

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for a limited proceeding to
approve third solar base rate adjustment, by
Duke Energy Florida, LLC.

DOCKET NO. 20200153-EI
ORDER NO. PSC-2020-0323-PHO-EI
ISSUED: September 22, 2020

PREHEARING ORDER

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on September 14, 2020, in Tallahassee, Florida, before Commissioner Julie I Brown, as Prehearing Officer.

APPEARANCES:

MATTHEW BERNIER, ESQUIRE, 106 East College Avenue, Suite 800,
Tallahassee, Florida 32301; and DIANNE M. TRIPLETT, ESQUIRE, 299 First
Avenue North, St. Petersburg, Florida 33701
On behalf of Duke Energy Florida, LLC

J.R. KELLY, and CHARLES REHWINKEL, ESQUIRES, Office of Public
Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812,
Tallahassee, Florida 32399-1400
On behalf of the Citizens of the State of Florida

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PREHEARING ORDER

I. CASE BACKGROUND

Duke Energy Florida, LLC's (DEF) petition for a limited proceeding to approve its 2017 Second Revised and Restated Settlement Agreement (2017 Settlement) was approved by the Commission on November 20, 2017, by Order No. PSC-2017-0451-AS-EU.¹ Paragraph 15 of the 2017 Settlement allows DEF to petition the Commission for cost recovery of up to 525 megawatts (MW) of solar generation in 2020 and 700 MW of solar generation in 2021. According to paragraph 15(a) of the 2017 Settlement, the cost of the solar projects must be reasonable and cost-effective.

The Commission approved DEF's first solar rate base adjustment by Order No. PSC-2019-0159-FOF-EI, issued on April 30, 2019.² The Commission approved DEF's second solar rate base adjustment by Order No. PSC-2019-0292-FOF-EI, issued on July 22, 2019.³

On May 29, 2020, DEF filed a petition for a limited proceeding seeking approval for its third solar base rate adjustment. In its petition, DEF seeks cost recovery approval for its Twin Rivers Solar Power Plant and Santa Fe Solar Power Plant (scheduled to go into service in early 2021), and Charlie Creek Solar Power Plant, Duette Solar Power Plant, and Archer Solar Power Plant (scheduled to go into service in the fourth quarter of 2021), pursuant to paragraph 15 of the 2017 Settlement. An Order Establishing Procedure was issued in this docket on July 10, 2020,⁴ and an administrative hearing is scheduled on October 6, 2020. The Office of Public Counsel (OPC) has intervened in this proceeding.

II. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, F.A.C., this Prehearing Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

State buildings are currently closed to the public and other restrictions on gathering 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. The Commission shall act as the host of the hearing and will use a combination of technologies to ensure full participation. The Commission will employ

¹ 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*

² In Docket No. 20180149-EI, *In re: Petition for a limited proceeding to approve first solar base rate adjustment, by Duke Energy Florida, LLC.*

³ In Docket No. 20190072-EI, *In re: Petition for a limited proceeding to approve second solar base rate adjustment, by Duke Energy Florida, LLC.*

⁴ Order No. PSC-2020-0230-PCO-EI, issued July 10, 2020, in Docket No. 20200153-EI, *In re: Petition for a limited proceeding to approve third solar base rate adjustment, by Duke Energy Florida, LLC.*

GoToMeeting as an audio and video platform for the hearing, which will include a telephone number for audio-only participation.

A GoToMeeting invitation shall be provided to counsel for each party. It shall be the responsibility of counsel to provide their clients, client representatives, and witnesses with the invitation, which will allow them to access the hearing, as necessary. Counsel for each party will also be provided the call-in number for audio participation.

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

III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapter 366, Florida Statutes (F.S.). This hearing will be governed by said Chapter and Chapters 25-6, 25-22, and 28-106, F.A.C., as well as any other applicable provisions of law.

IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Information for which proprietary confidential business information status is requested pursuant to Section 366.093, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Section 119.07(1), F.S., pending a formal ruling on such request by the Commission or pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Section 366.093, F.S. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, F.S., to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, F.S., at the hearing shall adhere to the following:

- (1) When confidential information is used in the hearing that has not been filed as prefiled testimony or prefiled exhibits, parties must follow the procedures for providing confidential electronic exhibits to the Commission Clerk prior to the hearing.

- (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 electronic exhibit.

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 material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification 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.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties has been prefiled and will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to timely and appropriate objections. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand, which shall be limited to three minutes.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer. After all parties and Staff have had the opportunity to cross-examine the witness, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

The parties shall avoid duplicative or repetitious cross-examination. Further, friendly cross-examination will not be allowed. Cross-examination shall be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Any party conducting what appears to be a friendly cross-examination of a witness should be prepared to indicate why that witness's direct testimony is adverse to its interests.

VI. ORDER OF WITNESSES

Each witness whose name is preceded by a plus sign (+) is excused from the hearing in this docket.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
+ Matthew G. Stout	DEF	1,4,5
+ Thomas G. Foster	DEF	4,5,6
Benjamin M. H. Borsch	DEF	2,3,4

VII. BASIC POSITIONS

DEF: The Commission should approve the solar projects DEF has included in its filing for cost recovery pursuant to the 2017 Second Revised and Restated Stipulation and Settlement Agreement (“2017 Second RRSSA”) approved by the Commission in Order No. PSC-2017-0451-AS-EU. Specifically, Twin Rivers Solar Power Plant (“Twin Rivers Project”), the Santa Fe Solar Power Plant (“Santa Fe Project”), Charlie Creek Solar Power Plant (“Charlie Creek Project”), Duette Solar Power Plant (“Duette Project”), and Archer Solar Power Plant (Archer Project”). The Twin Rivers Project and the Santa Fe Project will come into service in January 2021, and the Charlie Creek Project, Duette Project, and Archer Project will come into service in the fourth quarter of 2021. DEF’s solar projects meet the requirements set forth in the 2017 Second RRSSA; namely, they are under the \$1,650/kWac cap, they are cost-effective, and their costs meet the reasonableness requirements set forth in the Paragraph 15(a) of the 2017 Second RRSSA. DEF has also demonstrated that it needs the solar projects. Accordingly, DEF respectively requests that its solar projects be approved for rate recovery.

OPC: Duke Energy Florida, LLC seeks approval of its third tranche solar projects for inclusion as a specific, discrete adjustment to base rates pursuant to the 2017 Second RRSSA (“Settlement Agreement”) approved in Order No. PSC-2017-0451-AS-EU”). Paragraph 15 of the Settlement Agreement provides many criteria for eligibility under the streamlined, limited proceeding base rate freeze exception provided therein.

Citizens’ intent will be to conduct limited cross-examination at any hearing that is held, intended to hold the Company to its burden to demonstrate compliance with the Settlement Agreement’s terms. At this point, it has not been conclusively demonstrated that such a burden has been met by Duke.

STAFF: Staff’s positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff’s final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

VIII. ISSUES AND POSITIONS

ISSUE 1: Are the installed costs of the Solar Projects proposed by DEF (Twin Rivers, Santa Fe, Charlie Creek, Duette, and Archer) within the Installed Cost Cap of \$1,650 per kWac pursuant to subparagraph 15(a) of the 2017 Settlement?

POSITIONS:

DEF: Yes, the weighted average projected installed cost for the facilities in this filing is \$1,402/kWac, which is less than the \$1,650/kWac set forth in the 2017 Second RRSSA. (Witness: Stout)

OPC: It appears these costs are less than or equal to the Installed Cost Cap of \$1,650 per kWac pursuant to subparagraph 15(a) of the Settlement Agreement; however, while the estimated costs presented by Duke appear to be under the cost cap, to the extent that land and inverter costs are not adequately reflected in the actual costs, this threshold compliance may not be met.

STAFF: Staff has no position pending evidence adduced at the hearing.

ISSUE 2: Are the Solar Projects proposed by DEF cost effective pursuant to subparagraph 15(c) of the 2017 Settlement?

POSITIONS:

DEF: Yes, the Twin Rivers, Santa Fe, Charlie Creek, Duette, and Archer Solar Projects are cost-effective in accordance with subparagraph 15(c) and result in a reduction in the Cumulative Present Value Revenue Requirements (“CPVRR”) to DEF customers for a total savings of approximately \$237 million (base case). The results of each sensitivity are summarized below:

CPVRR Net Cost / (Savings) of Proposed Solar Projects
\$ Millions (2020)

Low Fuel Sensitivity	Base Case Fuel	High Fuel Sensitivity
(181)	(237)	(378)

(Witness: Borsch)

OPC: At this point, DEF has not demonstrated that all costs are included in accordance with the Second RRSSA such that the \$1650/KW_{ac} standard has been met or that cost effectiveness has been demonstrated.

STAFF: Staff has no position pending evidence adduced at the hearing.

ISSUE 3: Are the Solar Projects proposed by DEF needed pursuant to subparagraph 15(c) of the 2017 Settlement?

POSITIONS:

DEF: Yes, the Twin Rivers, Santa Fe, Charlie Creek, Duette, and Archer Solar Projects will diversify DEF's fuel mix with dependable cost-effective energy, and provide firm summer capacity, helping to meet DEF's needs for future capacity and satisfy DEF's need for future generation capacity. Given all relevant factors, DEF has a need for cost-effective, emission-free generation that will diversify and strengthen its supply-side generation portfolio and associated fuel requirements and defer the need for future gas-fired generation. DEF's planned interconnection of 700 MW of utility-owned solar generation, including the Twin Rivers, Santa Fe, Charlie Creek, Duette, and Archer Solar Projects, provides cost-effective, reliable, clean, and flexible solar energy that will lower DEF's reliance on natural gas over time. The Twin Rivers, Santa Fe, Charlie Creek, Duette, and Archer Solar Projects are the third group of facilities in the 700 MW of scaled solar projects contemplated under the 2017 Second RRSSA that will address DEF's need to broaden its generation technology and fuel mix given its coal-fired steam plant retirements. These Projects will reduce DEF's reliance on natural gas going forward and help mitigate the effects of any natural gas supply interruptions and transportation instabilities while contributing to customer fuel price stability. Further, these facilities will provide cost-effective renewable generation that will contribute to the need to curb greenhouse gases, including carbon dioxide emissions and meet any future climate change policy mandates. Finally, DEF's solar facilities will meet the need for having cost-effective flexible solar generation facilities that will be dispatchable and integrated into DEF's entire resource portfolio and available for potential technology changes or retrofits to benefit all of DEF's customers over their useful life. (Witness: Borsch)

OPC: At this point, DEF has not demonstrated that all costs are included in accordance with the Second RRSSA such that the \$1650/KW_{ac} standard has been met or that cost effectiveness has been demonstrated.

STAFF: Staff has no position pending evidence adduced at the hearing.

ISSUE 4: Are the Solar Projects proposed by DEF otherwise in compliance with the Terms of paragraph 15 of the 2017 Settlement?

POSITIONS:

DEF: Yes, the Twin Rivers, Santa Fe, Charlie Creek, Duette, and Archer Solar Projects meet all of the requirements set forth in the 2017 Second RRSSA. The needed projects are reasonable, cost-effective, and are being filed with correct and appropriate revenue requirement calculations. The megawatts proposed are within the yearly limits set forth in the 2017 Second RRSSA. DEF conducted a reasonable and comprehensive review of greenfield sites (including sites that it already owns) and projects already in development in DEF's service territory to select the Twin Rivers, Santa Fe, Charlie Creek, Duette, and Archer Solar Projects. DEF used a competitive bidding process to select the engineering, procurement, and construction ("EPC") contractor and the equipment and material for each project. As demonstrated by DEF's testimony and exhibits, the costs for the projects are reasonable and at market. Generally, the costs for Twin Rivers, Santa Fe, Charlie Creek, Duette, and Archer Solar Projects are in line with those filed by other utilities while being designed to achieve higher Net Capacity Factors than those reported by other utilities in Florida. Finally, DEF calculated the revenue requirements consistent with the 2017 Second RRSSA. (Witnesses: Stout, Borsch, Foster)

OPC: At this point, DEF has not demonstrated that all costs are included in accordance with the Second RRSSA such that the \$1650/KW_{ac} standard has been met or that cost effectiveness has been demonstrated.

STAFF: Staff has no position pending evidence adduced at the hearing.

ISSUE 5: What is the annual revenue requirement associated with each of the Solar Projects proposed by DEF?

POSITIONS:

DEF: The annualized revenue requirements for each project are reflected in the chart below:

	Twin Rivers	Santa Fe	Charlie Creek	Duette	Archer
Est. Revenue Requirement	\$13.1 million	\$13.9 million	\$12.5 million	\$13.4 million	\$10.3 million

(Witnesses: Stout, Foster)

OPC: No position.

STAFF: Staff has no position pending evidence adduced at the hearing.

ISSUE 6: **Should the Commission give staff administrative authority to approve the tariffs for Duke reflecting the base rate increases for the Solar Projects determined to be appropriate in this proceeding?**

POSITIONS:

DEF: Yes, DEF has filed its tariffs with the Commission staff, for administrative approval, on September 3, 2020 for the estimated in-service date of the Twin Rivers and Santa Fe Solar Projects. The calculation of the base rate impact was done in accordance with the 2017 Second RRSSA. For the Charlie Creek Project, Duette Project, and Archer Project Solar Project, DEF cannot perform this calculation until closer in time to the 2021 expected in-service date, because the base rates must use the sales forecast that will be filed in the 2022 CCR Clause projection filing made in 2021. (Witness: Foster)

OPC: No position.

STAFF: Staff has no position pending evidence adduced at the hearing.

ISSUE 7: **Should the docket be closed?**

POSITIONS:

DEF: Yes.

OPC: No position.

STAFF: Staff has no position pending evidence adduced at the hearing.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>Description</u>
<u>Direct</u>		
Matthew G. Stout	DEF (MGS-1)	Twin Rivers Solar Power Plant Site Plan

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Matthew G. Stout	DEF	(MGS-2)	Twin Rivers Solar Power Plant Costs CONFIDENTIAL
Matthew G. Stout	DEF	(MGS-3)	Santa Fe Solar Power Plant Site Plan
Matthew G. Stout	DEF	(MGS-4)	Santa Fe Solar Power Plant Costs CONFIDENTIAL
Matthew G. Stout	DEF	(MGS-5)	Charlie Creek Solar Power Plant Site Plan
Matthew G. Stout	DEF	(MGS-6)	Charlie Creek Solar Power Plant Costs CONFIDENTIAL
Matthew G. Stout	DEF	(MGS-7)	Duette Solar Power Plant Site Plan
Matthew G. Stout	DEF	(MGS-8)	Duette Solar Power Plant Site Costs CONFIDENTIAL
Matthew G. Stout	DEF	(MGS-9)	Archer Solar Power Plant Site Plan
Matthew G. Stout	DEF	(MGS-10)	Archer Solar Power Plant Site Costs CONFIDENTIAL
Matthew G. Stout	DEF	(MGS-11)	Cost Comparison to Other Utilities
Thomas G. Foster	DEF	(TGF-1)	SoBRA III First Year Annualized Revenue Requirement
Benjamin M. H. Borsch	DEF	(BMHB-1)	Solar Power Plant Assumptions
Benjamin M. H. Borsch	DEF	(BMHB-2)	Load Forecast
Benjamin M. H. Borsch	DEF	(BMHB-3)	Fuel Forecasts

<u>Witness</u>	<u>Proffered By</u>	<u>Description</u>
Benjamin M. H. Borsch	DEF (BMHB-4)	Cost Effectiveness (CPVRR) Analysis Results

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

X. PROPOSED STIPULATIONS

There are no proposed stipulations at this time.

XI. PENDING MOTIONS

There are no pending motions at this time.

XII. PENDING CONFIDENTIALITY MATTERS

There are no pending confidentiality matters at this time.

XIII. POST-HEARING PROCEDURES

If no bench decision is made, each party shall file a post-hearing statement of issues and positions. A summary of each position, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of this Prehearing Order, the post-hearing statement may simply restate the prehearing position. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, F.A.C., a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages and shall be filed at the same time.

XIV. RULINGS

Opening statements, if any, shall not exceed five minutes per party.

The parties shall provide cross-examination exhibits, including impeachment exhibits, to the Commission Clerk by the close of business on September 29, 2020, following the procedures set forth in Attachment A. The exhibits that are pre-filed and designated as cross-examination or

impeachment exhibits will not be viewed by opposing witnesses or opposing counsel or otherwise have their contents or identity communicated to such witnesses or counsel.

It is therefore, hereby

ORDERED by Commissioner Julie I. Brown, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Julie I. Brown, as Prehearing Officer, this 22nd day of September, 2020.



JULIE I. BROWN

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.

KMS

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.

ATTACHMENT A

Requirements related to providing Cross-Examination Exhibits prior to Hearing

By September 29, 2020, each party must provide the Commission Clerk an electronic copy of all cross-examination exhibits, including impeachment exhibits, the party plans to use during the hearing. All cross-examination exhibits must be provided to the Clerk's Office on either USB flash drives or CDs. Confidential documents must be placed on one USB flash drive or CD, and non-confidential exhibits must be placed on a different or separate USB flash drive or CD. This is because the Clerk's Office will process the confidential exhibits, and will transmit all non-confidential exhibits to the General Counsel's Office for processing. All USB flash drives or CDs provided to the Clerk's Office must be clearly labeled as confidential or non-confidential, and the label must also include the Docket Number(s) and the name of the party providing the exhibits.

Each party must also provide to the Clerk by September 29, 2020, a table listing the exhibit numbers and short titles of each cross-examination exhibit provided to the Clerk. Pursuant to Rule 25-22.006(3), F.A.C., a notice of intent to request confidential classification must be filed for all confidential information.

Each party must pre-number each exhibit with the following sequential numbering system that clearly denotes confidential exhibits. For example, DEF will pre-identify its cross-examination exhibits DEF-1, DEF-2, DEF-3, etc. All confidential exhibits must include the letter "C" placed after the number. Thus, if DEF's third exhibit is confidential, it will be labeled DEF-3C.

Each exhibit must be saved as a separate electronic file, and each file must be labeled with the exhibit number that reflects the information contained in the exhibit. The exhibit number will serve as the filename in the virtual folder during the hearing. Each exhibit must also include a cover page that includes the exhibit number. In addition, each exhibit must include sequentially numbered pages. The page numbers must be placed in the upper right-hand corner of each page.

The confidential and non-confidential cross-examination exhibits will be made available to the parties in virtual folders the day before the hearing. The cross-examination exhibits will be made available to the parties for the sole purpose of providing the witnesses and their counsel with the opportunity to print the exhibits or download them to their electronic devices for use during the hearing.⁵ The parties must not view or read the exhibits prior to the hearing. Parties will be provided usernames and passwords by Commission staff that will give them access to the confidential exhibits and any other confidential information that will be used during the hearing. By September 29, 2020, parties must provide the Commission Clerk with the list of names of those persons who should be given a user name and password to access confidential information.

⁵ Microsoft Chrome is the best internet browser to use to access the virtual folder.