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April 13, 2020

VIA E-PORTAL

Mr. Adam Teitzman
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: **Docket No. 20190155-EI** – Petition for establishment of regulatory assets for expenses not recovered during restoration for Hurricane Michael, by Florida Public Utilities Company.
Docket No. 20190156-EI - 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.

Dear Mr. Teitzman:

Enclosed for electronic filing in the above-referenced dockets, please find Florida Public Utilities Company's Response in Opposition to OPC's Motion for Partial Summary Final Order.

Thank you for your assistance with this filing. As always, please don't hesitate to let me know if you have any questions or concerns.

Sincerely,

Beth Keating
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for establishment of regulatory assets for expenses not recovered during restoration for Hurricane Michael, by Florida Public Utilities Company.	) Docket No. 20190155-EI
In re: Petition for a limited proceeding to recover incremental storm restoration costs, capital costs, revenue reduction for permanently lost Hurricane Michael, by Florida Public Utilities.	) Docket No. 20190156-EI) Filed: April 13, 2020

FLORIDA PUBLIC UTILITIES COMPANY'S RESPONSE IN OPPOSITION TO THE OFFICE OF PUBLIC COUNSEL'S MOTION FOR PARTIAL SUMMARY FINAL ORDER

Pursuant to Rule 28-106.204(1), Florida Administrative Code ("F.A.C."), Florida Public Utilities Company ("FPUC" or "Company") files this Response in Opposition to Citizens' Motion for Partial Summary Final Order of the Request to Establish Regulatory Assets for Lost Revenue in Docket Nos. 20190155-EI and 20190156-EI, filed by the Office of Public Counsel ("OPC") on April 6, 2020 (herein "OPC's Motion"). As the Commission has consistently recognized, the standard for granting a request for Summary Final Order is very high.[1] The OPC has not met that standard and in fact, OPC's Motion highlights the factual, legal, and policy issues at play in this proceeding. Moreover, granting OPC's motion would be premature and is unlikely to avoid a hearing in this matter.[2] FPUC also notes that OPC failed to comply with any

[1] See, for instance, Order No. PSC-2019-0113-PCO-SU, issued March 25, 2019; Order No. PSC-2007--0972-PCO-WS, issued December 5, 2007; Order No. PSC-2004-0992-PCO-EI, issued October 11, 2004; and Order No. PSC-2011-0244-FOF-GU, issued June 2, 2011.

[2] Order No. PSC-01-1554-FOF-WU, issued July 27, 2001; *citing* National Airlines, Inc. v. Florida Equip. Co. of Miami, 71 So. 2d 741, 744 (Fla. 1954) and Pearson v. St. Paul Fire & Marine Insurance Co., 187 So. 2d 343 (Fla. 1st DCA 1966).

aspect of Rule 28-106.204(3), F.A.C. in regards to the subject motion. As such, FPUC requests that the Commission deny OPC's Motion. In further support hereof, FPUC states as follows.

I. BACKGROUND

1. On August 7, 2019, FPUC petitioned the Florida Public Service Commission ("Commission") for a limited proceeding for a revenue increase to recover $28.2 million associated with capital additions and the cost of removal in the wake of Hurricane Michael, a regulatory asset in the amount of $39.2 million that consists of incremental storm restoration costs arising from Hurricane Michael, and a regulatory asset in the amount of $1.6 million also arising from the impacts of Hurricane Michael, for total costs of $69 million with the effective day of such rate increase to be January 2, 2020 ("Limited Proceeding"), which has been assigned Docket No. 20190156-EI. By separate Petition filed contemporaneously, FPUC requested that the Commission allow the Company to establish three regulatory assets for non-incremental expenses associated with Hurricane Michael: 1) a regulatory asset in the amount of $984,283 for non-incremental expenses incurred by FPUC during the Hurricane Michael restoration in October 2018; 2) a regulatory asset in the amount of $619,186 for the unrecovered revenue related to lost customers from November 2018 to December 2019; and 3) a regulatory asset in the amount of $7,870,626 consisting of changes to accumulated depreciation related to Hurricane Michael for losses on storm damaged assets, including the net book value of retired assets, and cost of removal net of salvage, which has been assigned Docket No. 20190155-EI.

2. OPC filed a notice of its intervention on August 14, 2019.

3. By Order No. PSC-2020-0060-PCO-EI, issued February 24, 2020, the dockets were consolidated for hearing.

4. By separate, revised petitions filed on March 11 and 12, 2020, respectively, the Company updated its request for a limited proceeding to incorporate corrections to its final requested recovery amounts, to revise the requested amortization period to 10 years consistent with the period used to calculate the interim rates approved by the Commission[3], and for purposes of efficiency, to include finalized storm costs associated with Hurricane Dorian. The Company also revised its Petition to Establish Regulatory Assets to reflect consistent changes. As a result, the amount associated with the regulatory asset tied to lost customers was reduced, as was the Company's request as it relates to capital additions. The inclusion of costs associated with Hurricane Dorian resulted in increases to the regulatory assets associated with changes to accumulated depreciation and storm costs.

5. As of the date of this Response in Opposition, this matter has not yet been set for hearing, but it is the Company's understanding that the Commission staff anticipates this matter will be set for hearing.

6. As of the date of this Response, OPC has served FPUC with 16 Requests for Admissions, 38 Requests for Production of Documents (giving rise to the production of thousands of pages of documents), and well over 300 interrogatories when all subparts are included. Responses remain outstanding on certain discovery requests. Commission Staff has also recently served the Company with additional discovery.

II. STANDARD OF REVIEW

7. As noted above, the standard for granting a summary final order is very high. Under Florida law, "the party moving for summary judgment is required to conclusively demonstrate the nonexistence of an issue of material fact, and . . . every possible inference must

[3] *See* Order No. PSC-2019-0501-PCO-EI, Issued November 22, 2019.

be drawn in favor of the party against whom a summary judgment is sought." Green v. CSX Transportation, Inc., 626 So. 2d 974 (Fla. 1st DCA 1993) (citing Wills v. Sears, Roebuck & Co., 351 So. 2d 29 (Fla. 1977)). "A summary judgment should not be granted unless the facts are so crystallized that nothing remains but questions of law." Moore v. Morris, 475 So. 2d 666 (Fla. 1985); City of Clermont, Florida v. Lake City Utility Services, Inc., 760 So. 2d 1123 (5th DCA 2000). The purpose of a summary final order is to avoid the expense and delay of trial when no dispute exists concerning the material facts. There are two requirements for a summary final order: (1) there is no genuine issue of material fact; and (2) a party is entitled to judgment as a matter of law. If the record reflects the existence of any issue of material fact, possibility of an issue, or even raises the slightest doubt that an issue might exist, summary judgment is improper. Albelo v. Southern Bell, 682 So. 2d 1126 (Fla. 4th DCA 1996). "Even where the facts are uncontroverted, the remedy of summary judgment is not available if different inferences can be reasonably drawn from the uncontroverted facts." Albelo, at 1129.[4] If the record "raises even the slightest doubt" that an issue of material fact may exist, a summary final order is not appropriate.[5] The Commission has also previously found that "it is premature to decide whether a genuine issue of material fact exists when [a party] has not had the opportunity to complete discovery and file testimony."[6]

8. Recognizing the finality of a summary final order, the Commission has also acknowledged that policy considerations should be taken into account in ruling on a motion requesting such drastic relief. In Order No. PSC-2004-0992-PCO-EI, issued October 11, 2004[7],

[4] *See also* Order No. PSC-2011-0291-PAA-TP, at p. 5, stating "Even if the facts are not disputed, a summary judgment is improper if different conclusions or inferences can be drawn from the facts."
[5] Albelo v. S. Bell, 682 So. 2d 1126, 1129 (Fla. 4th DCA 1996).
[6] Order No. PSC-01-1554-FOF-WU, issued July 27, 2001, in Docket No. 991437-WU, In re: Wedgefield Utilities, Inc., *citing* Brandauer v. Publix Super Markets, Inc., 657 So. 2d 932, 933–34 (Fla. 2d DCA 1995).
[7] Issued in Docket No. 030623-EI, at pages 2-3.

the Commission hearkened back to its 1998 decision memorialized in Order No. PSC-98-1538-PCO-WS,[8] wherein the Commission found that:

> We are also aware that a decision on a motion for summary judgment is also necessarily imbued with certain policy considerations, which are even more pronounced when the decision also must take into account the public interest. Because of this Commission's duty to regulate in the public interest, the rights of not only the parties must be considered, but also the rights of the Citizens of the State of Florida are necessarily implicated, and the decision cannot be made in a vacuum. Indeed, even without the interests of the Citizens involved, the courts have recognized that
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> > [t]he granting of a summary judgment, in most instances, brings a sudden and drastic conclusion to a lawsuit, thus foreclosing the litigant from the benefit of and right to a trial on the merits of his or her claim. . . . It is for this very reason that caution must be exercised in the granting of summary judgment, and the procedural strictures inherent in the Florida Rules of Civil Procedure governing summary judgment must be observed. . . . The procedural strictures are designed to protect the constitutional right of the litigant to a trial on the merits of his or her claim. They are not merely procedural niceties nor technicalities.[9]

9. The Commission has further acknowledged that the purpose of a summary final order is to avoid the expense and delay of trial and has included consideration of circumstances demonstrating that issuance of a summary final order would not avoid significant delay and cost in denying motions for summary final order.[10]

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[8] Issued November 20, 1998, in Docket Nos. 970657-WS and 980261-WS, In Re: Application for Certificates to Operate a Water and Wastewater Utility in Charlotte and Desoto Counties by Lake Suzy Utilities, Inc., and In Re: Application for Amendment of Certificates Nos. 570-W and 496-S To Add Territory in Charlotte County by Florida Water Services Corporation.

[9] *Quoting* BiFulco v. State Farm Mut. Auto. Ins. Co., 693 So. 2d 707, 709 (Fla. 4th DCA 1997) (citations omitted).

[10] Order No. PSC-2001-1554-FOF-WU, issued July 27, 2001, in Docket No. 991437-WU; *citing* National Airlines, Inc. v. Florida Equipment Co. of Miami, 71 So. 2d 741, 744 (Fla. 1954) and Pearson v. St. Paul Fire & Marine Insurance Co., 187 so. 2d 343 (Fla. 1st DCA 1966).

10. When analyzed under this well-established standard, it is clear the OPC's Motion must fail. OPC has failed to conclusively demonstrate that no issues of material fact exist, nor has it demonstrated that it is entitled to judgment as a matter of law.

III. ANALYSIS

A. Facts Remain in Dispute

11. OPC's Motion clearly reflects that there is a dispute as to at least one key issue of fact. In its motion at p. 2, OPC contends that FPUC's request to recover Operation and Maintenance expenses for the period October – November 2018 is "actually a claim for 'lost revenue'. . . ." OPC then states that FPUC ". . . leaps to the conclusion that normal O&M expenses have been 'unrecovered'". OPC then concludes that the "actual nature" of the unrecovered O&M expense is "lost revenue." OPC's Motion clearly disputes FPUC's allegation, by which FPUC stands, that it incurred unrecovered O&M expenses during the noted period. FPUC does not agree with OPC's assertion that these are, in fact, simply "lost revenues." The Commission itself agreed with FPUC's perspective on that issue in Order No. PSC-2019-0114-FOF-EI, wherein the Commission acknowledged that, although it did not believe it appropriate, under Rule 25-6.0143, F.A.C., for base rate recoverable costs to be charged to the storm reserve, it did "agree with the Company's differentiation between lost revenues and 'O&M costs not recovered'. . . ." Order at p. 25 [emphasis added]. Given that FPUC is not seeking to recover these costs through the reserve in this proceeding, this clearly remains a live issue in dispute.

12. OPC also fails to note that FPUC did not recover these costs because, in light of the devastation, FPUC had petitioned the Commission for approval of a temporary waiver to render monthly bills in its Northwestern Division, which the Commission granted by Order No. PSC-

2018-0529-PAA-EI, issued November 8, 2018, in Docket No. 20180195-EI. FPUC did not reinstate billing in the Northwest Division until early December, 2018. Service was, however, enabled to 97% of the Company's Northwest Division customers by November 1, while the Northeast Division continued to function and incur normal O&M expense throughout the period. Thus, only half of the Company's customer base (i.e. the Northeast Division) was billed the rates designed to recover normal O&M costs across two divisions, even though normal O&M expense continued to be incurred in the Northeast Division for the entire period, as well as in the Northwest Division for a portion of the period in question. OPC's recasting of the unrecovered O&M expenses as simply "lost revenue" (which, again, has been rejected by the Commission), and its assertion that such expenses should remain unrecovered, would unfairly penalize FPUC for taking the humane action of not billing its customers for a period following a cataclysmic event.

13. An additional issue of fact also appears to be in dispute. OPC contends that customers pay for the service of electricity, "which in this case was never received," and that FPUC is seeking recovery of revenues never earned.[11] FPUC disagrees with this rather cavalier assessment for two reasons. First, it has not been established that none of FPUC's customers received service during the October – November 2018 time frame. To the contrary, by November 1, 2018, FPUC had restored its system to the extent that 97% of its customers could receive electric service in their premises, assuming the customers' premises were otherwise able to take service. It can be expected that some lower percentage of restored service was available prior to that date. FPUC did not, however, reinstate billing until December. Whether or not some customers received electricity for which they were not eventually billed is not a fact clearly

[11] OPC Motion at p. 7.

established at this point in the case. Second, OPC narrowly construes service as the flow of electricity into a customer's house. As the Commission well knows, much more is involved in providing service to customers. Obviously, the ability to flip a switch and have light, or press a button to watch television is the tangible product that customers expect, but rates are designed to cover not the electrons themselves, but the construction, wires, and maintenance necessary to get the "product" to the premise. As of November 1, 2018, FPUC had provided that aspect of its service to 97% of its customers' premises. At that point, the reason that customers were not receiving the "product", i.e. electricity, was because their premises were unable to receive electricity. While FPUC is not arguing that it should be allowed to bill for electricity the customer never received, it did restore its system such that electricity was available; and thus, undertook the bulk of the function involved in providing the service. For these reasons, FPUC disputes that the "revenues have never been earned," as OPC contends.

B. OPC is Wrong on the Law

i. Relief Not Prohibited

14. OPC's contention that FPUC's request to recover the unrecovered O&M expenses, as well as the loss associated with reduction in customers, equates to retroactive ratemaking is also incorrect. We agree that the seminal case on retroactive ratemaking is City of Miami v. Florida Public Service Comm., 208 So. 2d 249 (Fla. 1968)[12], but beyond that, OPC's argument that FPUC's request is prohibited as retroactive ratemaking is an overreach that notably disregards Commission precedent under which similar relief was provided to another Florida utility.

[12] Other notable cases on point include Gulf Power Co. v. Cresse, 410 So. 2d 492 (Fla. 1982) and GTE Florida Inc. v. Clark, 668 So. 2d 971 (Fla. 1996).

15. As OPC correctly noted, the City of Miami case stands for the proposition that new rates cannot be applied to prior period consumption. Thus, if a utility over or under-earns, retroactive ratemaking would, under normal circumstances, prevent the Commission from either requiring the utility to issue a refund of the overearnings, or assess a higher rate or surcharge for the under-earnings. And, as OPC notes, the Commission has determined that retroactive ratemaking occurs when an attempt is made to recover either past losses or overearnings in prospective rates. *See* Order No. PSC-98-1243-FOF-WS[13] at p. 13 ("UWF Order"). However, the Commission recognized in that same UWF Order that not every request for recovery for a prior period is prohibited. The Commission also stated that "We do not believe that the Court decisions literally mean that retroactive ratemaking would occur from reaching back to past consumption and back-billing customers for over or under collections during those periods." UWF Order at p. 14. In that same UWF Order, the Commission also acknowledged that the Florida Supreme Court has stated that, "[w]e view utility ratemaking as a matter of fairness. Equity requires that both ratepayers and utilities be treated in a similar manner." UWF Order at p. 16; *citing* GTE Florida Inc. v. Clark, 668 So. 2d 971, 972 (Fla. 1996). In allowing GTE to implement a surcharge for prior expenses that had been erroneously disallowed, the Court distinguished GTE's request as allowing GTE to recover costs already expended and should have been allowed, as opposed to a new rate applied retroactively. Id. 973. That is precisely what FPUC is requesting as it relates to both the unrecovered O&M expenses and the lost customer revenue.

16. Specifically, FPUC's rates in its last rate case were developed to allow it to recover O&M expenses and the normal operation of its system. With regard to the O&M expenses, FPUC did

[13] Order No. PSC-98-1243-FOF-WS, issued September 21, 1998, in Docket No. 971596-WS – In re: *Petition for limited proceeding regarding other postretirement employee benefits and petition for variance from or waiver of Rule 25-14.012, F.A.C., by United Water Florida Inc.*.

incur normal O&M expenses both prior to and after the storm that were never recovered because the Company determined it would not be equitable to bill its customers in the Northwest Division immediately in the aftermath of Hurricane Michael. Those O&M costs were costs that the Commission had already determined that the Company should be allowed to recover, and they were incurred, but FPUC did not recover those costs because, considering the damage caused by Hurricane Michael, billing customers in October and November 2018 seemed a bit like pouring salt in a wound.

17. The UWF Order is moreover quite distinguishable from the case at hand. In the UWF Order, the Commission addressed a situation where a change in accounting treatment of Other Post-Employment Benefits ("OPEBs") resulted in a loss to the Company. In rejecting the Company's request to recover its OPEB liability for the period subsequent to the change in the accounting rules, the Commission noted that a "substantial amount of time passed" between the effective date of the accounting change and UWF's filing of its rate case, and that UWF's management did not "perform the calculations prescribed by SFAS 106 to determine the amount of the OPEB liability" in a timely manner. UWF Order at p. 15. Thus, the Commission determined that "UWF had time to consider the impact of SFAS 106 and the timing of rate relief." Id. The Commission added that "UWF could have secured recovery of a substantial portion" of the costs had it filed a rate case or limited proceeding earlier. Id. In other words, UWF management did not take action in a timely manner to preserve its rights and recoup at least some of the costs at issue; thus, the Commission denied UWF's request.

18. The same simply cannot be said for the situation faced by FPUC. The Company had, at best, three days' notice of Hurricane Michael. No one could have predicted the level of devastation that resulted from that storm. In the early days following the storm, search and

rescue, followed by service restoration, took precedence over regulatory ratemaking and revenue issues. Nonetheless, consistent with Rule 25-6.0143, F.A.C., the Company notified the Commission on October 24, 2018, that its losses would exceed the $10 million threshold. During the first and second quarter of 2019, the Company engaged in several meetings with PSC staff and OPC to discuss the severity of the impacts to FPUC and approaches to recovery that could provide relief to the Company while mitigating the impact to its customers. Thereafter, on August 7, 2019, just shy of 10 months following the storm, the Company filed its Petition for Limited Proceeding and its Petition for Establishment of Regulatory Assets. Clearly, the Company took action in a timely manner to address its losses, unlike UWF.

19. Furthermore, the Commission has allowed recovery of precisely these types of expenses under very similar circumstances in a prior case. In Docket No. 20041291-EI, *In re: Petition for authority to recover prudently incurred storm restoration costs related to 2004 storm season that exceed storm reserve balance, by Florida Power & Light Company*, the Commission considered, among other things, FPL's request to recover normal O&M expenses. In allowing recovery, the Commission stated:

> This Commission sets base rates on the basis of both projected expenses and the expectation of the utility realizing certain revenues. As set forth above, we have required various adjustments to the amounts FPL charged to its storm reserve in order to preclude FPL from recovering normal operating and maintenance (O&M) costs that are already recovered through base rates. However, this does not take into account the fact that, due to the outages that resulted from these storms, FPL has not realized the level of base rate revenues expected to cover these normal O&M costs. Thus, while we agree that lost revenues are not a cost, we find that the normal O&M costs that FPL charged to the storm reserve, which we removed from the storm reserve as set forth above, <u>have not been recovered in base rates and should be eligible for recovery in the storm recovery mechanism</u>.

Order No. PSC-05-0937-FOF-E1, p. 16 [emphasis added]. This is precisely what FPUC is requesting in this proceeding. If recovery was not prohibited as retroactive ratemaking in 2005, it is not prohibited as retroactive ratemaking now.

20. The same can be said for the regulatory asset associated with lost customers. The amount associated with this asset does equate to lost revenues. FPUC does not deny that. However, OPC's arguments fail to recognize that FPUC's rates are based upon a projected number of customers on its system. In the simplest terms, the cost to run the system is first determined by the Commission, plus a reasonable profit, and then that amount is allocated across the Company's customer base according to an approved cost allocation methodology. The level of the rates charged to each customer depends upon how many customers are projected to be on the system during the test year. The earnings range approved by the Commission for the Company is an acknowledgment that costs will fluctuate over time, as may the customer base. No reasonable projection could, however, have predicted the loss of customers and thus the loss of revenues that has occurred on FPUC's system since Hurricane Michael. FPUC still has a Northwest Division, it still provides service to customers in that Division, and it still incurs normal, anticipated expenses for that Division, but the rates that it is charging to its remaining customers were calculated based upon an assumption that more customers would be paying those same rates. Thus, the revenues it is receiving from its remaining customers no longer recovers the cost of running the system with any opportunity to achieve a fair return. FPUC's request to establish and recover the amortization on a regulatory asset to address this loss of revenue is not, therefore, retroactive ratemaking. Rather, it is a reallocation of the Company's approved revenue requirement over a reduced customer base. This is an adjustment not uncommon in the context of a rate case – FPUC has simply requested it in the context of a limited proceeding.

21. The established rates and earnings range provide an *opportunity* for a utility to earn a fair return.[14] The ratemaking process does not, however, and could not, address contingencies such as those at play in the wake of Hurricane Michael, nor the lingering significant impact that event has had on the size of the Company's customer base. Thus, while the regulatory compact provides only an *opportunity* for a utility to earn a fair return, and does not guarantee a certain level of profit, as OPC suggests, Hurricane Michael demolished that opportunity for FPUC. Thus, it is the storm, if anything, that has turned the regulatory compact on its head.[15]

ii. *OPC's Arguments under Rule 25-6.0143(1)(f)(9) are misplaced*

22. OPC argues extensively that Rule 25-6.0143(1)(f)(9), F.A.C. prohibits charging the expenses associated with FPUC's proposed regulatory assets to the storm reserve. FPUC does not deny that. However, FPUC does take issue with OPC's further extrapolation that because the Commission's rule prohibits charging these costs to the storm reserve, the Commission clearly intended that these costs not be recoverable at all. To the contrary, as noted herein, in 2005, the Commission allowed FPL to recover these same types of costs through the storm surcharge mechanism, even though the Commission had removed those same costs from the storm reserve. Thereafter, in 2007, the Commission amended Rule 25-6.0143, F.A.C., to, as OPC pointed out in Docket No. 20180061-EI, "establish a single, consistent, and uniform methodology for determining which storm damage restoration costs can appropriately by charged to the storm reserve," and included "Utility lost revenues from services not provided" on the list of items that cannot be charged to the reserve.[16] FPUC has been unable to find one instance in which the

[14] *See* Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591 (1944) and Bluefield Water Works and Improvement Co. v. Public Service Commission of West Virginia, (262 U.S. 679 (1923).
[15] OPC's Motion for Summary Final Order at p. 7.
[16] Order No. PSC-2019-0114-FOF-EI at p. 24.

Commission has expressly said that costs represented by FPUC's proposed regulatory assets are not recoverable at all by any other mechanism.

23. FPUC is not seeking relief under Rule 25-6.0143, F.A.C.. Instead, given the scope of relief required, the Company has pursued a different regulatory mechanism - a limited proceeding - along with its request to establish a series of regulatory assets. The Company took this approach because the storm surcharge recovery mechanism would simply not accommodate the recovery required in this instance without unjustly burdening FPUC's customers with an outrageous storm surcharge. FPUC pursued an alternative that allows recovery by the Company, while mitigating the impact on its customers by extending recovery over a longer period of time. The Commission should be wary of OPC's rush to limit its consideration of the merits of FPUC's request based upon a Rule that does not apply to the Company's request.

iii. Granting OPC's Motion will not avoid delay and cost of hearing

24. Finally, the Company fully expects this matter to be set for hearing. Significant discovery has already been conducted, and discovery responses remain outstanding at this time. The Company has already incurred significant cost for this proceeding, and approval of OPC's Motion will not avoid further costs for the Company, nor avoid the hearing. As the Commission has recognized, one of the key reasons for issuance of a summary final order is to avoid the expense and delay of trial.[17] Approval of OPC's Motion will not do that. Given that real issues of fact and law remain, as set forth herein, and granting the Motion will provide no cost benefit, the Company urges the Commission to reject OPC's Motion in full.

[17] Order No. PSC-2001-1554-FOF-WU, issued July 27, 2001, in Docket No. 991437-WU.

WHEREFORE, for all of the foregoing reasons, FPUC respectfully requests that the Commission deny OPC's Motion for Partial Summary Final Order.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Electronic Mail to the following parties of record this 13th day of April, 2020:

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