A.C., by April 10, 2020. FPUC further notes that neither Section 366.96, F.S., nor Rule 25-6.030, F.A.C., provide a specific timeframe within which an investor-owned utility must file its initial plan. FPUC therefore respectfully requests that the Commission suspend or close Docket No. 20200068-EI, with instructions for FPUC to file its first storm protection plan on or before April 10, 2021.

FPUC also notes that if its Motion is granted, it will not seek to participate in the Commission's Storm Protection Plan Cost Recovery Clause proceeding in 2020.<sup>4</sup> Further, FPUC states that following the filing of its first storm protection plan in 2021, FPUC will file an updated storm protection plan within two years after its initial filing, in 2023, in order to re-align itself from a timing perspective with the other investor-owned utilities in Florida. FPUC further notes that it will continue to ensure the safety, reliability, and storm resiliency of its transmission and distribution facilities pending the deferred filing of its storm protection plan, and that its current storm hardening plan, approved in Docket No. 20180148-EI, runs through 2021.<sup>5</sup> The Office of Public Counsel, the only intervener in this docket, took no position on the Motion.

### Analysis and Decision

Pursuant to Rule 28-106.211, F.A.C., the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, to prevent delay, and to promote the just, speedy, and inexpensive determination of all aspects of the case, including bifurcating the proceeding. In the instant case, closing Docket No. 20200068-EI would promote the just, speedy, and inexpensive determination of all aspects of the case. As indicated above, a docket was opened for each investor-owned electric utility to file its storm protection plan, and the five dockets were consolidated for hearing in order to avoid unnecessary duplication of time and resources.<sup>6</sup> Neither Section 366.96, F.S., nor Rules 25-6.030 or 25-6.031, F.A.C., contemplate a date by which an investor-owned utility must file its initial storm protection plan, and FPUC has

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<sup>3</sup> See Docket No. 20190155-EI, *In re: Petition for establishment of regulatory assets for expenses not recovered during restoration for Hurricane Michael*, by Florida Public Utilities Company; and Docket No. 20190156-EI, *In re: Petition for a limited proceeding to recover incremental storm restoration costs, capital costs, revenue reduction for permanently lost customers, and regulatory assets related to Hurricane Michael*, by Florida Public Utilities Company.

<sup>4</sup> See Docket No. 20200092-EI, *In re: Storm protection plan cost recovery clause*.

<sup>5</sup> Order No. PSC-2019-0313-PAA-EI, issued on July 29, 2019, *In re: Review of 2019-2021 storm hardening plan*, Florida Public Utilities Company.

<sup>6</sup> Order No. PSC-2020-0073-PCO-EI, issued on March 11, 2020, *In re: Review of 2020-2029 Storm Protection Plan pursuant to Rule 25-6.030, F.A.C.*, Florida Public Utilities Company.

indicated that it is not ready to file its storm protection plan by April 10, 2020. Therefore, to promote the just, speedy, and inexpensive resolution of the storm protection plan dockets, it is appropriate to close FPUC's docket at this time, with instructions for FPUC to bring forth a storm protection plan on or before April 12, 2021.

Furthermore, pursuant to Rule 28-106.210, F.A.C., the presiding officer may grant a continuance of a hearing for good cause shown. Since FPUC will be required to file a storm protection plan by April 12, 2021, and the Commission and any interested parties will have the opportunity to evaluate FPUC's storm protection plan at that time, then closing Docket No. 20200068-EI is, in effect, granting a continuance for FPUC to file its storm protection plan. Given the current strain on FPUC's resources related to its post-Hurricane Michael rebuilding process, and the associated regulatory proceedings, I find that FPUC has shown good cause to postpone the filing of its storm protection plan. In addition, I find that no harm shall come to FPUC's customers by postponing the filing of its storm protection plan, as FPUC shall continue to ensure the safety, reliability, and storm resiliency of its transmission and distribution facilities under its current, Commission-approved storm hardening plan.

Based on the foregoing, it is

ORDERED by Commissioner Donald J. Polmann, as Prehearing Officer, that Florida Public Utilities Company's Motion to Suspend or Close the Docket is hereby granted. It is further

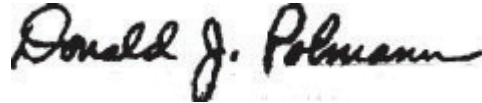
ORDERED that Florida Public Utilities Company's initial filing of its transmission and distribution storm protection plan, pursuant to Sections 366.93, F.S., and Rules 25-6.030 and 25-6.031, F.A.C., shall occur on or before April 12, 2021. It is further

ORDERED that Florida Public Utilities Company will not participate in the Storm Protection Plan Cost Recovery Clause docket, Docket No. 20200092-EI, in 2020. It is further

ORDERED that Florida Public Utilities Company will file an updated storm protection plan within two years after its initial filing, in 2023, in order to re-align itself from a timing perspective with the other investor-owned electric utilities in Florida. It is further

ORDERED that this docket shall be closed, after the time for filing an appeal has run.

By ORDER of Commissioner Donald J. Polmann, as Prehearing Officer, this 6th day of April, 2020.



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DONALD J. POLMANN, Ph.D., P.E.  
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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.

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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.