

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for limited proceeding to  
implement return on equity trigger provision of  
2021 settlement agreement, by Duke Energy  
Florida, LLC.

DOCKET NO. 20220143-EI  
ORDER NO. PSC-2022-0357-FOF-EI  
ISSUED: October 21, 2022

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman  
GARY F. CLARK  
MIKE LA ROSA  
GABRIELLA PASSIDOMO

APPEARANCES

DIANNE M. TRIPLETT, ESQUIRE, 299 First Avenue North, St. Petersburg,  
Florida 33701; and MATTHEW BERNIER, ESQUIRE, 106 East College  
Avenue, Tallahassee, Florida 32301-7740  
On behalf of Duke Energy Florida, LLC (DEF).

RICHARD GENTRY 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 (OPC).

JON C. MOYLE, JR. and KAREN A. PUTNAL, ESQUIRES, Moyle Law Firm,  
P.A., 118 North Gadsden Street, Tallahassee, Florida 32301  
On behalf of Florida Industrial Power Users Group (FIPUG).

JAMES W. BREW and LAURA WYNN BAKER, ESQUIRES, Stone Law Firm,  
1025 Thomas Jefferson Street, NW, Eighth Floor, West Tower, Washington, DC  
20007  
On behalf of White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate –  
White Springs (PCS Phosphate).

SUZANNE BROWNLESS and SHAW STILLER, ESQUIRES, Florida Public  
Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-  
0850  
On behalf of the Florida Public Service Commission (Staff).

MARY ANNE HELTON, ESQUIRE, Deputy General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850

Advisor to the Florida Public Service Commission.

KEITH C. HETRICK, ESQUIRE, General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850  
Florida Public Service Commission General Counsel

ORDER IMPLEMENTING DUKE ENERGY FLORIDA, LLC'S  
RETURN ON EQUITY TRIGGER

BY THE COMMISSION:

BACKGROUND

On August 12, 2022, Duke Energy Florida, LLC (DEF) filed a petition for a limited proceeding to implement the return on equity (ROE) trigger provisions in Paragraph 2(b) of the 2021 Settlement Agreement approved by Order No. PSC-2021-0202-AS-EI, issued June 4, 2021.<sup>1</sup> DEF requests, as specified in the 2021 Agreement, that: (1) the “Trigger Effective Date” as that term is defined in its 2021 Settlement Agreement be set at August 1, 2022; (2) its current authorized ROE be increased by 25 basis points to be within a range of 9.10 percent to 11.10 percent with a mid-point of 10.10 percent, effective August 1, 2022; (3) its AFUDC rate be set at 6.20 percent for 2022 and 6.26 percent for 2023 and 2024; (4) its base rates be increased as stated in Exhibit E to its petition to generate additional annual revenues in the amount of \$24.4 million effective as of the first billing cycle of January 2023; and (5) Commission staff be given the administrative authority to approve tariffs implementing these base rate increases.

Section 2(b) of the 2021 Settlement Agreement provides that we shall approve DEF’s verified request for an equal percentage rate increase to recover the designated revenue requirement within 60 days following the filing of the Petition, and that such rates will be effective with the first billing cycle following our approval.

By Order No. PSC-2022-0311-PCO-EI, issued August 26, 2022, this matter was scheduled for an administrative hearing on October 4, 2022. To promote transparency and access to this proceeding, the Office of Public Counsel (OPC), Florida Industrial Power Users Group (FIPUG), PCS Phosphate White Springs (PCS Phosphate), and Nucor Steel Florida, Inc. (Nucor), who were all signatories to the 2021 Agreement, were made parties to this docket. Prior to the administrative hearing Nucor requested to be excused from the hearing and represented that it did not object to DEF’s request.

At the October 4, 2022, administrative hearing, opening statements were given by DEF, OPC, FIPUG, and PCS Phosphate. OPC, FIPUG, and PCS Phosphate stated that they continued

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<sup>1</sup> Order No. PSC-2021-0202-AS-EI, issued June 4, 2021, in Docket No. 20210016-EI, *In re: Petition for limited proceeding to approve 2021 settlement agreement, including general base rate increases, by Duke Energy Florida, LLC.*

to support the negotiated terms of the 2021 Settlement Agreement, that they agreed with DEF that the requirements for increasing the ROE pursuant to the trigger provisions of Section Paragraph 2(b) had been met, and that they agreed with the ROE rates calculated by DEF. DEF proffered witnesses Marcia Olivier and Joseph Phalen to answer questions regarding DEF's petition and the ROE trigger provision calculations. Exhibit Nos. 1-7 were stipulated to by all parties and entered into the record.

We have jurisdiction pursuant to Sections 366.04, 366.05, and 366.06, Florida Statutes (F.S.)

### DECISION

#### Return On Equity

Based on the calculation methodology in Section 2(b) of DEF's 2021 Settlement, the average 30-year U.S. Treasury Bond yield rate for the 6-month period from January 26, 2022 through July 25, 2022 was 2.764 percent, which is 50 basis points greater than the yield rate of 2.264 percent on May 4, 2021, when we voted to approve the 2021 Settlement Agreement.

The ROE Trigger was reached on July 25, 2022. Consistent with Section 2(b), the effective date of the revised authorized ROE and range shall be the first day of the month following the day in which the ROE Trigger is reached. As a result of DEF's petition and by operation of the 2021 Settlement Agreement, the Company's authorized ROE shall be increased by 25 basis points to a mid-point of 10.10 percent and the authorized range adjusted to 9.10 percent to 11.10 percent, effective as of August 1, 2022. Further, the revised authorized ROE midpoint and range shall be used for cost recovery clauses, recovery mechanism(s), earnings surveillance reporting, and calculating the Company's Allowance for Funds Used During Construction (AFUDC) rate, until changed by us in a future proceeding.

#### AFUDC rates

Paragraph 2(a) of the 2021 Settlement Agreement specifies the applicable annual AFUDC rate to use during the term of the settlement unless the ROE Trigger is reached. The initial applicable annual rates set forth in the 2021 Settlement Agreement were 6.09 percent for 2022 and 6.14 percent for years 2023 and 2024.

We have reviewed DEF's calculations in Exhibit C and the Company's responses to our staff's data requests and confirmed that the AFUDC rates have been recalculated appropriately by applying the revised ROE of 10.10 percent to the 13-month weighted average cost of capital as submitted with the 2021 Settlement for the test years 2022 and 2023 in MFR D-1a. The AFUDC rate for 2022 increases from 6.09 percent to 6.20 percent. For 2023 and 2024, the AFUDC rate increases from 6.14 percent to 6.26 percent.

To achieve an annual rate of 6.20 percent, the monthly compounding rate for the period August 1, 2022 through December 31, 2022, is 0.005027. To achieve an annual rate 6.26 percent, the monthly compounding rate for calendar years 2023 and 2024 is 0.005071. The

annual AFUDC rate for the period from January 1, 2022 through July 31, 2022, was 6.09 percent per the 2021 Settlement Agreement. The monthly compounding for that period was 0.004939.

Based on these calculations, we find that DEF's proposed AFUDC rates of 6.20 percent for 2022, and 6.26 percent for 2023 and 2024, as reflected in Exhibit C filed with the Company's petition, are accurate and are hereby approved.

#### Annual Base Revenue Increase

The 2021 Settlement Agreement maintains, in Section 2(b), that if the ROE Trigger occurs during the Term of the agreement, DEF shall be allowed to increase its authorized ROE by 25 basis points to be within a range of 9.10 percent to 11.10 percent with a mid-point of 10.10 percent, resulting in a 12-month revenue increase of \$24.428 million. As discussed above, and detailed in Exhibit A of DEF's petition, the ROE Trigger was reached as of July 25, 2022.

Section 2(b) of the 2021 Settlement Agreement also includes a provision that provides that the revenue requirement increase cap of \$24.428 million must be adjusted downward to the extent that it would cause adjusted earnings to exceed the midpoint of the new range (10.10 percent). To support the full \$24.428 million increase, the Company provided its pro forma weather adjusted earnings surveillance report (ESR) for the month of May 2022. The Company alleges, and we agree, that the actual weather in DEF's service area for the twelve months ending May 2022, was warmer than normal, resulting in higher-than-normal sales.

To reflect weather-normalized sales, DEF calculated its pro forma weather normalized ROE for the period by including a downward adjustment to operating revenue of \$45,913,473, resulting in a weather normalized ROE of 9.20 percent. We evaluated both the weather normalization methodology and the inputs used to arrive at the stated adjustment of \$45.9 million. We find that the inputs are correct and that the methodology is consistent with the methodology used by the Company in previous filings before us.

After including the full \$24.428 million revenue increase, the pro forma weather normalized ROE increases from 9.20 percent to 9.46 percent, which is still lower than the new midpoint of 10.10 percent ROE, but well-within the new range of 9.10 percent to 11.10 percent. Thus, the \$24.428 million annual base rate increase amount will not cause the Company's pro forma weather adjusted earnings in its May 2022 ESR to exceed 10.10 percent. Based on the above, we hereby approve DEF's requested \$24.428 million base revenue increase.

#### Base rates

Consistent with our decisions stated above, we find that DEF's proposed base rates, as filed in its petition, are hereby approved to reflect the ROE Trigger provisions of the 2021 Settlement Agreement effective the first billing cycle of January 2023. Further, we hereby grant our staff the authority to administratively approve DEF's tariff sheets consistent with our decisions as stated in the body of this order.

Based on the foregoing, it is

ORDER NO. PSC-2022-0357-FOF-EI  
DOCKET NO. 20220143-EI  
PAGE 5

ORDERED by the Florida Public Service Commission that Duke Energy Florida, LLC's petition for limited proceeding to implement return on equity trigger provision of 2021 Settlement Agreement is hereby granted. It is further

ORDERED that DEF's authorized ROE shall be increased by 25 basis points to a mid-point of 10.10 percent and the authorized range adjusted to 9.10 percent to 11.10 percent, effective as of August 1, 2022. The appropriate annual base revenue increase is \$24.428 million. DEF's proposed base rates shall be increased effective with the first billing cycle of January 2023. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 21st day of October, 2022.



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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](http://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.

SBr

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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, 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 and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.