

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

Review of 2020-2029 Storm Protection Plan  
pursuant to Rule 25-6.030, F.A.C., Florida  
Power & Light Company

Docket No. 20200071-EI

Filed: May 4, 2020

**FLORIDA POWER & LIGHT COMPANY'S RESPONSE IN OPPOSITION TO THE  
OFFICE OF PUBLIC COUNSEL'S AMENDED MOTION TO COMPEL  
RESPONSES TO FIRST SET OF INTERROGATORIES AND  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

Florida Power & Light Company ("FPL"), pursuant to Rule 1.280(b)(1), Florida Rules of Civil Procedure, Rules 28-106.204(1) and 28-106.206, Florida Administrative Code ("F.A.C."), and this Commission's Order Establishing Procedure PSC-2020-0073-PCO-EI, submits the following Response in Opposition to the Office of Public Counsel's ("OPC") Amended Motion to Compel responses to OPC's First Set of Interrogatories ("OPC Set 1 INTs") (Nos. 7, 8, 10, 22, 23, 24, 25, 26, 29, 31, 32, 33, 34, 40, and 41) and First Request for Production of Documents ("OPC Set 1 PODs") (Nos. 5, 6, 7, 8, and 13). The discovery requests that are the subject of OPC's Amended Motion to Compel are irrelevant to FPL's 2020-2029 Storm Protection Plan ("SPP"), overly broad, burdensome, and unlikely to lead to admissible evidence in this proceeding. OPC has failed to demonstrate any causal connection between the information sought and the possible evidence relevant to the issues to be decided in this pending proceeding. Finally, OPC has rendered its Amended Motion to Compel moot, in part, by serving the same discovery requests dealing with cost recovery issues in the separate Storm Protection Plan Cost Recovery Clause ("SPPCRC") docket where such issues are properly addressed. For these reasons, as further explained below, OPC's Amended Motion to Compel should be promptly denied.

**I. BACKGROUND**

1. On June 27, 2019, the Governor of Florida signed CS/CS/CS/SB 796 addressing Storm Protection Plan Cost Recovery, which was codified in Section 366.96, Florida Statutes

("F.S."). Therein, the Florida Legislature directed each investor owned utility ("IOU") to file a transmission and distribution SPP that covers the immediate 10-year planning period and explains the systematic approach the utility will follow to achieve the legislative objectives of strengthening electric utility infrastructure to withstand extreme weather conditions by promoting the overhead hardening of transmission and distribution facilities, the undergrounding of certain electrical distribution lines, and vegetation management. Section 366.96, F.S.

2. The Florida Legislature directed the Commission to propose rules to implement and administer Section 366.96 as soon as practicable but no later than October 31, 2019. Consistent with this mandate, the Commission initiated a rulemaking and voted at its October 3, 2019 Agenda Conference to adopt proposed Rules 25-6.030 and 25-6.031, F.A.C. However, as a result of OPC's unsuccessful challenges to the Commission's proposed SPP Rules before the Division of Department of Administrative Hearings, the SPP Rules did not become final and effective until February 18, 2020.

3. On March 11, 2020, the Prehearing Officer issued the Order Establishing Procedure, Order No. PSC-2020-0073-PCO-EI, providing that FPL's SPP was to be filed on April 10, 2020.

4. On April 3, 2020, OPC served its Set 1 INTs and Set 1 PODs, which are attached as "**Appendix A.**"

5. On April 20, 2020, FPL served its objections and responses to OPC's Set 1 INTs and Set 1 PODs, which are attached as "**Appendix B.**"

6. On April 29, 2020, OPC served its Amended Motion to Compel.

7. Pursuant to 28-106.206, F.A.C., FPL herein submits its Response in Opposition to OPC's Amended Motion to Compel. For the reasons explained below, OPC's Amended Motion to Compel should be denied in its entirety.

## II. STANDARD FOR DISCOVERY

8. Rule 28-106.206, F.A.C., governs discovery in administrative proceedings and incorporates Rule 1.280 - 1.400 of the Florida Rules of Civil Procedure. Pursuant to Rule 1.280(b)(1), Florida Rules of Civil Procedure, “[p]arties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter of the pending action.... It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.” Fla. R. Civ. P. 1.280(b)(1) (emphasis added).

9. The scope of discovery under the Florida Rules of Civil Procedure is liberal. This standard is not, however, without limit. *In re: Complaint of Mad Hatter Utility, Inc., and Paradise Lakes Utility, LLC against Verizon Florida, Inc.*, Docket No. 20090313-PU, Order No. PSC-2010-0021-PCO-PU, 2010 Fla. PUC LEXIS 53 at \*2-3 (Fla. P.S.C. Jan, 7, 2010). Indeed, discovery should be denied when it has been established that the information requested is neither relevant to any pending claim or defense nor will it lead to the discovery of admissible evidence. *In re: Petition for rate increase by Tampa Electric Company*, Docket No. 2030040-EI, Order No. PSC-2013-0415-PCO-EI, 2013 Fla. PUC LEXIS 259 at \*4 (Fla. P.S.C. Sept. 6, 2013) (citing *Poston v. Wiggins*, 112 So.3d 783, (Fla. 1st DCA 2013)).

10. It is well settled that the burden of establishing relevance is on the questioner. *See, Calderbank v. Cazares*, 435 So.2d 377 (Fla. 5th DCA, 1983). As explained by Florida Appellate Courts,

A reasonably “calculated” causal connection between the information sought and the possible evidence relevant to the issues in the pending action must “appear” from the nature of both or it must be demonstrated by the person seeking the discovery. If a logical connection is not readily apparent, the questioner should make it apparent by pointing out to the court his reasoning process based on facts and inferences demonstrating how he calculates that the sought information will “reasonably” lead to admissible

evidence. The mere fact that an inquiry that appears to be irrelevant “might” lead to evidence that is relevant and admissible to the issues in the pending suit is not sufficient. Such a rule would place no limitation on the authority of any litigant to invade, by questions, the privacy of a witness.

*Id.*, 379 (emphasis added).<sup>1</sup>

11. As explained in detail below, OPC has failed to demonstrate that the discovery requests that are the subject of its Amended Motion to Compel are relevant to FPL’s SPP or the Commission’s review and determination of whether the SPP is in the public interest and, therefore, OPC’s Amended Motion to Compel should be denied.

### **III. RESPONSE TO OPC’S AMENDED MOTION TO COMPEL**

#### **A. General Response to OPC’s Amended Motion to Compel**

12. As a preliminary matter, OPC has conceded that a majority of the discovery requests that are the subject of its Amended Motion to Compel are not relevant to the SPP docket and belong in the SPPCRC docket by its recent actions. Indeed, on April 30, 2020, OPC served FPL with its first set of interrogatories and requests for production of documents in Docket No. 20200092-EI opened by the Commission to address SPPCRC the petitions that will be filed the third quarter of 2020. Without waiver of any objections in the SPPCRC docket or whether pre-petition discovery is legally permissible and appropriate, FPL notes that the discovery requests propounded in the SPPCRC docket are the exact same discovery that is the subject of OPC’s Amended Motion to Compel -- OPC Set 1 INTs (Nos. 7, 8, 10, 22, 23, 24, 25, 26, 29, 31, 32, 33, 34, 40, and 41) and OPC Set 1 PODs (Nos. 5, 6, 7, 8, and 13). A true and correct copy of OPC’s

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<sup>1</sup> See also, *In re: Request for arbitration concerning complaint of Intermedia Communications, Inc. against BellSouth Telecommunications, Inc. for breach of terms of interconnection agreement under Sections 251 and 252 of the Telecommunications Act of 1996, and request for relief*, Docket No. 19991534-TP, Order No. PSC-2000-2035-PCO-TP2000, Fla. PUC LEXIS 706 at \*4-5 (Fla. P.S.C. June 13, 2000); *In re: Petition of BellSouth Telecommunications, Inc. to remove interLATA access subsidy received by St. Joseph Telephone & Telegraph Company*, Docket No. 19970808-TL, Order No. PSC-1998-0465-FOF-TL, 1998 Fla. PUC LEXIS 631 at \*14 (Fla. P.S.C. March 31, 1998).

first set of interrogatories and requests for production of documents served in Docket No. 20200092-EI is attached hereto as “**Appendix C.**” OPC should not be permitted to claim that these discovery requests are relevant to the SPP, not the SPPCRC, and then serve the very same discovery in the SPPCRC docket. OPC’s service of these same discovery requests in the SPPCRC renders the pending Amended Motion to Compel legally moot and practically superfluous.

13. Even assuming, *arguendo*, that OPC has not rendered the pending Amended Motion to Compel moot, OPC Set 1 INTs (Nos. 7, 8, 10, 22, 23, 24, 25, 26, 29, 31, 32, 33, 34, 40, and 41) and OPC Set 1 PODs (Nos. 5, 6, 7, 8, and 13) are irrelevant to the issues to be addressed in this proceeding.

14. OPC served its Set 1 INTs and Set 1 PODs on April 3, 2020, which consisted of 73 questions including subparts. Notably, OPC’s first set of discovery was served seven days before FPL filed its SPP on April 10, 2020, during the period when FPL was diligently working to complete and finalize its SPP.<sup>2</sup> That OPC propounded discovery without waiting to review the actual SPP as filed is telling, particularly given that this was a first time filing for the newly established SPP docket. Indeed, in issuing that discovery prior even to being able to read the SPP that was to be considered in this docket, OPC essentially was either guessing at what it thought might be relevant, or was attempting through discovery to drive the issues that OPC wanted to be addressed in this proceeding. Neither is an acceptable basis for issuing appropriate discovery.

15. Even after seeing FPL’s SPP, which confirmed that much of OPC’s pre-petition discovery is entirely unrelated to the SPP that FPL filed,<sup>3</sup> OPC is nonetheless continuing to seek

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<sup>2</sup> In fact, OPC served three sets of interrogatories and requests for production of documents, a total of approximately 200 questions including subparts, before FPL even filed the SPP that is the subject of this proceeding.

<sup>3</sup> FPL is not addressing herein whether pre-petition discovery by a non-petitioner is appropriate or when such discovery should be deemed served; however, FPL is not acquiescing to or otherwise agreeing that such practice is legally permissible, reasonable, and appropriate. FPL reserves and is not waiving any and all objections and arguments regarding pre-petition discovery.

the information requested in OPC Set 1 INTs (Nos. 7, 8, 10, 22, 23, 24, 25, 26, 29, 31, 32, 33, 34, 40, and 41) and OPC Set 1 PODs (Nos. 5, 6, 7, 8, and 13) without credibly explaining why the questions are relevant to the SPP actually filed by FPL or the issues appropriate raised in connection with the review of FPL's SPP.

16. None of these discovery requests are reasonably focused on FPL's SPP, which is the subject of the pending action. Further, in some instances, OPC has taken a broad, audit-type approach to discovery and is seeking information about topics that do not and cannot relate to FPL's SPP. A clear example showing that OPC's motion to compel must be denied is found in OPC Set 1 INT No. 22. That request asks FPL to "provide a schedule listing all franchise agreements, indicating the expiration date and those currently being negotiated for renewal." This question is overwhelmingly broad, irrelevant, and unequivocally beyond the scope and purpose of this pending proceeding. A request for information about the status of FPL's existing and future franchise agreements clearly cannot lead to the discovery of admissible evidence in this matter, and OPC's motion is devoid of any explanation as to how it could. Nonetheless, OPC maintains that the Commission should compel FPL to respond to this question and others like it that are plainly improper.

17. Significantly, OPC's Amended Motion to Compel, and the associated discovery requests, also completely ignore the fact that the Commission adopted separate Rules for the SPP and the SPPCRC. These are the Rules that OPC unsuccessfully challenged. Rule 25-6.030, F.A.C., applies to the SPP and directs precisely what is to be included in and reviewed as part of the SPP; and Rule 25.6031, F.A.C., applies to the SPPCRC and describes what is to be included and reviewed as part of the SPPCRC. OPC, however, ignores the requirements of these Rules and seeks overwhelmingly broad and detailed information that is clearly beyond the limited scope of this proceeding as specified in the in Rule 25-6.030, F.A.C. The Commission separated these two

proceedings for a reason, and OPC should be held to respect the Commission's Rules in the discovery that OPC serves in each of those dockets.

18. As its principal, and in most instances, sole justification that its discovery requests are relevant, OPC's Amended Motion to Compel repeatedly asserts that Section 366.96(4)(d), F.S., charges the Commission with evaluating and making a rate impact determination as part of the SPP. OPC's strained interpretation of Section 366.96(4)(d), F.S., is flawed for several reasons.

19. First, OPC's argument conflates bill impacts with estimated rate impacts, which are not the same. For example, numerous questions included in OPC's Set 1 INTs and Set 1 PODs seek information about whether SPP costs will be recovered in base rates or clause and the amount of costs FPL plans to include in the SPPCRC. These type of discovery questions are relevant to the bill impacts of the costs to be recovered through the SPPCRC. However, the estimated rate impacts referenced in Section 366.96(4), F.S., and Rule 25-6.030, F.A.C., are the total estimated rate impacts of the proposed SPP programs<sup>4</sup> irrespective of whether they are being recovered in base rates or will be recovered in the SPPCRC.

20. Second, and contrary to OPC's contention, Rule 25-6.030, F.A.C., clearly does not direct the utility to provide the estimated incremental rate impacts, the estimated rate impacts from the SPPCRC, or the costs that are being recovered in base rates. Under the legal maxim and well-recognized statutory construction principle *expressio unius est exclusio alterius*, the express inclusion of specific matter in a statute implies the exclusion of others not mentioned – meaning that the omission of the estimated incremental rate impacts, the estimated rate impacts from the SPPCRC, or the costs that are being recovered in base rates from Rule 25-6.030, F.A.C., was

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<sup>4</sup> The estimated rate impacts are a simple function of the total estimated annual SPP programs costs and annual sales.

deliberate.<sup>5</sup> Indeed, the Commission's intent is confirmed by Rule 25-6.031, F.A.C., which expressly directs the utility to identify the costs to be included in the SPPCRC and states that such costs cannot include costs recoverable through base rates or any other cost recovery mechanism.

21. Third, although the Commission is to consider the estimated rate impacts in determining whether a proposed SPP is in the public interest, Section 366.96(7), F.S., and Rule 25-6.031, F.A.C., unequivocally provide that the reasonableness and prudence of the SPP costs to be charged to customers through the SPPCRC, *i.e.*, the bill impacts, will be addressed in the SPPCRC. OPC's discovery requests seeking detailed information about the bill impacts of the costs to be recovered through the SPPCRC are simply not relevant to the SPP. OPC will certainly have an opportunity in the SPPCRC docket to seek discovery at the appropriate time on the costs proposed to be recovered in the SPPCRC once the SPPCRC petition is filed. The Commission has opened Docket No. 20200092-EI to address SPPCRC the petitions that will be filed in the third quarter of 2020.

22. Based on the foregoing, and for the reasons further explained below, OPC has failed to meet its burden to demonstrate that there is a logical connection between the information requested in OPC Set 1 INTs (Nos. 7, 8, 10, 22, 23, 24, 25, 26, 29, 31, 32, 33, 34, 40, and 41) and OPC Set 1 PODs (Nos. 5, 6, 7, 8, and 13) and the issues to be decided in this SPP docket. FPL should not be compelled to respond to discovery that OPC itself has, by its own actions, conceded is outside the scope of the SPP as prescribed by Rule 25-6.030. Accordingly, OPC's Amended Motion to Compel should be promptly denied in its entirety.

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<sup>5</sup> “[R]ules of construction applicable to statutes also apply to the construction of rules.” *DOT v. SouthTrust Bank*, 886 So. 2d 393, 395 (Fla. Dist. Ct. App. 2004) (quoting *Brown v. State*, 715 So. 2d 241, 243 (Fla. 1998)).



## **B. Specific Responses to OPC's Amended Motion to Compel**

### **1. OPC Set 1 INTs Nos. 7-8 and OPC Set 1 PODs Nos. 5-8 are Irrelevant to FPL's SPP and Unlikely to Lead to Admissible Evidence in this Proceeding**

23. OPC Set 1 INTs Nos. 7-8 and OPC Set 1 PODs Nos. 5-8 request the following information:

INT 7 Please provide a detailed list and description of all functions of the customer meters that your Company has currently installed. The list should be broken into two categories: 1) functions used exclusively for extreme weather events and 2) functions other than those used for extreme weather events. For the purpose of this question, "extreme weather events" are defined as named tropical storm or hurricane events.

INT 8 Please provide a detailed list and description of all functions of current and future battery installations currently in place or planned for construction. If any functions are described as required for extreme weather events, please provide a detailed description of the benefit(s) to customers during this type of event and why this is the main purpose for the battery installation. For the purpose of this question, "extreme weather events" are defined as named tropical storm or hurricane events.

POD 5 Please provide all Company documents that describe how customer meters aid in the recovery from extreme weather events.

POD 6 Please provide all literature known to the Company that describe how customer meters aid in the recovery from extreme weather events.

POD 7 Please provide all Company documents that describe how battery installations aid in the recovery from extreme weather conditions.

POD 8 Please provide all literature known to the Company that describe how battery installations aid in the recovery from extreme weather conditions.

24. OPC Set 1 INTs Nos. 7-8 and OPC Set 1 PODs Nos. 5-8 seek detailed information about customer meter or battery installation programs or projects. FPL objected to these discovery requests on the grounds that they are irrelevant to FPL's SPP and unlikely to lead to admissible evidence in this proceeding. These discovery requests seek detailed information and documents related to customer meters and battery installations. However, FPL is not proposing any customer meter or battery installation programs or projects as part of its SPP and, therefore, such information

is necessarily irrelevant to the issues to be decided in this case.

25. OPC, which has the burden to demonstrate that the requested information is relevant to the pending matter, has failed to articulate how these non-SPP programs are relevant to the Commission's review and determination of whether the programs and projects that are included in FPL's SPP are in the public interest and should be approved. Instead, OPC generally avers that these non-SPP customer meter and battery installation "programs and cost-types **may** impact the appropriateness of inclusion of certain projects and their related costs in the SPP." (*See* OPC Amended Motion, para. 8 (emphasis added)). However, OPC's general statement that these non-SPP programs may (or may not) impact the SPP programs and costs falls far short of providing any logical connection to the SPP programs and costs. Under such "logic," OPC could propound discovery on any topic at all and justify their request by simply stating that such information may or may not impact the SPP. This, of course, cannot and does not constitute proper discovery. *See Calderbank v. Cazares*, 435 So.2d 377 (Fla. 5th DCA, 1983) ("If a logical connection is not readily apparent, the questioner should make it apparent by pointing out to the court his reasoning process based on facts and inferences demonstrating how he calculates that the sought information will 'reasonably' lead to admissible evidence.")

26. OPC also contends that these non-SPP programs are relevant because, according to OPC, "this SPP docket is the proceeding where the rate impact must statutorily be evaluated and considered by the Commission." (*See* OPC Amended Motion, para. 8). Even assuming, *arguendo*, that the Commission is required to evaluate the reasonableness and prudence of the estimated rate impacts in the SPP docket, which it is not for the reasons explained above in paragraphs 18-21, OPC has failed to articulate any logical connection or explanation of how these **non-SPP** programs are relevant to the rate impacts of the SPP. By definition, the non-SPP programs are not SPP programs and, therefore, are not and cannot be included in the SPP costs and estimated rate

impacts.

27. For these reasons, OPC Set 1 INTs Nos. 7-8 and OPC Set 1 PODs Nos. 5-8 are irrelevant to this pending matter and, therefore, OPC's Amended Motion to Compel responses to OPC Set 1 INTs Nos. 7-8 and OPC Set 1 PODs Nos. 5-8 must be denied.

**2. OPC Set 1 INT No. 22 is Irrelevant to FPL's SPP and Unlikely to Lead to Admissible Evidence in this Proceeding**

28. OPC Set 1 INT No. 22 requests the following information:

INT 22 Please provide a schedule listing all franchise agreements, indicating the expiration date and those currently being negotiated for renewal.

29. OPC Set 1 INT No. 22 seeks information about the status of existing and future franchise agreements. FPL objected to this discovery request on the basis that it is irrelevant to FPL's SPP and unlikely to lead to admissible evidence in this proceeding. The status of FPL's existing and future franchise agreements is irrelevant to the Commission's review and determination whether to approve the SPP.

30. OPC, which has the burden to demonstrate that the requested information is relevant to the pending matter, has failed to articulate how the status of existing and future franchise agreements is relevant to the Commission's review and determination of whether the programs and projects that are included in FPL's SPP are in the public interest and should be approved. Instead, OPC generally avers that franchise agreements "may impact the appropriateness of inclusion of certain projects and their related costs in the SPP." (*See* OPC Amended Motion, para. 8 (emphasis added)). However, OPC's speculative statement that franchise agreements may (or may not) impact the SPP programs and costs falls far short of providing any logical connection to the SPP programs and costs.

31. As it also did with discovery on non-SPP projects, OPC contends that franchise agreements are relevant because, according to OPC, "this SPP docket is the proceeding where the

rate impact must statutorily be evaluated and considered by the Commission.” (See OPC Amended Motion, para. 8). Even assuming, *arguendo*, that the Commission is required to evaluate the reasonableness and prudence of the estimated rate impacts in the SPP docket, which it is not for the reasons explained above in paragraphs 18-21, OPC has failed to articulate any logical connection or explanation of how the status of existing and future franchise agreements are relevant to the rate impacts of the SPP programs. Indeed, there is nothing in FPL’s SPP that could possibly lead a reasonable mind to conclude that franchise agreements are included in the SPP costs, which they are not. Nonetheless, OPC has asked the Commission to compel FPL to produce this information without any rational explanation.

32. For these reasons, OPC Set 1 INT No. 22 is irrelevant to this pending matter and OPC’s Amended Motion to Compel responses to OPC Set 1 INT No. 22 must be denied.

**3. OPC Set 1 INTs Nos. 23-26 are Irrelevant to FPL’s SPP and Unlikely to Lead to Admissible Evidence in this Proceeding**

33. OPC Set 1 INTs Nos. 23-26 request the following information:

INT 23 Please describe in detail how your Company determines what is included in a project that would be eligible for AFUDC?

INT 24 Please describe in detail how your Company determines when a project is eligible for AFUDC treatment? Please identify the document(s) containing the specific criteria for making such a determination. Object same

INT 25 Please provide the amount equal to 0.5% of the sum of the total balance in Account 101 – Electric Plant In Service, and Account 106 – Completed Construction not Classified as of February 29, 2020?

INT 26 Given the following hypothetical:

Three undergrounding of lateral projects located in three distinctly separate counties and are not physically inter-connected other than as distinct components of the overall Company grid,

The Company contracts for all three under one contract,

None of the three projects independently meet the AFUDC requirements of Rule 25-6.0141, Florida Administrative Code.

All three projects added together meet the threshold test of Rule 25-6.0141, Florida Administrative Code.

Do you believe the above projects would accrue AFUDC in accordance with your company policies and procedures? Explain your answer.

34. OPC Set 1 INTs Nos. 23-26 seek detailed information about allowance for use during construction (“AFUDC”). FPL objected to these discovery requests on the grounds that they are irrelevant to FPL’s SPP, beyond the scope of this proceeding, and unlikely to lead to admissible evidence in this proceeding. Indeed, FPL’s objection unequivocally states that FPL **has not included AFUDC** for any of the projects or programs reflected in its SPP.

35. OPC, which has the burden to demonstrate that the requested information is relevant to the pending matter, has failed to articulate how AFUDC, which is not included in any of the projects or programs reflected in FPL’s SPP, is relevant to the Commission’s review and determination of whether the programs and projects that are included in FPL’s SPP are in the public interest and should be approved. Instead, OPC generally avers that AFUDC “**may** impact the appropriateness of inclusion of certain projects and their related costs in the SPP.” (See OPC Amended Motion, para. 8 (emphasis added)). However, like OPC’s other general statements that any given topic may (or may not) impact the SPP programs and costs, such statements are legally and logically insufficient to justify a motion to compel.

36. OPC also contends that AFUDC is relevant because, according to OPC, “this SPP docket is the proceeding where the rate impact must statutorily be evaluated and considered by the Commission.” (See OPC Amended Motion, para. 8). Even assuming, *arguendo*, that the Commission is required to evaluate the reasonableness and prudence of the estimated rate impacts in the SPP docket, which it is not for the reasons explained above in paragraphs 18-21, OPC has failed to articulate any logical connection or explanation of how AFUDC is relevant to the rate impacts of the SPP programs. Again, FPL’s objection unequivocally stated that AFUDC is not

included in any of the projects or programs reflected in FPL's SPP and, therefore, AFUDC is not included in the SPP estimated costs and estimated rate impacts.

37. For these reasons, OPC Set 1 INT Nos. 23-26 are irrelevant to this pending matter and OPC's Amended Motion to Compel responses to OPC Set 1 INTs Nos. 23-26 must be denied.

**4. OPC Set 1 INT Nos. 10, 29, 31, 32-34, 40, and 41 and OPC Set 1 PODs No. 13 are Irrelevant to FPL's SPP and Unlikely to Lead to Admissible Evidence in this Proceeding**

38. OPC Set 1 INT Nos. 10, 29, 31, 32-34 40, and 41 and OPC Set 1 PODs No. 13 requests the following information:

INT 10 If your answer to Question 9 is yes, please explain how the Commission will be able to distinguish between costs covered by base rates and the incremental costs above that covered by base rates based on the language in the Rule 25-6.031(6)(b)?

INT 29 According to your storm hardening plans filed with the Commission and approved by the Commission on July 9, 2019, your Company already has plans to perform storm hardening activities for 2019 and 2020. Is it your Company's opinion that all of these activities and identified dollar amounts or dollar amount ranges would be recovered through your Company's current base rates and therefore is not being requested for recovery through the new Storm Protection Cost Recovery Clause? Explain your answer.

INT 31 If your answer to Question 8 is yes, please explain how the Commission will be able to distinguish between costs covered by base rates and the incremental costs above that covered by base rates based on the language in the Rule 25-6.031(6)(b)?

INT 32 Please explain in detail how the Company will distinguish between tree trimming expenses currently being recovered through base rates and those that you will be requesting as new incremental costs to be recovered through the SPPCRC?

INT 33 Rule 25-6.030(3)(e)2, Storm Protection Plan does not require the Company to list the specific projects to be included in years 2 and 3. Please explain how the Commission can make a determination that the programs included in year 2 and 3 do not include projects already being recovered through base rates, if no project detail is given?

INT 34 Rule 25-6.031(3), states that the annual hearing will be limited to determining the reasonableness of approved storm protection plan costs, determining the prudence of actual storm protection plan costs incurred

by the utility, and establishing storm protection plan cost recovery factors consistent with the requirements of this rule. If no project information is required for years 2 and 3 of the plan, please explain how the Commission, Commission Staff or any intervenor can contest the inclusion of a particular project as being imprudent for inclusion in the clause for recovery?

INT 40 Please provide a detailed explanation of how your Company arrived at the amount of vegetation management costs you plan to include in the SPPCRC?

INT 41 Please provide a detailed explanation of how your company arrived at the amount of pole inspection costs you plan to include in the SPPCRC?

POD 13 Please provide copies of all Company documents that discuss the separation of storm enhancement projects between those to be or already included in base rates and those projects to be included in the storm protection plan cost recover clause filing for the years 2019, 2020, and 2021.

39. OPC Set 1 INT Nos. 10, 29, 31, 32-34, 40, and 41 and OPC Set 1 PODs No. 13 seek detailed information about costs being recovered in base rate and costs to be recovered in the SPPCRC. OPC Set 1 INT Nos. 33 and 34 also seek information about project level detail for years 2 and 3 of the SPP.

40. FPL objected to OPC Set 1 INT Nos. 10, 29, 31, 32-34, 40, and 41 and OPC Set 1 PODs No. 13 on the grounds that it is irrelevant to FPL's SPP, beyond the scope of this proceeding, and unlikely to lead to admissible evidence in this proceeding. The projected costs, actual/estimated costs, actual costs, and true-up of actual costs to be included in FPL's SPPCRC, including whether these costs are included in current base rates, will all be addressed in subsequent and separate SPPCRC filings pursuant to Rule 25-6.031, F.A.C. The Commission has opened Docket No. 20200092-EI to address SPPCRC petitions to be filed the third quarter of 2020.

41. FPL also objected to OPC Set 1 INT Nos. 33 and 34 on the grounds that they are irrelevant to FPL's SPP, burdensome, and unlikely to lead to admissible evidence in this proceeding. Rule 25-6.030 does not require project level detail for years 2 and 3 of the SPP; project

level detail is only required for year 1 of the SPP.

42. In paragraph 5 of its Amended Motion to Compel, OPC concedes that projected costs, actual/estimated costs, actual costs, and true-up of actual costs to be included in FPL's SPPCRC will be addressed in the SPPCRC docket. Notwithstanding, OPC asserts that these discovery requests are relevant to the SPP docket because, according to OPC, "the current SPP proceeding, not the SPPCRC, will evaluate the rate impact of projects proposed in the SPP and whether the Commission should approve, approve with modifications or deny the proposed SPPs." (See OPC Amended Motion, para. 5). OPC's reliance on the requirement for the Commission to consider the estimated rate impacts in determining whether a proposed SPP is in the public interest is flawed for the many reasons stated in paragraphs 18-21 above, which are incorporated herein.

43. Further, even assuming, *arguendo*, that the Commission is required to evaluate the reasonableness and prudence of the estimated rate impacts in the SPP docket, which it is not for the reasons explained above in paragraphs 18-21, OPC Set 1 INT Nos. 10, 29, 31, 32-34, 40, and 41 and OPC Set 1 PODs No. 13 seek detailed information about the costs to be included in the SPPCRC, *i.e.*, the incremental bill impacts of the SPPCRC, not the total estimated rate impacts. Although OPC has attempted to couch these discovery requests as seeking information about "rate impacts," on their face these discovery requests go well beyond the estimated rate impacts provided in Rule 25-6.030, F.A.C., and seek information about the incremental bill impacts of the SPPCRC. Thus, even assuming OPC's argument about rate impacts was correct, which it is not, it is simply inapplicable to the actual requests in OPC Set 1 INT Nos. 10, 29, 31, 32-34, 40, and 41 and OPC Set 1 PODs No. 13.

44. OPC Set 1 INT Nos. 10, 29, 31, 32-34, 40, and 41 and OPC Set 1 PODs No. 13 also request detailed information about costs that are being recovered in base vs. costs that will be recovered in the SPPCRC. Both Section 366.96(7), F.S., and Rule 25-6.031(6)(b), F.A.C. clearly



provide that the time and place to address whether the SPP costs are being recovered in base vs. clause is in the SPPCRC docket. Indeed, there is nothing in Rule 25.6.030 that mentions costs being recovered in base rates, incremental costs, costs to be recovered in the SPPCRC.

45. OPC Set 1 INT Nos. 33 and 34 seek information and explanations regarding the presence of lack of project level detail for years 2 and 3 of the SPP. Such information is clearly beyond the scope of this proceeding. Rule 25.6030 requires project level detail only for year 1 of the SPP. OPC should not be permitted to simply ignore the plain and unambiguous language of the Rule and collaterally attack the Rule as adopted by the Commission. OPC has already had the opportunity to challenge the requirement of the Rule and lost that challenge. OPC must limit its discovery to what is actually required by the Rule.

46. OPC Set 1 INT No. 34 also asks for an explanation of how costs to be included in the SPPCRC for recovery can be determined to be prudent if no project information is required for years 2 and 3 of the plan. Again, OPC's request completely disregards the Commission's Rules. As explained above, project level detail for years 2 and 3 of the SPP are not required by Rule 25-6.030, F.A.C. Moreover, the Commission's "prudence" determination for recovery in the SPPCRC applies to the actual/true-up filing in the clause docket (*i.e.*, the actual costs incurred during the prior year), not years 2 and 3 of the plan docket. *See* Rule 25-6.031(3) ("An annual hearing to address petitions for recovery of Storm Protection Plan costs will be limited to determining ... the prudence of actual Storm Protection Plan costs incurred by the utility.")

47. OPC Set 1 INT Nos. 10, 29, 31, 32-34, 40, and 41 and OPC Set 1 PODs No. 13 on their face are irrelevant, overly broad, burdensome, and clearly beyond the scope of this proceeding as established by Section 366.96, F.S., and Rules 25-6.030 and 25-6.031, F.A.C. Accordingly, OPC's Amended Motion to Compel responses to OPC Set 1 INT Nos. 10, 29, 31, 32-34, 40, and 41 and OPC Set 1 PODs No. 13 must be denied.

#### IV. CONCLUSION

For the reasons explained above, OPC Set 1 INTs (Nos. 7, 8, 10, 22, 23, 24, 25, 26, 29, 31, 32, 33, 34, 40, and 41) and OPC Set 1 PODs (Nos. 5, 6, 7, 8, and 13) are irrelevant to FPL's SPP, beyond the scope of this proceeding, and unlikely to lead to admissible evidence in this proceeding.

WHEREFORE, FPL respectfully requests that the Commission promptly deny OPC's Amended Motion to Compel in its entirety.

Respectfully submitted this 4th day of May, 2020,

John T. Burnett  
Vice President and Deputy General Counsel  
Christopher T. Wright  
Senior Attorney  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, FL 33408-0420  
Phone: 561-691-7144  
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By: s/Christopher T. Wright  
Christopher T. Wright  
Fla. Auth. House Counsel No. 1007055

# **Appendix A**

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Review of 2020-2029 Storm Protection  
Plan pursuant to Rule 25-6.030, F.A.C.,  
Florida Power & Light Company.

DOCKET NO.: 20200071-EI

FILED: April 3, 2020

**CITIZENS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**  
**FLORIDA POWER & LIGHT COMPANY (Nos. 1-14)**

Pursuant to § 350.0611(1), F.S., Rule 28-106.206, Fla. Admin. Code, and Rule 1.350, Fla. R. Civ. P., the Citizens of the State of Florida, through the Office of Public Counsel, request Florida Power & Light Company (FPL or Company) to produce the following documents for inspection and copying at the Office of Public Counsel, Claude Pepper Building, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400, or at such other mutually agreed place, on or before April 23, 2020. **In lieu of hard copy responses, OPC requests that the Company provide the responses electronically as described below in the Instructions.**

**DEFINITIONS**

As used herein, the following words shall have the meanings indicated:

“You”, “your”, “Company” or “FPL” refers to Florida Power & Light Company, its employees, consultants, agents, representatives, attorneys of the Company, and any other person or entity acting on behalf of the Company. “Parent” means the holding company or parent of the Florida regulated Company. “Affiliate” means the affiliate or sister companies regulated in Florida or which are regulated by, or operate primarily in, another jurisdiction.

“Document” refers to written matter of any kind, regardless of its form, and to information recorded on any storage medium, whether in electrical, optical or electromagnetic form, and capable of reduction to writing by the use of computer hardware and software. The terms "document" and "documents" are meant to have the broadest possible meaning under applicable law and includes, but is not necessarily limited to, any written, recorded, filmed or graphic matter, whether produced, reproduced, or on paper, e-mail, cards, tapes, film, electronic facsimile, computer storage device or any other media, including, but not limited to, memoranda, notes, minutes, records, photographs, correspondence, communications, telegrams, diaries, bookkeeping

entries, financial statements, tax returns, checks, check stubs, reports, studies, charts, graphs, statements, notebooks, handwritten notes, applications, agreements, books, pamphlets, periodicals, appointment calendars, records and recordings of oral conversations, work papers, and notes, any of which are in your possession, custody, or control.

### **INSTRUCTIONS**

1. If any document is withheld under any claim to privilege, please furnish a list identifying each document for which privilege is claimed, together with the following information: date, sender, recipients, recipients of copies, subject matter of the document, and the basis upon which such privilege is claimed.
2. Responsive documents available in an electronic format shall be provided in their native electronic format, unless the parties have reached a specific agreement in advance for production of the documents in a different, agreed-upon format or medium. OPC requests that responses for each production of document request be provided in separate electronic folders that include the documents responsive to the request.
3. If you have possession, custody, or control of the original of the documents requested, please produce a copy of the originals and all versions that are different in any way from the original, whether by interlineation, receipt stamp or notation. If you do not have possession, custody, or control of the originals of the documents requested, please produce a copy of the version(s) in your possession, custody, or control, however, made.
4. In providing documents, the Company, is requested to furnish all documents or items in its physical possession or custody, as well as those materials under the physical possession, custody or control of any other person acting or purporting to act on behalf of the Company or any of the employees or representatives, whether as an agent, independent contractor, attorney, consultant, witness, or otherwise, of the Company.

5. Please construe “and” as well as “or” either disjunctively or conjunctively as necessary to bring within the scope of this production of documents any document which might otherwise be constructed to be outside the scope.
6. Please provide all responses that include workpapers, data, calculations and spreadsheets in non-password protected and executable PC-compatible computer program/models/software. Formulae, links, and cells, formatting, metadata and any other original features assisting in calculation should be intact. For example, Excel documents and documents of a similar format shall be produced in their native electronic format, with all spreadsheets, formulas, and links unlocked and intact. To the extent the data requested does not exist in the form requested, please notify the undersigned counsel so that the parties can confer to reach a resolution for timely production.
7. Documents should be produced in an OCR (Optical Character Recognition) searchable format.
8. Pursuant to the Commission’s order establishing procedure, each page of every document produced pursuant to requests for production of documents shall be identified individually through the use of a Bates Stamp or other equivalent method of sequential identification.

### **PRODUCTION OF DOCUMENTS**

1. Please provide all documents that describe the Company’s policies and procedures related to accounting for capital projects.
2. Please provide all documents that describe the Company’s process and timeline for undergrounding laterals.
3. Please provide all documents that describe the Company’s process and timeline for replacing transmission structures and components.

4. Please provide all documents that describe the Company's process and timeline for replacing wooden poles with concrete or more wind resistant materials.
5. Please provide all Company documents that describe how customer meters aid in the recovery from extreme weather events.
6. Please provide all literature known to the Company that describe how customer meters aid in the recovery from extreme weather events.
7. Please provide all Company documents that describe how battery installations aid in the recovery from extreme weather conditions.
8. Please provide all literature known to the Company that describe how battery installations aid in the recovery from extreme weather conditions.
9. Please provide all Company documents that describe the Company's policies and procedures for determining how projects included in the Company's Storm Protection Plan filing are designed to enhance the Company's existing transmission and distribution facilities.
10. Please provide all Company documents that describe the Company's policies and procedures for determining how the projects included in the Company's Storm Protection Plan filing are to be prioritized.
11. Please provide all documents that describe the Company's policies and procedures related to accounting for capital projects.
12. Please provide all documents that describe the Company's policies and procedures for applying Allowance for Funds Used During Construction (AFUDC) to capital projects in compliance with Rule 25-6.0141, Florida Administrative Code, including, but not limited to the documents identified in Citizens Interrogatory No. 24.
13. Please provide copies of all Company documents that discuss the separation of storm enhancement projects between those to be or already included in base rates and those projects to be included in the storm protection plan cost recover clause filing for the years 2019, 2020, and 2021.

14. Please provide copies of your Company's Storm Hardening Plan filings for the years 2019, 2020, and 2021.

Respectfully Submitted,

J.R. Kelly  
Public Counsel

/s/Patricia A. Christensen  
Patricia A. Christensen  
Associate Public Counsel  
Florida Bar No.: 0989789

Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street  
Room 812  
Tallahassee, FL 32399-1400

Attorneys for the Citizens  
of the State of Florida



**CERTIFICATE OF SERVICE**  
**Docket No. 20200071-EI**

I **HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by electronic mail on this 3<sup>rd</sup> day of April 2020, to the following:

Florida Power & Light Company  
Mr. Ken Hoffman  
134 West Jefferson Street  
Tallahassee FL 32301-1713  
[ken.hoffman@fpl.com](mailto:ken.hoffman@fpl.com)

Charles Murphy  
Rachael Dziechciarz  
Office of General Counsel  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850  
[cmurphy@psc.state.fl.us](mailto:cmurphy@psc.state.fl.us)  
[RDziechc@psc.state.fl.us](mailto:RDziechc@psc.state.fl.us)

*/s/Patricia A. Christensen*  
Patricia A. Christensen  
Associate Public Counsel

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Review of 2020-2029 Storm Protection  
Plan pursuant to Rule 25-6.030, F.A.C.,  
Florida Power & Light Company

DOCKET NO.: 20200071-EI

FILED: April 3, 2020

**CITIZENS' FIRST SET OF INTERROGATORIES TO  
FLORIDA POWER & LIGHT COMPANY (Nos. 1-41)**

Pursuant to § 350.0611(1), F.S., Rule 28-106.206, Fla. Admin. Code, and Rule 1.340, Fla. R. Civ. P., the Citizens of the State of Florida (Citizens), through the Office of Public Counsel (OPC), propound the following interrogatories to Florida Power & Light Company (FPL or Company), to be answered on or before April 23, 2020. These interrogatories shall be answered under oath by the Company or its agent, who is qualified and who will be identified. As provided by Rule 1.340(a), Florida Rules of Civil Procedure, each interrogatory shall be answered separately and fully in writing under oath unless it is objected to. Each answer shall be signed by the person making it. Please supply the name, address, and relationship to the Company of those persons providing the answers to each of the following interrogatories

To the extent the Company provides documents in response to an interrogatory, Citizens request the Company produce the documents for inspection and copying at the Office of Public Counsel, Claude Pepper Building, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400.

**DEFINITIONS**

As used herein, the following words shall have the meanings indicated:

“You”, “your”, “Company” or “FPL” refers to Florida Power & Light Company, its employees, consultants, agents, representatives, attorneys of the Company, and any other person or entity action on behalf of the Company. “Parent” means the holding company or parent of the Florida regulated Company. “Affiliate” means the affiliates or sister companies regulated in Florida or which are regulated by, or operate primarily in, another jurisdiction.

“Document” refers to written matter of any kind, regardless of its form, and to information recorded on any storage medium, whether in electrical, optical or electromagnetic form, and capable of reduction to writing by the use of computer hardware and software.

“Identify” means:

- (a) With respect to a person, to state the person’s name, address and business relationship (e.g., “employee”) to the Company;
- (b) With respect to a document, to state the nature of the document in sufficient detail for identification in a request for production, its date, its author, and to identify its custodian. If the information or document identified is recorded in electrical, optical or electromagnetic form, identification includes a description of the computer hardware or software required to reduce it to readable form.

### INSTRUCTIONS

1. To the extent an interrogatory calls for information which cannot now be precisely and completely furnished, such information as can be furnished should be included in the answer, together with a statement that further information cannot be furnished, and a statement as to the reasons therefore. If you expect to obtain further information between the time answers are served and the time of hearing, you are requested to state this fact in each answer. If the information which cannot now be furnished is believed to be available to another person, identify such other person and the reasons for believing such person has the described information.
2. In the event any interrogatory herein calls for information or documents which you deem to be privileged, in whole or in part, you shall
  - (a) make the claim expressly and specify the grounds relied upon for the claim of privilege,
  - (b) produce the information or documents in redacted form, and
  - (c) to the extent any information or documents are withheld, you shall identify and describe the nature of each document not disclosed and each redacted provision in a manner that will enable other parties to assess the applicability of the privilege or protection.
3. Documents or reports to be identified shall include all documents in your possession, custody and control and all other documents of which you have knowledge. If a document is produced in response to an interrogatory, please produce a copy of the original and all versions that are different in any way from the original, whether by interlineation, receipt stamp or notation. If you do not have possession, custody, or control of the originals of the

documents requested, please produce a copy of the version(s) in your possession, custody, or control, however, made.

4. Separate answers shall be furnished for each interrogatory, although where the context permits, an interrogatory may be answered by reference to the answer furnished to another interrogatory.
5. For each interrogatory, identify the name, address, telephone number and position of the person responsible for providing the answer.
6. Responsive documents available in an electronic format shall be provided in their native electronic format, unless the parties have reached a specific agreement in advance for production of the documents in a different, agreed-upon format or medium. OPC requests that responses for each production of document request be provided in separate electronic folders that include the documents responsive to the request.
7. Documents should be produced in an OCR (Optical Character Recognition) searchable format.
8. Please provide all responses to these interrogatories that include workpapers, data, calculations and spreadsheets in non-password protected and executable PC-compatible computer program/models/software. Formulae, links, and cells, formatting, metadata and any other original features assisting in calculation should be intact. For example, Excel documents and documents of a similar format shall be produced in their native electronic format, with all spreadsheets, formulas, and links unlocked and intact. To the extent the data requested does not exist in the form requested, please notify the undersigned counsel so that the parties can confer to reach a resolution for timely production.

## INTERROGATORIES

1. Please describe in detail how the Company determines what encompasses a project in accordance with Definition 26 – Project, of the Code of Federal Regulation 18, Chapter 1.
2. Please provide a detailed description of the process that your Company uses to identify the need to harden or underground a service lateral?
3. Please provide a detailed description of how the company determines the priority to underground a service lateral.
4. Please provide the following for undergrounding a service lateral:
  - a. Which government entities does the Company have to obtain a permit from for an undergrounding project?
  - b. At what point in time for an undergrounding project would the Company file for the needed permit(s)?
  - c. Please explain in detail, once an undergrounding lateral project is identified, the average length of time the preliminary engineering of a project takes. Please include a project timeline of activities involved as well as a description of each activity.
  - d. Does your Company contract with a separate entity for the lateral undergrounding projects or do you complete the construction by using Company employees to perform the work? If your Company uses contractors to perform the lateral underground work, does each project require a separate contract? If a new contract

is required, please provide a detailed description of the activities required for vendor solicitation, procurement and contract execution.

5. Please provide a description by individual project (including actual or estimated dollar amounts) of the individual storm hardening projects that your Company has (a) completed in 2019 and 2020 and (b) has started construction but not completed in 2019 and 2020? Projects should be broken out by year.
6. Please provide a description by individual project (including estimated dollar amounts) of the projected individual storm hardening projects that you have projected to be incurred for the year 2020 and 2021. Projects should be broken out by year.
7. Please provide a detailed list and description of all functions of the customer meters that your Company has currently installed. The list should be broken into two categories: 1) functions used exclusively for extreme weather events and 2) functions other than those used for extreme weather events. For the purpose of this question, “extreme weather events” are defined as named tropical storm or hurricane events.
8. Please provide a detailed list and description of all functions of current and future battery installations currently in place or planned for construction. If any functions are described as required for extreme weather events, please provide a detailed description of the benefit(s) to customers during this type of event and why this is the main purpose for the

battery installation. For the purpose of this question, “extreme weather events” are defined as named tropical storm or hurricane events.

9. Rule 25-6.031(6)(b), Storm Protection Plan Cost Recovery Clause (SPPCRC) states that costs included in base rates or other cost recovery mechanisms are not recoverable through this clause. However, Rule 25-6.030, Storm Protection Plan (SPP), has no such language. Is it your Company’s intention and opinion that the Storm Protection Plan should and will include storm protection costs, both capital costs and expensed costs, that are currently being recovered through the Company’s base rates as well as the additional incremental costs above those already included in base rates?
10. If your answer to Question 9 is yes, please explain how the Commission will be able to distinguish between costs covered by base rates and the incremental costs above that covered by base rates based on the language in the Rule 25-6.031(6)(b)?
11. Please explain how your company currently accounts for and recovers tree trimming expenses?
12. Is it your Company’s belief that undergrounding of new distribution systems would be considered an enhancement of the current infrastructure and therefore includable for recovery through the storm protection recovery clause?

13. Is it your company's intention that a storm protection program would include all projects of a specific type such as undergrounding laterals?
  
14. Rule 25-6.030(3)(e)1., Storm Protection Plan, requires the Company to file a description of each storm protection project. Is it your Company's opinion that this rule does not require the Company to show how it selected and prioritized each of these projects?
  - a. Is it also the Company's opinion that the Commission does not need that (selection/prioritization) information to determine the prudence of moving forward with a particular project included in the first year?
  - b. If the answer to 22(a) is yes, please explain how the Commission can decide whether a particular project should be included in an approved Storm Protection Plan based on the Company's prioritization of a program.
  - c. If ranking criteria is used to prioritize projects, please explain the criteria developed and used in this evaluation and prioritization process.
  
15. Please describe in detail the process that your Company uses to identify the need to storm harden or enhance the wind resistance capability of transmission structures and components?
  
16. Please describe in detail how the company determines the priority to storm harden or enhance the wind resistance capability of transmission structures and components?



17. Please provide the following for storm hardening or enhancing the wind resistance capability of transmission structures and components:
  - a. Which government entities does the Company have to obtain a permit(s) from to storm harden or enhance the wind resistance capability of transmission structures and components?
  - b. At what point in time for such a project will the Company file for the needed permit(s)?
  - c. Please explain in detail, once a transmission structure project is identified, the average length of time the preliminary engineering of a project takes. Please include a timeline of activities involved as well as a description of each activity.
  - d. Does your Company contract for the transmission structure projects or does the Company complete the construction using Company employees?
    - i. If your Company uses contractors, does each project require a separate contract?
    - ii. If a separate contract is required for each project, please provide a detailed description of the activities required for vendor solicitation, procurement and contract execution.
  
18. Please provide a detail description of the process that your Company uses to assess and identify the need to replace wooden poles with concrete or other enhanced wind resistant structures?

19. Please provide a detailed description of how the company determines the priority to replace wooden poles with concrete or other enhanced wind resistant structures?
  
20. Please provide the following regarding the process for replacing wooden poles with concrete or other enhanced wind resistant structures and components:
  - a. Which government entities does the Company have to obtain a permit(s) from to replace wooden poles with concrete or other enhanced wind resistant structures and components?
  - b. At what point in time for such a project would the Company file for the needed permit(s)?
  - c. Please explain in detail, once a replacement of wooden poles with concrete or other enhanced wind resistant structures and components project is identified, the length of time the preliminary engineering of the project takes. Please include a timeline of activities involved as well as a description of each activity.
  - d. Does your Company contract with a separate entity for the replacement of wooden poles with concrete or other enhanced wind resistant structures and components projects, or does the Company complete the construction by using Company employees?
    - i. If your Company uses contractors, does each project require a separate contract?
    - ii. If a separate contract is required, please provide a detailed description of the activities required for vendor solicitation, procurement and contract execution.

21. Please provide a schedule showing, for the years 2019, 2020 and 2021, detail for the areas that the Company intends to underground and also provide the associated reason that each such area was chosen for undergrounding.
22. Please provide a schedule listing all franchise agreements, indicating the expiration date and those currently being negotiated for renewal.
23. Please describe in detail how your Company determines what is included in a project that would be eligible for AFUDC?
24. Please describe in detail how your Company determines when a project is eligible for AFUDC treatment? Please identify the document(s) containing the specific criteria for making such a determination.
25. Please provide the amount equal to 0.5% of the sum of the total balance in Account 101 – Electric Plant In Service, and Account 106 – Completed Construction not Classified as of February 29, 2020?
26. Given the following hypothetical:
  - Three undergrounding of lateral projects located in three distinctly separate counties and are not physically inter-connected other than as distinct components of the overall Company grid,
  - The Company contracts for all three under one contract,

- None of the three projects independently meet the AFUDC requirements of Rule 25-6.0141, Florida Administrative Code.
- All three projects added together meet the threshold test of Rule 25-6.0141, Florida Administrative Code.

Do you believe the above projects would accrue AFUDC in accordance with your company policies and procedures? Explain your answer.

27. Please provide a detailed description of how the Company identifies, tracks, and accounts for current individual projects that it considers “storm hardening” as described in the Company’s recent 2019-2021 storm hardening plan filed on March 1, 2019 and approved by the Commission on July 9, 2019?
28. Please provide a detailed description of each current individual project that the Company considers storm hardening as described in the Company’s recent 2019-2021 storm hardening plan approved by the Commission on July 9, 2019?
29. According to your storm hardening plans filed with the Commission and approved by the Commission on July 9, 2019, your Company already has plans to perform storm hardening activities for 2019 and 2020. Is it your Company’s opinion that all of these activities and identified dollar amounts or dollar amount ranges would be recovered through your Company’s current base rates and therefore is not being requested for recovery through the new Storm Protection Cost Recovery Clause? Explain your answer.

30. Rule 25-6.031(6)(b), Storm Protection Plan Cost Recovery Clause (SPPCRC) states that costs included in base rates or other cost recovery mechanisms are not recoverable through this clause. However, Rule 25-6.030, Storm Protection Plan (SPP), has no such language. Did the Company's Storm Protection Plan filed in this docket include storm protection costs, both capital costs and expensed costs, that are currently being recovered through the Company's base rates as well as the additional incremental costs above those already included in base rates?
31. If your answer to Question 8 is yes, please explain how the Commission will be able to distinguish between costs covered by base rates and the incremental costs above that covered by base rates based on the language in the Rule 25-6.031(6)(b)?
32. Please explain in detail how the Company will distinguish between tree trimming expenses currently being recovered through base rates and those that you will be requesting as new incremental costs to be recovered through the SPPCRC?
33. Rule 25-6.030(3)(e)2, Storm Protection Plan does not require the Company to list the specific projects to be included in years 2 and 3. Please explain how the Commission can make a determination that the programs included in year 2 and 3 do not include projects already being recovered through base rates, if no project detail is given?
34. Rule 25-6.031(3), states that the annual hearing will be limited to determining the reasonableness of approved storm protection plan costs, determining the prudence of actual

storm protection plan costs incurred by the utility, and establishing storm protection plan cost recovery factors consistent with the requirements of this rule. If no project information is required for years 2 and 3 of the plan, please explain how the Commission, Commission Staff or any intervenor can contest the inclusion of a particular project as being imprudent for inclusion in the clause for recovery?

35. Please provide the annual amounts spent on your Company’s Wood Pole Inspection Program for the years 2017, 2018 and 2019.

36. Please provide the projected annual amounts that the Company has projected to spend on your Wood Pole Inspection program for the years 2020 and 2021 in total and split between the amounts to be recovered through base rates and the SPPCRC.

37. Please provide the annual amounts of vegetation management performed by Company employees for the years 2016, 2017, 2018 and 2019?

38. Please provide the annual amounts spent on your Company’s Vegetation Management Program for the years 2016, 2017, 2018 and 2019 segregated as follows:

	2016	2017	2018	2019
Distribution Vegetation Management - Planned				
Distribution Vegetation Management - Unplanned				
Transmission Veg. Management - Planned				
Transmission Veg. Management - Unplanned				
Transmission Right of Way Maintenance				
Other Vegetation Management				
Total				

39. Please provide the projected annual amounts that the Company has projected to spend on your Vegetation Management Program for the years 2020 and 2021 in total and split between the amounts to be recovered through base rates and the amounts you plan to include in the SPPCRC.
  
40. Please provide a detailed explanation of how your Company arrived at the amount of vegetation management costs you plan to include in the SPPCRC?
  
41. Please provide a detailed explanation of how your company arrived at the amount of pole inspection costs you plan to include in the SPPCRC?

Respectfully submitted,

J. R. Kelly  
Public Counsel

/s/Patricia A. Christensen  
Patricia A. Christensen  
Associate Public Counsel  
Florida Bar No.: 0989789

Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street  
Room 812  
Tallahassee, FL 32399-1400

Attorneys for the Citizens  
of the State of Florida

**AFFIDAVIT**

STATE OF FLORIDA)

COUNTY OF \_\_\_\_\_)

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared \_\_\_\_\_, who is personally known to me, and he/she acknowledged before me that he/she provided the answers to interrogatory number(s) \_\_\_\_\_ from in CITIZENS FIRST SET OF INTERROGATORIES TO FLORIDA POWER & LIGHT COMPANY, (NOS. 1-41) in Docket No. 20200071-EI, and that the responses are true and correct based on his/her personal knowledge.

In Witness Whereof, I have hereunto set my hand and seal in the State and County aforesaid as of this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public  
State of Florida, at Large

My Commission Expires:  
\_\_\_\_\_



**CERTIFICATE OF SERVICE**  
**Docket No. 20200071-EI**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail on this 3<sup>rd</sup> day of April 2020, to the following:

Mr. Ken Hoffman  
Florida Power & Light Company  
134 West Jefferson Street  
Tallahassee FL 32301-1713  
[ken.hoffman@fpl.com](mailto:ken.hoffman@fpl.com)

Charles Murphy  
Rachael Dziechciarz  
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2540 Shumard Oak Blvd.  
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*/s/Patricia A. Christensen*  
Patricia A. Christensen  
Associate Public Counsel

## **Appendix B**

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

Review of 2020-2029 Storm Protection Plan  
pursuant to Rule 25-6.030, F.A.C., Florida  
Power & Light Company

Docket No. 20200071-EI

Filed: April 23, 2020

**FLORIDA POWER & LIGHT COMPANY’S OBJECTIONS AND RESPONSES TO THE  
OFFICE OF PUBLIC COUNSEL’S FIRST SET OF INTERROGATORIES (NOS. 1-41)  
AND FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 1-14)**

Florida Power & Light Company (“FPL”), pursuant to Rule 1.340 and Rule 1.350, Florida Rules of Civil Procedure, Rule 28-106.206, Florida Administrative Code, and this Commission’s Order Establishing Procedure PSC-2020-0073-PCO-EI, submits the following Objections and Responses to the Office of Public Counsel’s First Set of Interrogatories (Nos. 1-41) and First Request for Production of Documents (Nos. 1-14).

**I. General Objections**

1. FPL objects to each and every discovery request that calls for information protected by the attorney-client privilege, the work product doctrine, the accountant-client privilege, the trade secret privilege, or any other applicable privilege or protection afforded by law, whether such privilege or protection appears at the time the response is first made or is later determined to be applicable for any reason. FPL in no way intends to waive any such privilege or protection. The nature of the documents, if any, will be described in a privilege log prepared and provided by FPL.

2. FPL is a large corporation with employees located in many different locations. In the course of its business, FPL creates numerous documents that are not subject to Florida Public Service Commission or other governmental record retention requirements. These documents are kept in numerous locations and frequently are moved from site to site as employees change jobs or as business is reorganized. Therefore, it is possible that not every relevant document may have been consulted in developing FPL’s responses to the discovery requests. Rather, these responses provide all of the information that FPL obtained after a reasonable and diligent search conducted

in connection with these discovery requests. To the extent that the discovery requests propose to require more, FPL objects on the grounds that compliance would impose an undue burden or expense on FPL.

3. FPL objects to each discovery request to the extent that it seeks information that is duplicative, not relevant to the subject matter of this docket, and is not reasonably calculated to lead to the discovery of admissible evidence.

4. FPL objects to each and every discovery request to the extent it is vague, ambiguous, overly broad, imprecise, or utilizes terms that are subject to multiple interpretations but are not properly defined or explained for purposes of such discovery requests. Any responses provided by FPL will be provided subject to, and without waiver of, the foregoing objection.

5. FPL also objects to each and every discovery request to the extent it calls for FPL to prepare information in a particular format or perform calculations or analyses not previously prepared or performed as unduly burdensome and purporting to expand FPL's obligations under applicable law.

6. FPL objects to providing information to the extent that such information is already in the public record before a public agency and available through normal procedures or is readily accessible through legal search engines.

7. FPL objects to each and every discovery request that calls for the production of documents and/or disclosure of information from NextEra Energy, Inc. and any subsidiaries and/or affiliates of NextEra Energy, Inc. that do not deal with transactions or cost allocations between FPL and either NextEra Energy, Inc. or any subsidiaries and/or affiliates. Such documents and/or information do not affect FPL's rates or cost of service to FPL's customers. Therefore, those documents and/or information are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, FPL is the party appearing before the Florida Public Service

Commission in this docket. To require any non-regulated entities to participate in irrelevant discovery is by its very nature unduly burdensome and overbroad. Subject to, and without waiving, any other objections, FPL will respond to the extent the request pertains to FPL and FPL's rates or cost of service charged to FPL's customers. To the extent any responsive documents contain irrelevant affiliate information as well as information related to FPL and FPL's rates or cost of service charged to its customers, FPL may redact the irrelevant affiliate information from the responsive documents.

8. Where any discovery request calls for production of documents, FPL objects to any production location other than the location established by FPL, at FPL's Tallahassee Office located at 134 W. Jefferson Street, Tallahassee, Florida, unless otherwise agreed by the parties.

9. FPL objects to each and every discovery request and any instructions that purport to expand FPL's obligations under applicable law.

10. In addition, FPL reserves its right to count discovery requests and their sub-parts, as permitted under the applicable rules of procedure, in determining whether it is obligated to respond to additional requests served by any party.

11. FPL expressly reserves and does not waive any and all objections it may have to the admissibility, authenticity, or relevance of the information provided in its responses.

## **II. Specific Objections**

1. FPL Objects to OPC 1<sup>st</sup> Set of Interrogatories, No. 7 on the grounds that it is irrelevant to FPL's SPP and unlikely to lead to admissible evidence in this proceeding. FPL is not proposing any customer meter programs or projects as part of its SPP.

2. FPL Objects to OPC 1<sup>st</sup> Set of Interrogatories, No. 8 on the grounds that it is irrelevant to FPL's SPP and unlikely to lead to admissible evidence in this proceeding. FPL is not proposing any battery installation programs or projects as part of its SPP.

3. FPL Objects to OPC 1<sup>st</sup> Set of Interrogatories, No. 10 on the grounds that it is irrelevant to FPL's SPP, beyond the scope of this proceeding, and unlikely to lead to admissible evidence in this proceeding. The projected costs, actual/estimated costs, actual costs, and true-up of actual costs to be included in FPL's Storm Protection Plan Cost Recovery Clause, including whether these costs are included in current base rates, will all be addressed in subsequent and separate Storm Protection Plan Cost Recovery Clause filings pursuant to Rule 25-6.031, F.A.C. The Commission has opened Docket No. 20200092-EI to address Storm Protection Plan Cost Recovery Clause petitions to be filed the third quarter of 2020.

4. FPL Objects to OPC 1<sup>st</sup> Set of Interrogatories, No. 22 on the grounds that it is irrelevant to FPL's SPP and unlikely to lead to admissible evidence in this proceeding. The status of FPL's existing and future franchise agreements is irrelevant to the Commission's review and determination whether to approve the SPP. *See* Sections 366.96(5)-(4), F.S.

5. FPL Objects to OPC 1<sup>st</sup> Set of Interrogatories, Nos. 23 through 26 on the grounds that they are irrelevant to FPL's SPP, beyond the scope of this proceeding, and unlikely to lead to admissible evidence in this proceeding. FPL has not included AFUDC for any of the projects or programs reflected in its SPP.

6. FPL Objects to OPC 1<sup>st</sup> Set of Interrogatories, No. 29 on the grounds that it is irrelevant to FPL's SPP, beyond the scope of this proceeding, and unlikely to lead to admissible evidence in this proceeding. The projected costs, actual/estimated costs, actual costs, and true-up of actual costs to be included in FPL's Storm Protection Plan Cost Recovery Clause, including whether these costs are included in current base rates, will all be addressed in subsequent and separate Storm Protection Plan Cost Recovery Clause filings pursuant to Rule 25-6.031, F.A.C. The Commission has opened Docket No. 20200092-EI to address Storm Protection Plan Cost Recovery Clause petitions to be filed the third quarter of 2020.

7. FPL Objects to OPC 1<sup>st</sup> Set of Interrogatories, No. 31 on the grounds that it is irrelevant to FPL's SPP, beyond the scope of this proceeding, and unlikely to lead to admissible evidence in this proceeding. The projected costs, actual/estimated costs, actual costs, and true-up of actual costs to be included in FPL's Storm Protection Plan Cost Recovery Clause, including whether these costs are included in current base rates, will all be addressed in subsequent and separate Storm Protection Plan Cost Recovery Clause filings pursuant to Rule 25-6.031, F.A.C. The Commission has opened Docket No. 20200092-EI to address Storm Protection Plan Cost Recovery Clause petitions to be filed the third quarter of 2020.

8. FPL Objects to OPC 1<sup>st</sup> Set of Interrogatories, No. 32 on the grounds that it is irrelevant to FPL's SPP, beyond the scope of this proceeding, and unlikely to lead to admissible evidence in this proceeding. The projected costs, actual/estimated costs, actual costs, and true-up of actual costs to be included in FPL's Storm Protection Plan Cost Recovery Clause, including whether these costs are included in current base rates, will all be addressed in subsequent and separate Storm Protection Plan Cost Recovery Clause filings pursuant to Rule 25-6.031, F.A.C. The Commission has opened Docket No. 20200092-EI to address Storm Protection Plan Cost Recovery Clause petitions to be filed the third quarter of 2020.

9. FPL Objects to OPC 1<sup>st</sup> Set of Interrogatories, No. 33 on the grounds that it is irrelevant to FPL's SPP and unlikely to lead to admissible evidence in this proceeding. Rule 25-6.030 does not require project level detail for years 2 and 3 of the SPP; project level detail is only required for year 1 of the SPP. Further, the projected costs, actual/estimated costs, actual costs, and true-up of actual costs to be included in FPL's Storm Protection Plan Cost Recovery Clause, including whether these costs are included in current base rates, will all be addressed in subsequent and separate Storm Protection Plan Cost Recovery Clause filings pursuant to Rule 25-6.031, F.A.C. The Commission has opened Docket No. 20200092-EI to address Storm Protection Plan

Cost Recovery Clause petitions to be filed the third quarter of 2020. Finally, with respect to the Commission's review and determination whether to approve the SPP, including years 2 and 3, see Sections 366.96(4)-(5), F.S.

10. FPL Objects to OPC 1<sup>st</sup> Set of Interrogatories, No. 34 on the grounds that it is irrelevant to FPL's SPP, burdensome, and unlikely to lead to admissible evidence in this proceeding. Rule 25-6.030 does not require project level detail for years 2 and 3 of the SPP; project level detail is only required for year 1 of the SPP. Further, the projected costs, actual/estimated costs, actual costs, and true-up of actual costs to be included in FPL's Storm Protection Plan Cost Recovery Clause, including whether these costs are included in current base rates, will all be addressed in subsequent and separate Storm Protection Plan Cost Recovery Clause filings pursuant to Rule 25-6.031, F.A.C. Moreover, the Commission's "prudence" determination for recovery in the Storm Protection Plan Cost Recovery Clause applies to the actual/true-up filing in the clause docket (*i.e.*, the actual costs incurred during the prior year), not years 2 and 3 of the plan docket. *See* Rule 25-6.031(3) ("An annual hearing to address petitions for recovery of Storm Protection Plan costs will be limited to determining ... the prudence of actual Storm Protection Plan costs incurred by the utility.") The Commission has opened Docket No. 20200092-EI to address Storm Protection Plan Cost Recovery Clause petitions to be filed the third quarter of 2020. Finally, with respect to the Commission's review and determination whether to approve the SPP, including years 2 and 3, see Sections 366.96(4)-(5), F.S.

11. FPL Objects to OPC 1<sup>st</sup> Set of Interrogatories, No. 40 on the grounds that it is irrelevant to FPL's SPP, beyond the scope of this proceeding, and unlikely to lead to admissible evidence in this proceeding. The projected costs, actual/estimated costs, actual costs, and true-up of actual costs to be included in FPL's Storm Protection Plan Cost Recovery Clause, including whether these costs are included in current base rates, will all be addressed in subsequent and



separate Storm Protection Plan Cost Recovery Clause filings pursuant to Rule 25-6.031, F.A.C. The Commission has opened Docket No. 20200092-EI to address Storm Protection Plan Cost Recovery Clause petitions to be filed the third quarter of 2020.

12. FPL Objects to OPC 1<sup>st</sup> Set of Interrogatories, No. 41 on the grounds that it is irrelevant to FPL's SPP, beyond the scope of this proceeding, and unlikely to lead to admissible evidence in this proceeding. The projected costs, actual/estimated costs, actual costs, and true-up of actual costs to be included in FPL's Storm Protection Plan Cost Recovery Clause, including whether these costs are included in current base rates, will all be addressed in subsequent and separate Storm Protection Plan Cost Recovery Clause filings pursuant to Rule 25-6.031, F.A.C. The Commission has opened Docket No. 20200092-EI to address Storm Protection Plan Cost Recovery Clause petitions to be filed the third quarter of 2020.

13. FPL Objects to OPC 1<sup>st</sup> Request for Production of Documents, Nos. 5 and 6 on the grounds that they are irrelevant to FPL's SPP and unlikely to lead to admissible evidence in this proceeding. FPL is not proposing any customer meter programs or projects as part of its SPP.

14. FPL Objects to OPC 1<sup>st</sup> Request for Production of Documents, Nos. 7 and 8 on the grounds that they are irrelevant to FPL's SPP and unlikely to lead to admissible evidence in this proceeding. FPL is not proposing any battery installation programs or projects as part of its SPP.

15. FPL Objects to OPC 1<sup>st</sup> Request for Production of Documents, No. 13 on the grounds that it is irrelevant to FPL's SPP, beyond the scope of this proceeding, and unlikely to lead to admissible evidence in this proceeding. The projected costs, actual/estimated costs, actual costs, and true-up of actual costs to be included in FPL's Storm Protection Plan Cost Recovery Clause, including whether these costs are included in current base rates, will all be addressed in subsequent and separate Storm Protection Plan Cost Recovery Clause filings pursuant to Rule 25-6.031, F.A.C. The Commission has opened Docket No. 20200092-EI to address Storm Protection

Plan Cost Recovery Clause petitions to be filed the third quarter of 2020.

**III. Responses**

1. Attached hereto are FPL's responses to OPC First Set of Interrogatories (Nos. 1-41), consistent with its objections.
2. Attached hereto are FPL's responses to OPC First Request for Production (Nos. 1-14), consistent with its objections.
3. Confidential documents will be made available for review subject to the procedures set forth in FPL's Confidentiality Agreement and as agreed by the parties.

Respectfully submitted this 23rd day of April, 2020,

John T. Burnett  
Vice President and Deputy General Counsel  
Christopher T. Wright  
Senior Attorney  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, FL 33408-0420  
Phone: 561-691-7144  
Fax: 561-691-7135  
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Email: [christopher.wright@fpl.com](mailto:christopher.wright@fpl.com)

By: s/Christopher T. Wright  
Christopher T. Wright  
Fla. Auth. House Counsel No. 1007055

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by electronic delivery to the following parties of record this 23rd day of April, 2020:

Charles Murphy, Esquire Rachael Dziechciarz, Esquire Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399 <a href="mailto:rdziehc@psc.state.fl.us">rdziehc@psc.state.fl.us</a> <a href="mailto:cmurphy@psc.state.fl.us">cmurphy@psc.state.fl.us</a>	Office of Public Counsel J.R.Kelly Patricia A. Christensen c/o The Florida Legislature 111 West Madison Street, Room 812 Tallahassee, FL 32399-1400 <a href="mailto:kelly.jr@leg.state.fl.us">kelly.jr@leg.state.fl.us</a> <a href="mailto:christensen.patty@leg.state.fl.us">christensen.patty@leg.state.fl.us</a>
Stephanie U. Eaton Spilman Thomas & Battle, PLLC 110 Oakwood Drive, Suite 500 Winston-Salem, NC 27103 <a href="mailto:seaton@spilmanlaw.com">seaton@spilmanlaw.com</a>	Derrick Price Williamson Spilman Thomas & Battle, PLLC 1100 Bent Creek Boulevard, Suite 101 Mechanicsburg, PA 17050 <a href="mailto:dwilliamson@spilmanlaw.com">dwilliamson@spilmanlaw.com</a>

s/Christopher T. Wright  
Christopher T. Wright  
Fla. Auth. House Counsel No. 1007055  
Florida Power & Light Company  
700 Universe Boulevard (JB/LAW)  
Juno Beach, Florida 33408

*Attorney for Florida Power & Light Company*

## **Appendix C**

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Storm protection plan cost recovery  
clause.

DOCKET NO.: 20200092-EI

FILED: April 30, 2020

**NOTICE OF SERVICE**

Pursuant to Section 350.0611, Florida Statutes, the Citizens of the State of Florida, by and through J.R. Kelly, Public Counsel, serve this notice that they have served their First Set of Interrogatories (Nos. 1-15) and First Request for Production of Documents (Nos. 1-5). This discovery is being served to Mr. Ken Hoffman, Florida Power & Light Company, ("FPL"), 134 West Jefferson Street, Tallahassee, FL 32301 on this 30<sup>th</sup> day of April, 2020.

Respectfully submitted,

**/s/Patricia A. Christensen**

Patricia A. Christensen  
Associate Public Counsel

Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street  
Room 812  
Tallahassee, FL 32399-1400

Attorneys for the Citizens  
of the State of Florida

**CERTIFICATE OF SERVICE**  
**Docket No. 2020092-EI**

I **HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by electronic mail on this 17<sup>th</sup> day of March 2020, to the following:

**Florida Power & Light Company**

Ken Hoffman  
134 West Jefferson Street  
Tallahassee FL 32301-1713  
[ken.hoffman@fpl.com](mailto:ken.hoffman@fpl.com)

**Duke Energy**

Robert Pickels  
106 East College Avenue, Suite 800  
Tallahassee FL 32301-7740  
[Robert.Pickels@duke-energy.com](mailto:Robert.Pickels@duke-energy.com)

**Florida Public Utilities Company**

Mike Cassel  
208 Wildlight Ave.  
Yulee FL 32097  
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**Gulf Power Company**

Mark Bubriski  
134 West Jefferson Street  
Tallahassee FL 32301  
[mark.bubriski@nexteraenergy.com](mailto:mark.bubriski@nexteraenergy.com)

**Tampa Electric Company**

Paula K. Brown  
Regulatory Affairs  
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Tampa FL 33601-0111  
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**Florida Public Service Commission**

Jennifer Crawford  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850  
[jcrawfor@psc.state.fl.us](mailto:jcrawfor@psc.state.fl.us)

**/s/Patricia A. Christensen**

Patricia A. Christens  
Associate Public Counsel

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Storm protection plan cost recovery  
clause.

DOCKET NO.: 20200092-EI

FILED: April 30, 2020

**CITIZENS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS  
TO FLORIDA POWER & LIGHT COMPANY (NOS. 1-5)**

Pursuant to section 350.0611(1), Florida Statutes (“F.S.”), Rule 28-106.206, Florida Administrative Code (“F.A.C.”), and Rule 1.350, Florida Rule of Civil Procedure, the Citizens of the State of Florida (“Citizens”) through the Office of Public Counsel (“OPC”), request Florida Power & Light Company (“FPL” or “Company”) to produce the following documents for inspection and copying at the Office of Public Counsel, Claude Pepper Building, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400, or at such other mutually agreed place, on or before May 30, 2020. **In lieu of hard copy responses, OPC requests that the Company provide the responses electronically as described below in the Instructions.**

**DEFINITIONS**

As used herein, the following words shall have the meanings indicated:

“You,” “your,” “Company,” or “FPL” refers to Florida Power & Light Company, its employees, consultants, agents, representatives, attorneys of the Company, and any other person or entity acting on behalf of the Company. “Parent” means the holding company or parent of the Florida regulated Company. “Affiliate” means the affiliate or sister companies regulated in Florida or which are regulated by, or operate primarily in, another jurisdiction.

“Document” refers to written matter of any kind, regardless of its form, and to information recorded on any storage medium, whether in electrical, optical or electromagnetic form, and capable of reduction to writing by the use of computer hardware and software. The terms “document” and “documents” are meant to have the broadest possible meaning under applicable law and includes, but is not necessarily limited to, any written, recorded, filmed or graphic matter, whether produced, reproduced, or on paper, e-mail, cards, tapes, film, electronic facsimile, computer storage device or any other media, including, but not limited to, all drafts, memoranda,

notes, minutes, records, photographs, correspondence, communications, telegrams, diaries, bookkeeping entries, financial statements, tax returns, checks, check stubs, reports, studies, charts, graphs, statements, notebooks, handwritten notes, applications, agreements, books, pamphlets, periodicals, appointment calendars, records and recordings of oral conversations, work papers, and notes, any of which are in your possession, custody, or control.

### **INSTRUCTIONS**

1. If any document is withheld under any claim to privilege, please furnish a list identifying each document for which privilege is claimed, together with the following information: date, sender, recipients, recipients of copies, subject matter of the document, and the basis upon which such privilege is claimed.
2. Responsive documents available in an electronic format shall be provided in their native, Windows-compatible, electronic format; a searchable portable document format (.pdf); or, if scanned, in a searchable, Optical Character Recognition (“OCR”) .pdf, unless the parties have reached a specific agreement in advance for production of the documents in a different, agreed-upon format or medium. OPC requests that responses for each production of document request be provided in separate electronic folders that include the documents responsive to the request.
3. If you have possession, custody, or control of the original of the documents requested, please produce a copy of the originals and all versions that are different in any way from the original, whether by interlineation, receipt stamp or notation. If you do not have possession, custody, or control of the originals of the documents requested, please produce a copy of the version(s) in your possession, custody, or control, however, made.
4. In providing documents, the Company, is requested to furnish all documents or items in its physical possession or custody, as well as those materials under the physical possession, custody or control of any other person acting or purporting to act on behalf of the Company or any of the employees or representatives, whether as an agent, independent contractor, attorney, consultant, witness, or otherwise, of the Company.



5. Please construe “and” as well as “or” either disjunctively or conjunctively as necessary to bring within the scope of this production of documents any document which might otherwise be constructed to be outside the scope.
6. Please provide all responses that include workpapers, data, calculations and spreadsheets in non-password protected and executable Windows-compatible computer program/models/software. Formulae, links, and cells, formatting, metadata and any other original features assisting in calculation should be intact. For example, Excel documents and documents of a similar format shall be produced in their native electronic format, with all spreadsheets, formulas, and links unlocked and intact. To the extent the data requested does not exist in the form requested, please notify the undersigned counsel so that the parties can confer to reach a resolution for timely production.
7. Pursuant to the Commission’s order establishing procedure, each page of every document produced pursuant to requests for production of documents shall be identified individually through the use of a Bates Stamp or other equivalent method of sequential identification.
8. If a document is responsive to a request to produce but cannot be located (original or copy), fully describe the document, its contents, and its last known location to the fullest extent possible.

### **PRODUCTION OF DOCUMENTS**

1. Please refer to Production of Documents Request No. 5 in Docket No. 20200071-EI. Please provide all Company documents that describe how customer meters aid in the recovery from extreme weather events.
2. Please refer to Production of Documents, Request No. 6 in Docket No. 20200071-EI. Please provide all literature known to the Company that describe how customer meters aid in the recovery from extreme weather events.

3. Please refer to Production of Documents, Request No. 7 in Docket No. 20200071-EI. Please provide all Company documents that describe how battery installations aid in the recovery from extreme weather conditions.
4. Please refer to Production of Documents, Request No. 8 in Docket No. 20200071-EI. Please provide all literature known to the Company that describe how battery installations aid in the recovery from extreme weather conditions.
5. Please refer to Production of Documents Request No. 13 in Docket No. 20200071-EI. Please provide copies of all Company documents that discuss the separation of storm enhancement projects between those to be or already included in base rates and those projects to be included in the storm protection plan cost recover clause filing for the years 2019, 2020, and 2021.

Respectfully submitted,

J.R. Kelly  
Public Counsel

/s/Patricia A. Christensen  
Patricia A. Christensen  
Associate Public Counsel

Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street  
Room 812  
Tallahassee, FL 32399-1400

Attorneys for the Citizens  
of the State of Florida

**CERTIFICATE OF SERVICE**  
**DOCKET NO. 20200092-EI**

I **HEREBY CERTIFY** that a true and correct copy of the foregoing Citizens' First Request for Production of Documents (Nos. 1-5) to Florida Power & Light Company has been furnished by electronic mail on this 30<sup>th</sup> day of April 2020, to the following:

**Florida Power & Light Company**

Ken Hoffman  
134 West Jefferson Street  
Tallahassee FL 32301-1713  
[ken.hoffman@fpl.com](mailto:ken.hoffman@fpl.com)

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**Florida Public Utilities Company**

Mike Cassel  
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**Gulf Power Company**

Mark Bubriski  
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**Tampa Electric Company**

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**Florida Public Service Commission**

Jennifer Crawford  
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**/s/Patricia A. Christensen**

Patricia A. Christensen  
Associate Public Counsel

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Storm protection plan cost recovery  
clause.

DOCKET NO.: 20200092-EI

FILED: April 30, 2020

**CITIZENS' FIRST SET OF INTERROGATORIES TO  
FLORIDA POWER & LIGHT COMPANY (NOS. 1-15)**

Pursuant to section 350.0611(1), Florida Statutes (“ F.S.”), Rule 28-106.206, Florida Administrative Code (“F.A.C.”), and Rule 1.340, Florida Rules of Civil Procedure, the Citizens of the State of Florida (“Citizens”), through the Office of Public Counsel (“OPC”), propound the following interrogatories to Florida Power & Light Company (“FPL” or “Company”), to be answered on or before May 30, 2020. These interrogatories shall be answered under oath by the Company or its agent, who is qualified and who will be identified. As provided by Rule 1.340(a), Florida Rules of Civil Procedure, each interrogatory shall be answered separately and fully in writing under oath unless it is objected to. Each answer shall be signed by the person making it. Please supply the name, address, and relationship to the Company of those persons providing the answers to each of the following interrogatories

To the extent the Company provides documents in response to an interrogatory, Citizens request that, in lieu of hard copy responses, the Company provide the documents electronically as described below in the Instructions. To the extent the Company provides electronic documents on a removable drive or disk, Citizens request the Company produce the drive or disk at the Office of Public Counsel, Claude Pepper Building, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400.

**DEFINITIONS**

As used herein, the following words shall have the meanings indicated:

“You,” “your,” “Company,” or “FPL” refers to Florida Power & Light Company, its employees, consultants, agents, representatives, attorneys of the Company, and any other person or entity action on behalf of the Company. “Parent” means the holding company or parent of the Florida regulated Company. “Affiliate” means the affiliates or sister companies regulated in Florida or which are regulated by, or operate primarily in, another jurisdiction.

“Document” refers to written matter of any kind, regardless of its form, and to information recorded on any storage medium, whether in electrical, optical or electromagnetic form, and capable of reduction to writing by the use of computer hardware and software.

“Identify” means:

- (a) With respect to a person, to state the person’s name, address and business relationship (e.g., “employee”) to the Company;
- (b) With respect to a document, to state the nature of the document in sufficient detail for identification in a request for production, its date, its author, and to identify its custodian. If the information or document identified is recorded in electrical, optical, or electromagnetic form, identification includes a description of the computer hardware or software required to reduce it to readable form.

“Explain” means to give the details of the outcome, inputs, process, conditions, circumstances, etc. that are related, directly or indirectly, to the subject of the interrogatory. This includes, but is not limited to, the purpose or intent of any process or undertaking that is the subject of or responsive to the interrogatory.

“Provide” means the response must contain all information accessible to the Company that is related, directly or indirectly, to the subject of the interrogatory.

### **INSTRUCTIONS**

1. To the extent an interrogatory calls for information which cannot now be precisely and completely furnished, such information as can be furnished should be included in the answer, together with a statement that further information cannot be furnished, and a statement as to the reasons therefore. If you expect to obtain further information between the time answers are served and the time of hearing, you are requested to state this fact in each answer. If the information which cannot now be furnished is believed to be available to another person, identify such other person and the reasons for believing such person has the described information.
2. Please construe “and” as well as “or” either disjunctively or conjunctively as necessary to bring within the scope of this discovery request any response which might otherwise be constructed or construed to be outside the scope.

3. In the event any interrogatory herein calls for information or documents which you deem to be privileged, in whole or in part, you shall
  - (a) make the claim expressly and specify the grounds relied upon for the claim of privilege,
  - (b) produce the information or documents in redacted form, and
  - (c) to the extent any information or documents are withheld, you shall identify and describe the nature of each document not disclosed and each redacted provision in a manner that will enable other parties to assess the applicability of the privilege or protection.
  - (d) Documents or reports to be identified shall include all documents in your possession, custody and control and all other documents of which you have knowledge. If a document is produced in response to an interrogatory, please produce a copy of the original and all versions that are different in any way from the original, whether by interlineation, receipt stamp or notation. If you do not have possession, custody, or control of the originals of the documents requested, please produce a copy of the version(s) in your possession, custody, or control, however, made.
4. Separate answers shall be furnished for each interrogatory, although where the context permits, an interrogatory may be answered by reference to the answer furnished to another interrogatory.
5. For each interrogatory, identify the name, address, telephone number and position of the person responsible for providing the answer.
6. Responsive documents available in an electronic format shall be provided in their native, Windows-compatible, electronic format; a searchable portable document format (.pdf); or, if scanned, in a searchable, OCR (Optical Character Recognition (“OCR”)) searchable .pdf format, unless the parties have reached a specific agreement in advance for production of the documents in a different, agreed-upon format or medium. OPC requests that responses for each production of document request be provided in separate electronic folders that include the documents responsive to the request.

Please provide all responses to these interrogatories that include workpapers, data, calculations and spreadsheets in non-password protected and executable Windows-compatible computer

program/models/software. Formulae, links, and cells, formatting, metadata and any other original features assisting in calculation should be intact. For example, Excel documents and documents of a similar format shall be produced in their native electronic format, with all spreadsheets, formulas, and links unlocked and intact. To the extent the data requested does not exist in the form requested, please notify the undersigned counsel so that the parties can confer to reach a resolution for timely production.

### **INTERROGATORIES**

1. Please refer to Interrogatory No. 7 in Docket No. 20200071-EI. Please provide a detailed list and description of all functions of the customer meters that your Company has currently installed. The list should be broken into two categories: 1) functions used exclusively for extreme weather events and 2) functions other than those used for extreme weather events. For the purpose of this question, “extreme weather events” are defined as named tropical storm or hurricane events.
2. Please refer to Interrogatory No. 8 in Docket No. 20200071-EI. Please provide a detailed list and description of all functions of current and future battery installations currently in place or planned for construction. If any functions are described as required for extreme weather events, please provide a detailed description of the benefit(s) to customers during this type of event and why this is the main purpose for the battery installation. For the purpose of this question, “extreme weather events” are defined as named tropical storm or hurricane events.
3. Please refer to Interrogatory No. 10 in Docket No. 20200071-EI. If your answer to Question 9 in Docket No. 20200071-EI is yes, please explain how the Commission will be able to distinguish between costs covered by base rates and the incremental costs above that covered by base rates based on the language in the Rule 25-6.031(6)(b)?
4. Please refer to Interrogatory No. 22 in Docket No. 20200071-EI. Please provide a schedule listing all franchise agreements, indicating the expiration date and those currently being negotiated for renewal.

5. Please refer to Interrogatory No. 23 in Docket No. 20200071-EI. Please describe in detail how your Company determines what is included in a project that would be eligible for Allowance for Funds Used During Construction (AFUDC)?
6. Please refer to Interrogatory No. 24 in Docket No. 20200071-EI. Please describe in detail how your Company determines when a project is eligible for AFUDC treatment? Please identify the document(s) containing the specific criteria for making such a determination.
7. Please refer to Interrogatory No. 25 in Docket No. 20200071-EI. Please provide the amount equal to 0.5% of the sum of the total balance in Account 101 – Electric Plant In Service, and Account 106 – Completed Construction not Classified as of February 29, 2020?
8. Please refer to Interrogatory No. 26 in Docket No. 20200071-EI. Given the following hypothetical:
  - Three undergrounding of lateral projects located in three distinctly separate counties and are not physically inter-connected other than as distinct components of the overall Company grid,
  - The Company contracts for all three under one contract,
  - None of the three projects independently meet the AFUDC requirements of Rule 25-6.0141, Florida Administrative Code.
  - All three projects added together meet the threshold test of Rule 25-6.0141, Florida Administrative Code.

Do you believe the above projects would accrue AFUDC in accordance with your company policies and procedures? Explain your answer.

9. Please refer to Interrogatory No. 29 in Docket No. 20200071-EI. According to your storm hardening plans filed with the Commission and approved by the Commission on July 9, 2019, your Company already has plans to perform storm hardening activities for 2019 and 2020. Is it your Company's opinion that all of these activities and identified dollar amounts or dollar amount ranges would be recovered through your Company's current base rates and therefore is not being requested for recovery through the new Storm Protection Cost Recovery Clause (SPPCRC)? Explain your answer.



10. Please refer to Interrogatory No. 31 in Docket No. 20200071-EI. If your answer to Question 8 in Docket No. 20200071-EI would be yes, please explain how the Commission will be able to distinguish between costs covered by base rates and the incremental costs above that covered by base rates based on the language in the Rule 25-6.031(6)(b)?
11. Please refer to Interrogatory No. 32 in Docket No. 20200071-EI. Please explain in detail how the Company will distinguish between tree trimming expenses currently being recovered through base rates and those that you will be requesting as new incremental costs to be recovered through the SPPCRC?
12. Please refer to Interrogatory No. 33 in Docket No. 20200071-EI. Rule 25-6.030(3)(e)2, Storm Protection Plan does not require the Company to list the specific projects to be included in years 2 and 3. Please explain how the Commission can make a determination that the programs included in year 2 and 3 do not include projects already being recovered through base rates, if no project detail is given?
13. Please refer to Interrogatory No. 34 in Docket No. 20200071-EI. Rule 25-6.031(3), states that the annual hearing will be limited to determining the reasonableness of approved storm protection plan costs, determining the prudence of actual storm protection plan costs incurred by the utility, and establishing storm protection plan cost recovery factors consistent with the requirements of this rule. If no project information is required for years 2 and 3 of the plan, please explain how the Commission, Commission Staff or any intervenor can contest the inclusion of a particular project as being imprudent for inclusion in the clause for recovery?
14. Please refer to Interrogatory No. 40 in Docket No. 20200071-EI. Please provide a detailed explanation of how your Company arrived at the amount of vegetation management costs you plan to include in the SPPCRC?

15. Please refer to Interrogatory No. 41. Please provide a detailed explanation of how your company arrived at the amount of pole inspection costs you plan to include in the SPPCRC?

Respectfully submitted,

J. R. Kelly  
Public Counsel

/s/ Patricia A. Christensen  
Patricia A. Christensen  
Associate Public Counsel

Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street  
Room 812  
Tallahassee, FL 32399-1400

Attorneys for the Citizens  
of the State of Florida

**AFFIDAVIT**

STATE OF FLORIDA)

COUNTY OF \_\_\_\_\_)

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared \_\_\_\_\_, who is personally known to me, and he/she acknowledged before me that he/she provided the answers to interrogatory number(s) \_\_\_\_\_ from CITIZENS' FIRST SET OF INTERROGATORIES TO FLORIDA POWER & LIGHT COMPANY FLORIDA (NOS. 1-18) in Docket No. 20200092-EI, and that the responses are true and correct based on his/her personal knowledge.

In Witness Whereof, I have hereunto set my hand and seal in the State and County aforesaid as of this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

\_\_\_\_\_  
Notary Public  
State of Florida, at Large

My Commission Expires:  
\_\_\_\_\_

**CERTIFICATE OF SERVICE**  
**DOCKET NO. 20200092-EI**

I **HEREBY CERTIFY** that a true and correct copy of the foregoing Citizens' First Set of Interrogatories (Nos. 1-8) to Florida Power & Light Company has been furnished by electronic mail on this 30<sup>th</sup> day of April 2020, to the following:

**Florida Power & Light Company**

Ken Hoffman  
134 West Jefferson Street  
Tallahassee FL 32301-1713  
[ken.hoffman@fpl.com](mailto:ken.hoffman@fpl.com)

**Duke Energy**

Robert Pickels  
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Tallahassee FL 32301-7740  
[Robert.Pickels@duke-energy.com](mailto:Robert.Pickels@duke-energy.com)

**Florida Public Utilities Company**

Mike Cassel  
208 Wildlight Ave.  
Yulee FL 32097  
[mcassel@fpuc.com](mailto:mcassel@fpuc.com)

**Gulf Power Company**

Mark Bubriski  
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Tallahassee FL 32301  
[mark.bubriski@nexteraenergy.com](mailto:mark.bubriski@nexteraenergy.com)

**Tampa Electric Company**

Paula K. Brown  
Regulatory Affairs  
P. O. Box 111  
Tampa FL 33601-0111  
[regdept@tecoenergy.com](mailto:regdept@tecoenergy.com)

**Florida Public Service Commission**

Jennifer Crawford  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850  
[jcrawfor@psc.state.fl.us](mailto:jcrawfor@psc.state.fl.us)

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J. R. Kelly  
Public Counsel

**/s/ Patricia A. Christensen**  
Patricia A. Christensen  
Associate Public Counsel

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by electronic delivery to the following parties of record this 4th day of May, 2020:

Charles Murphy, Esquire Rachael Dziechciarz, Esquire Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399 <a href="mailto:rdziehc@psc.state.fl.us">rdziehc@psc.state.fl.us</a> <a href="mailto:cmurphy@psc.state.fl.us">cmurphy@psc.state.fl.us</a>	Office of Public Counsel J.R.Kelly Patricia A. Christensen c/o The Florida Legislature 111 West Madison Street, Room 812 Tallahassee, FL 32399-1400 <a href="mailto:kelly.jr@leg.state.fl.us">kelly.jr@leg.state.fl.us</a> <a href="mailto:christensen.patty@leg.state.fl.us">christensen.patty@leg.state.fl.us</a>
Stephanie U. Eaton Spilman Thomas & Battle, PLLC 110 Oakwood Drive, Suite 500 Winston-Salem, NC 27103 <a href="mailto:seaton@spilmanlaw.com">seaton@spilmanlaw.com</a>	Derrick Price Williamson Spilman Thomas & Battle, PLLC 1100 Bent Creek Boulevard, Suite 101 Mechanicsburg, PA 17050 <a href="mailto:dwilliamson@spilmanlaw.com">dwilliamson@spilmanlaw.com</a>

s/Christopher T. Wright  
Christopher T. Wright  
Fla. Auth. House Counsel No. 1007055  
Florida Power & Light Company  
700 Universe Boulevard (JB/LAW)  
Juno Beach, Florida 33408

*Attorney for Florida Power & Light Company*