

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request to modify filing dates set forth  
in Order PSC-2020-0097-PCO-EI for storm  
protection plan and first plan update, by  
Florida Public Utilities Company.

DOCKET NO. 20200228-EI  
ORDER NO. PSC-2020-0502-PAA-EI  
ISSUED: December 16, 2020

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION  
ORDER GRANTING FLORIDA PUBLIC UTILITIES COMPANY'S  
REQUEST TO MODIFY FILING DATE FOR INITIAL STORM PROTECTION PLAN  
AND TO EXTEND THE EFFECTIVE PERIOD FOR STORM HARDENING PLAN

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code (F.A.C.).

**Case Background**

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 (SPP) 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, each public utility is required to update their plans for a new 10-year planning horizon, and we are 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. We have jurisdiction pursuant to Section 366.96, F.S.

## Analysis and Decision

### I. FPUC's Request

On October 16, 2020, Florida Public Utilities Company (FPUC) submitted a Request to Modify Filing Dates Set Forth in Order No. PSC-2020-0097-PCO-EI for the FPUC's Storm Protection Plan and Plan Update (Request). In its Request, FPUC asks that it be allowed to defer the filing of its initial SPP for a period of one year, until 2022, and that it be allowed to follow the applicable provisions of Rule 25-6.030, F.A.C., for subsequent updates to its SPP.

FPUC states that on March 3, 2020, the following dockets were opened to facilitate our review of the SPPs for each of the investor-owned electric utilities that are subject to the requirements of Section 366.96, F.S.:

- Docket No. 20200067-EI – Tampa Electric Company (TECO) SPP docket
- Docket No. 20200068-EI – Florida Public Utilities Company (FPUC) SPP docket
- Docket No. 20200069-EI – Duke Energy Florida, LLC (DEF) SPP docket
- Docket No. 20200070-EI – Gulf Power Company (Gulf) SPP docket
- Docket No. 20200071-EI – Florida Power & Light Company (FPL) SPP docket

FPUC further states that on March 17, 2020, FPUC requested that it be allowed to defer the filing of its first SPP for a period of one year, from April 10, 2020, to April 10, 2021. FPUC requested the deferral because the full capacity of its limited resources was already being used for the extraordinary and significant rebuilding process following Hurricane Michael, and due to the regulatory proceedings that were already underway.<sup>1</sup> In addition, FPUC agreed to submit its updated SPP in 2 years (in 2023), instead of within 3 years, as required by Rule 25-6.030, F.A.C., in order to re-align itself with the review period for the updated SPPs of the other investor-owned utilities (TECO, DEF, Gulf, and FPL).

By Order No. PSC-2020-0097-PCO-EI (Extension Order), issued on April 6, 2020, the Prehearing Officer granted FPUC's request to defer the filing of its first SPP, and instructed FPUC to submit its initial SPP on or before April 12, 2021. The Prehearing Officer also instructed FPUC to submit its updated SPP in 2023 (instead of 2024, as contemplated by Rule 25-6.030, F.A.C.), in order to re-align the review of FPUC's SPP update with the review of the other investor-owned utilities.

FPUC notes that following the issuance of the Extension Order, the other investor-owned utilities filed their SPPs, and subsequently entered into a series of settlement agreements.<sup>2</sup> By

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<sup>1</sup> See 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>2</sup> The parties to TECO's settlement agreement were the Office of Public Counsel (OPC), Walmart Inc. (Walmart), and the Florida Industrial Power Users Group (FIPUG). The parties to DEF's settlement agreement were OPC, Walmart, and White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs (PCS Phosphate). The parties to the Gulf and FPL settlement agreements were OPC and Walmart.

Order No. PSC-2020-0293-AS-EI, issued on August 28, 2020, we approved the settlement agreements. A common term in each of the approved settlement agreements was that the investor-owned utilities would file their updated SPPs in 2022, rather than 2023. Accordingly, FPUC asserts that the SPP filing timeline contemplated in the Extension Order will no longer re-align FPUC's SPP review period with the other investor-owned utilities, since it was instructed to file its updated SPP in 2023.

As a result, FPUC argues that it could either: (1) file its initial plan in April 2021, as contemplated by the Extension Order, and then file its update in the next year (in 2022), or (2) delay its initial filing one additional year, such that it files in 2022 for the first time. FPUC notes that neither Section 366.96, F.S., nor Rule 25-6.030, F.A.C., provides a specific timeframe by which an investor-owned utility must file its first SPP. In addition, FPUC asserts that given the overall complexity of the SPP filing, it would be unduly burdensome and administratively inefficient to submit its initial SPP in 2021, and then submit an update in 2022, since there would likely be only minimal changes in a 12-month period. Therefore, FPUC requests that we allow it to further defer the filing of its first SPP for an additional year, in April 2022. FPUC also asserts that if the Request is granted, it would not seek to participate in the SPP Cost Recovery Clause proceeding, conducted pursuant to Rule 25-6.031, F.A.C., in 2021.

In addition, FPUC also requests that we extend the effective period from 2021 to 2022 for its current Storm Hardening Plan, approved by Order No. PSC-2019-0313-PAA-EI, issued on July 29, 2019, in Docket No. 20180148-EI. FPUC emphasizes that if its Request is approved, it will continue to ensure the safety, reliability, and storm resiliency of its transmission and distribution facilities pending the deferred filing of its SPP. FPUC also notes that it is authorized to represent that the Office of Public Counsel (OPC) is not opposed to its Request.

## **II. Decision**

We find that FPUC has demonstrated good cause to defer the filing of its initial SPP for an additional year (from April 2021 to April 2022), and to extend the effective period of its current Storm Hardening Plan for an additional year. We concur with FPUC that neither Section 366.96, F.S., nor Rule 25-6.030, F.A.C., mandates a time by which an investor-owned utility must file its initial SPP. Furthermore, we find that it would be administratively efficient to review all of the SPPs for the investor-owned utilities at the same time. By deferring its initial SPP filing to April 2022, the review of FPUC's initial SPP would take place at the same time as our review of the updated SPPs for the other investor-owned utilities (TECO, DEF, Gulf, and FPL). In addition, we find that it would be inefficient for FPUC to be required to submit its initial SPP in 2021, and then to subsequently be required to file an update one year later in order to re-align the review of its SPP with the review for the other investor-owned utilities.

We further find that FPUC's request to extend the effective period of its current Storm Hardening Plan from 2021 to 2022 shall be granted. FPUC shall be allowed to continue its existing programs and initiatives, without any changes, through 2022, so that FPUC can continue

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to harden its infrastructure in anticipation of future storms and pending the filing of its initial SPP. We note that FPUC has committed to ensuring the safety, reliability, and storm resiliency of its transmission and distribution facilities pending the deferred filing of its SPP. In addition, FPUC agreed it would not seek to participate in the SPP Cost Recovery Clause proceeding, conducted pursuant to Rule 25-6.031, F.A.C., in 2021.

Therefore, we find that FPUC's Request shall be granted. FPUC shall be permitted to defer the filing of its initial SPP from April 12, 2021, to April 2022, and the effective period for FPUC's Storm Hardening Plan shall be extended from 2021 to 2022.<sup>3</sup>

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Public Utilities Company shall be permitted to defer the filing of its initial Storm Protection Plan from April 12, 2021, as set forth in Order No. PSC-2020-0072-PCO-EI, to April 2022, and the effective period for FPUC's Storm Hardening Plan shall be extended from 2021 to 2022. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

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<sup>3</sup> The exact filing date for the 2022 review of the SPPs submitted by the investor-owned utilities will be determined by the Prehearing Officer assigned to the dockets when they are established.

By ORDER of the Florida Public Service Commission this 16th day of December, 2020.



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ADAM J. TEITZMAN  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
www.floridapsc.com

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 that is available under Section 120.57, 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 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.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 6, 2021.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.