

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricane Michael, by Gulf Power Company.

DOCKET NO. 20190038-EI
ORDER NO. PSC-2020-0306-PCO-EI
ISSUED: September 9, 2020

PROCEDURAL ORDER

Order No. PSC-2020-0013-PCO-EI (Order Establishing Procedure), issued on January 7, 2020, established hearing procedures to govern this docket, including controlling dates.¹ In Section VIII, Controlling Dates, the dates set for the Hearing were established as September 1-2, 2020. However, the Parties, Gulf Power Company (Gulf), the Office of Public Counsel (OPC), and the Federal Executive Agencies (FEA)(collectively, Signatories), filed a Joint Motion for Expedited Approval of a Stipulation and Settlement Agreement (Settlement Agreement) on August 25, 2020.

The Parties have agreed that the Settlement Agreement resolves all matters contained within the docket. The specific terms of the negotiated settlement include a 5 million dollar reduction to the amounts that Gulf sought to recover and resolves all issues related to contractors' costs, employee payroll, and materials and supply costs. The Parties further agreed to implement paragraphs 5-20 of the "Process Provisions" contained within the Commission approved settlement in Docket No. 20180049-EI, In re: the evaluation of storm restoration costs recovery by Florida Power and Light Company for Hurricane Irma, and that Gulf would implement these process provisions before the 2021 Storm Season to help minimize the hourly construction costs and equipment rental rates.

In consideration of the Signatories' request, and to afford sufficient time for the Commission and its staff to review the proposed Settlement Agreement, the hearing in this matter is being rescheduled to September 15, 2020. The purpose of the hearing will be to consider whether it is in the public interest to approve the Settlement Agreement. This Order is issued pursuant to the authority granted by Rule 28-106.211, Florida Administrative Code (F.A.C.), which provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case.

Use of Confidential Information at Hearing

While it is the Commission's policy to have all Commission hearings open to the public at all times, the Commission also recognizes its obligation pursuant to Section 366.093, Florida Statutes (F.S.), to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use at the hearing any proprietary confidential

¹ Certain controlling dates, although not the hearing date, were further modified by Order Nos. PSC-2020-0050-PCO-EI, issued February 6, 2020, and PSC-2020-0204-PCO-EI, issued June 24, 2020.

business information, as that term is defined in Section 366.093, F.S., shall adhere to the following:

- (1) When confidential information is used in the hearing, parties must have copies for the Commissioners, counsel, necessary staff, and the court reporter, clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- (2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

All copies of confidential exhibits that are not admitted into evidence shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Office of Commission Clerk's confidential files. If such information is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidentiality filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C., if continued confidentiality of the information is to be maintained.

Special Considerations Due to the COVID-19 Pandemic

State buildings are currently closed to the public and other restrictions on gatherings remain in place due to COVID-19. Accordingly, the hearing will be conducted remotely, and all parties and witnesses shall be prepared to present argument and testimony by communications media technology.

Any member of the public who wants to observe or listen to the proceedings may do so by accessing the live video broadcast the day of the hearing, which is available from the Commission website. Upon completion of the hearing, the archived video will also be available.

Hearing Procedures

Section 120.57(4), F.S., permits the Commission to informally dispose of any proceeding by stipulation, agreed settlement, or consent order. Pursuant to Rule 28-106.302(2), F.A.C., the purpose of this hearing is for the Commission to take oral and written evidence or argument regarding the Joint Motion for approval of the Settlement Agreement as being in the public interest.

The hearing agenda for September 15, 2020, will include the following:

- Parties present Opening Statements of no more than five minutes per party;
- Parties present evidence and respond to questions from Commissioners regarding the Settlement Agreement.

Upon the admission of all testimony and evidence, and completion of the Commission's questions at hearing, the hearing record will be closed. At that time, the Commission may render a bench decision, provided all parties are willing to waive filing of post-hearing briefs. If a bench decision is not made, the Commission will render a decision during an Agenda Conference; date and time to be determined. Briefs, if any, will be due September 29, 2020.

The Commission has jurisdiction in this matter pursuant to Chapters 120, and 366, F.S., and is proceeding under its authority under Sections 366.04, 366.05, 366.06, and 120.57, F.S.

Based on the foregoing, it is

ORDERED by Commissioner Andrew Giles Fay, as Prehearing Officer, that Order No. PSC-2020-0013-PCO-EI is modified as set forth in the body of this Order. It is further

ORDERED that Order No. PSC-2020-0013-PCO-EI, as modified by Order Nos. PSC-2020-0050-PCO-EI and PSC-2020-0204-PCO-EI, is reaffirmed in all other respects.

By ORDER of Commissioner Andrew Giles Fay, as Prehearing Officer, this 9th day of September, 2020.



ANDREW GILES FAY
Commissioner and Prehearing Officer
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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.

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.