

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Review of 2020-2029 Storm Protection Plan pursuant to Rule 25-6.030, F.A.C., Gulf Power Company	Docket No. 20200070-EI
Review of 2020-2029 Storm Protection Plan pursuant to Rule 25-6.030, F.A.C., Florida Power & Light Company	Docket No. 20200071-EI
In re: Storm Protection Plan Cost Recovery Clause	Docket No. 20200092-EI
	Filed July 27, 2020

**JOINT MOTION OF THE OFFICE OF PUBLIC COUNSEL,
GULF POWER COMPANY, FLORIDA POWER & LIGHT COMPANY,
WALMART INC. FOR EXPEDITED APPROVAL OF A
STIPULATION AND SETTLEMENT AGREEMENT**

Pursuant to Rule 28-106.204(1), Florida Administrative Code (“F.A.C.”), the Office of Public Counsel (“OPC”), Gulf Power Company (“Gulf”), Florida Power & Light Company (“FPL”), and Walmart Inc. (“Walmart”) (unless the context clearly requires otherwise, the term “Party” or “Parties” means a signatory to this Joint Motion), by and through their respective undersigned counsel, hereby file this Joint Motion and request that the Florida Public Service Commission (“Commission”) review and approve on an expedited basis the Stipulation and Settlement Agreement (“Agreement), provided as Attachment A to this Joint Motion, as a full and complete resolution of all matters in Docket Nos. 20200070-EI and 20200071-EI and a partial resolution of significant matters in Docket No. 20200092-EI in accordance with Section 120.57(4), Florida Statutes (“F.S.”), and enter a final order reflecting such approval to effectuate implementation of the Agreement. In support of this motion, the Parties jointly state as follows:

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, F.S. Therein, the

Florida Legislature directed each utility to file a ten-year Storm Protection Plan (“SPP”) that explains the storm hardening programs and projects the utility will implement to achieve the legislative objectives of reducing restoration costs and outage times associated with extreme weather events and enhancing reliability. *See* Section 366.96(3), F.S. The Florida Legislature also directed the Commission to conduct an annual proceeding to determine the utility’s prudently incurred SPP costs and to allow the utility to recover such costs through a charge separate and apart from its base rates, to be referenced as the Storm Protection Plan Cost Recovery Clause (“SPPCRC”). *See* Section 366.96(7), F.S.

2. Rule 25-6.030, F.A.C., requires each utility to file an updated SPP at least every three years that covers the utility’s immediate ten-year planning period. Rule 25-6.031(2), F.A.C., provides that after a utility has filed its SPP it may petition the Commission for recovery of the costs associated with the SPP and implementation activities.

3. On March 3, 2020, the Commission opened Docket No. 20200070-EI for the Gulf SPP and Docket No. 20200071-EI for the FPL SPP. On March 13, 2020, the Commission opened Docket No. 20200092-EI for the SPPCRC proceedings for all Investor Owned Utilities.

4. On March 11, 2020, the Prehearing Officer issued the Order Establishing Procedure, Order No. PSC-2020-0073-PCO-EI, in the SPP dockets, including Docket Nos. 20200070-EI and 20200071-EI. The Order Establishing Procedure consolidated the SPP dockets for all utilities for purposes of hearings and disposition.

5. On April 10, 2020, FPL filed its Petition requesting Commission approval of the 2020-2029 SPP. In support, FPL submitted the direct testimony of FPL witness Jarro, together with Exhibit MJ-1 – Florida Power & Light Company 2020-2029 Storm Protection Plan. Exhibit MJ-1 was subsequently corrected by an errata submitted on May 12, 2020, correcting an

inadvertent error on pages 46 and 47 and by a second errata submitted on July 13, 2020, correcting a scrivener's error on page 2 of Appendix C.

6. On April 10, 2020, Gulf filed its Petition requesting Commission approval of the 2020-2029 SPP. In support, Gulf submitted the direct testimony of Gulf witness Spoor, together with Exhibit MS-1 – Gulf Power & Company 2020-2029 Storm Protection Plan.

7. On May 29, 2020, the Prehearing Officer issued the Order Establishing Procedure, Order No. PSC-2020-0170-PCO-EI, in the SPPCRC docket, Docket No. 20200092. Pursuant thereto, Gulf and FPL filed their petitions for the SPPCRC on July 24, 2020.

8. On May 26, 2020, OPC submitted the direct testimonies of OPC witnesses Smith and Mara, together with supporting exhibits, in both the Gulf and FPL SPP dockets. On June 18, 2020, OPC submitted an errata in the FPL SPP docket correcting an error on page 13, line 14 of the direct testimony of OPC witness Mara.

9. Also on May 26, 2020, Walmart submitted the direct testimonies of Walmart witness Chriss and Perry in both the Gulf and FPL dockets.

10. On June 26, 2020, FPL submitted the rebuttal testimony of FPL witness Jarro and Gulf submitted the rebuttal testimony of Gulf witness Spoor, together with Exhibits MS-2 and MS-3.

11. The parties have engaged in extensive discovery in both the SPP and SPPCRC dockets. Through this process, the Parties thoroughly reviewed and evaluated FPL's 2020-2029 SPP and Gulf's 2020-2029 SPP. Additionally, OPC has raised the issue of whether the Gulf and FPL SPP costs proposed to be recovered through the SPPCRC include costs recovered through base rates, which is prohibited by Section 366.96(8), F.S., and Rule 25-6.031(6)(b), F.A.C.

12. As a direct result of these efforts, the Parties ultimately entered into the proposed Agreement to resolve all issues raised in the Gulf and FPL SPP dockets, Docket Nos. 20200070-

EI and 20200071-EI, respectively, and have established the reasonable costs which the Commission has a record basis to authorize FPL and Gulf to recover them through the SPPCRC in 2021, subject to Commission review for prudence in the normal course of the clause proceedings, assuming the Gulf and FPL SPPs are approved with modifications set forth in the Attached Settlement Agreement. The Parties hereby jointly request that the Commission review and approve the Agreement in its entirety and without modification.

13. The Commission has a “long history of encouraging settlements, giving great weight and deference to settlements, and enforcing them in the spirit in which they were reached by the parties.” *Re Florida Power & Light Company*, Docket No. 20050045-EI, Order No. PSC-2005-0902-S-EI (FPSC Sept. 14, 2005). The proper standard for the Commission’s approval of a settlement agreement is whether it is in the public interest. *Sierra Club v. Brown*, 243 So.3d 903, 910-913 (Fla. 2018) (citing *Citizens of State v. FPSC*, 146 So.3d 1143, 1164 (Fla. 2014)); *see also Gulf Coast Elec. Coop., Inc. v. Johnson*, 727 So.2d 259, 264 (Fla. 1999) (“[I]n the final analysis, the public interest is the ultimate measuring stick to guide the PSC in its decisions”).¹

14. The proposed Agreement represents a reasonable compromise of competing positions and is a full and complete resolution of all matters in Docket Nos. 20200070 and 20200071 and a partial resolution of significant matters in Docket No. 20200092. If approved by the Commission, the Agreement will establish a series of stipulations that will reduce the issues to

¹ The Florida Supreme Court has explained that the “determination of what is in the public interest rests exclusively with the Commission.” *Citizens*, 146 So.3d at 1173. The Commission has broad discretion in deciding what is in the public interest and may consider a variety of factors in reaching its decision. *See Re The Woodlands of Lake Placid L.P.*, Docket No. 20030102-WS, Order No. PSC-2004-1162-FOF-WS, p. 7, (FPSC Nov. 22, 2004); *In Re: Petition for approval of plan to bring generating units into compliance with the Clean Air Act by Gulf Power Company*, Docket No. 19921155-EI, Order No. PSC-1993-1376-FOF-EI, p. 15 (FPSC Sept. 20, 2003). However, the Commission is not required to resolve the merits of every issue independently. *Sierra Club*, 243 So.3d at 913 (citing *Citizens*, 146 So.3d at 1153). Rather, a “determination of public interest requires a case-specific analysis based on consideration of the proposed settlement taken as a whole.” *In re: Petition for Rate Increase by Gulf Power Co.*, Docket No. 20160186-EI, Order No. PSC-2017-0178-S-EI, 2017 WL 2212158, at *6 (FPSC May 16, 2017).

be litigated in Docket Nos. 20200070-EI, 20200071-EI, and 20200092-EI (with regards to Gulf and FPL). Approving these stipulations should also reduce the volume of discovery in the SPPCRC docket, clarify the issues to be litigated for Gulf and FPL in both dockets, and promote administrative and regulatory efficiency in those dockets.

15. The Parties will work in earnest to review and, if possible, stipulate and settle any remaining issues in the SPPCRC docket, Docket No. 20200092-EI.

16. The terms of the proposed Agreement reflect the Parties' assessments of their respective litigation positions, as well as their efforts to reach a reasonable and mutually acceptable compromise. The Parties entered into the proposed Agreement, each for their own reasons, but all in recognition that the cumulative total of the regulatory activity before the Commission—now and for the rest of 2020 and through 2021—is anticipated to be greater than normal. To maximize the administrative and regulatory efficiency benefits inherent in the proposed Agreement for the Parties and the Commission, and given that discovery in the SPPCRC docket is anticipated to begin in earnest with the filing of SPPCRC petitions on July 24, 2020, the Parties jointly request that the Commission schedule the proposed Agreement for consideration at an agenda conference as soon as possible.

17. Based on the foregoing, the Agreement represents a reasonable compromise of divergent positions and fully resolves all of the issues raised in the Gulf and FPL SPP proceedings, Docket Nos. 20200070-EI and 20200071-EI, respectively, and partially resolves significant matters in the SPPCRC proceeding, Docket No. 20200092-EI. Considered as a whole, the Agreement fairly and reasonably balances the interests of customers and the utilities, and is consistent with the stated purpose and intent of Section 366.96, F.S. Approving the Agreement is consistent with the Commission's long-standing policy of encouraging the settlement of contested proceedings in

a manner that benefits the customers of utilities subject to the Commission's regulatory jurisdiction. Accordingly, the Agreement is in the public interest and should be approved.

18. Pursuant to Rule 28-106.204(3), F.A.C., the Parties have conferred with the Florida Industrial Power Users Group ("FIPUG"), which was granted intervention by Order Nos. PSC-2020-0233-PCO-EI. FIPUG has advised that it takes no position on the Agreement.² Notwithstanding, the Parties jointly submit that the proposed Agreement is in the public interest and should be approved in its entirety for the reasons stated above.³

WHEREFORE, for all the reasons stated above, the Office of Public Counsel, Gulf Power Company, Florida Power & Light Company, and Walmart Inc. jointly and respectfully request that the Florida Public Service Commission expeditiously approve the Stipulation and Settlement Agreement provided as Attachment A to this Joint Motion.

² FIPUG did not actively participate in discovery or submit any testimony or evidence in opposition to the Gulf or FPL SPPs. In its Prehearing Statement, FIPUG did not take a specific position on any of the issues and, instead, adopted the positions of OPC, which is a signatory party to the Stipulation and Settlement Agreement provided as Attachment A to this Joint Motion.

³ The Florida Supreme Court has affirmed that the Commission has the authority and discretion to approve a non-unanimous settlement over the objections of intervenors if the Commission finds the settlement is in the public interest. *Citizens*, 146 So.3d at 1152-54; *see also S. Fla. Hosp. & Healthcare Ass'n v. Jaber*, 887 So.2d 1210, 1212-13 (Fla. 2004) (affirming the Commission's approval of a non-unanimous settlement agreement despite the absence of a full evidentiary hearing). The Florida Supreme Court has explained that "it would be unreasonable to allow a single holdout party that does not get its way on one issue during settlement negotiations to derail the entire settlement process if settlement is fully in the public's interest all along." *Sierra Club*, 243 So.3d at 913.

Respectfully submitted this 27th day of July, 2020,

By: /s/John T. Burnett
John T. Burnett
VP and Deputy General Counsel
Christopher T. Wright
Senior Attorney
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420

***FOR FLORIDA POWER &
LIGHT COMPANY***

By: /s/Russell A. Badders
Russell A. Badders
VP & Associate General Counsel
Gulf Power Company
One Energy Place
Pensacola, FL 32520

Jason A. Higginbotham
Senior Attorney
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420

FOR GULF POWER COMPANY

By: /s/Patricia A. Christensen
Patricia A. Christensen
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Rm. 812
Tallahassee, FL 32399-1400

FOR OFFICE OF PUBLIC COUNSEL

By: /s/Stephanie U. Eaton
Stephanie U. Eaton
Spilman Thomas & Battle, PLLC
110 Oakwood Drive, Suite 500
Winston-Salem, NC 27103

Derrick Price Williamson
Spilman Thomas & Battle, PLLC
1100 Bent Creek Boulevard, Suite
101
Mechanicsburg, PA 17050

FOR WALMART INC.

ATTACHMENT A
STIPULATION AND SETTLEMENT AGREEMENT

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Review of 2020-2029 Storm Protection Plan pursuant to Rule 25-6.030, F.A.C., Gulf Power Company	Docket No. 20200070-EI
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	Filed July 27, 2020

STIPULATION AND SETTLEMENT

WHEREAS, Gulf Power Company (“Gulf”), Florida Power & Light Company (“FPL”), Citizens through the Office of Public Counsel (“OPC”), and Walmart Inc. (“Walmart”) have signed this Stipulation and Settlement (the “Agreement”; unless the context clearly requires otherwise, the term “Party” or “Parties” means a signatory to this Agreement);

WHEREAS, 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, F.S.;

WHEREAS, the Florida Legislature found in Section 366.96(1)(c), F.S., that it was in the State’s interest to “strengthen electric utility infrastructure to withstand extreme weather conditions by promoting the overhead hardening of electrical transmission and distribution facilities, the undergrounding of certain electrical distribution lines, and vegetation management,” and for each electric utility to “mitigate restoration costs and outage times to utility customers when developing transmission and distribution storm protection plans.” Section 366.96(1)(e), F.S.;

WHEREAS, the Florida Legislature directed each utility to file a ten-year Storm Protection Plan (“SPP”) that explains the storm hardening programs and projects the utility will implement to achieve the legislative objectives of reducing restoration costs and outage times associated with extreme weather events and enhancing reliability. *See* Section 366.96(3), F.S.;

WHEREAS, The Florida Legislature directed the Florida Public Service Commission (“Commission”) to conduct an annual proceeding to determine the utility’s prudently incurred SPP costs and to allow the utility to recover such costs through a charge separate and apart from its base rates, to be referenced as the Storm Protection Plan Cost Recovery Clause (“SPPCRC”). *See* Section 366.96(7), F.S.;

WHEREAS, Section 366.96(8), F.S., and Rule 25-6.031(6)(b), F.A.C., provide that the SPP costs to be recovered through the SPPCRC may not include costs recovered through the utility’s base rates or any other cost recovery mechanism;

WHEREAS, Rule 25-6.030, F.A.C., requires each utility to file an updated SPP at least every three years that covers the utility’s immediate ten-year planning period and specifies the information to be included in each utility’s SPP;

WHEREAS, Rule 25-6.031, F.A.C., provides that after a utility has filed its SPP it may petition the Commission for recovery of the costs associated with the SPP and implementation activities and specifies the information to be included in each utility’s SPPCRC filings;

WHEREAS, On March 3, 2020, the Commission opened Docket No. 20200070-EI for the Gulf SPP and Docket No. 20200071-EI for the FPL SPP;

WHEREAS, on March 13, 2020, the Commission opened Docket No. 20200092-EI for the SPPCRC proceedings for all Investor Owned Utilities;

WHEREAS, on April 10, 2020, FPL filed its Petition requesting Commission approval of the 2020-2029 SPP, together with the direct testimony of FPL witness Jarro and Exhibit MJ-1 – Florida Power & Light Company 2020-2029 Storm Protection Plan;¹

WHEREAS, on April 10, 2020, Gulf filed its Petition requesting Commission approval of the 2020-2029 SPP, together with the direct testimony of Gulf witness Spoor and Exhibit Ms-1 – Gulf Power & Company 2020-2029 Storm Protection Plan;

WHEREAS, on May 26, 2020, OPC submitted the direct testimonies of OPC witnesses Smith and Mara, together with supporting exhibits, in both the Gulf and FPL SPP dockets;²

WHEREAS, on May 26, 2020, Walmart submitted the direct testimonies of Walmart witness Chriss and Perry in both the Gulf and FPL dockets;

WHEREAS, on June 26, 2020, FPL submitted the rebuttal testimony of FPL witness Jarro and Gulf submitted the rebuttal testimony of Gulf witness Spoor, together with Exhibits MS-2 and MS-3;

WHEREAS, pursuant to Order No. PSC-2020-0170-PCO-EI in Docket No. 20200092-EI, Gulf and FPL will file their petitions for the SPPCRC on July 24, 2020;

¹ Exhibit MJ-1 was subsequently corrected by an errata submitted on May 12, 2020, correcting an inadvertent error on pages 46 and 47 and by a second errata submitted on July 13, 2020, correcting a scrivener's error on page 2 of Appendix C.

² On June 18, 2020, OPC submitted an errata in the FPL SPP docket correcting an error on page 13, line 14 of the direct testimony of OPC witness Mara.

WHEREAS, the Parties engaged in significant discovery in both the SPP and SPPCRC dockets, and have thoroughly reviewed and evaluated FPL's 2020-2029 SPP and Gulf's 2020-2029 SPP;

WHEREAS, in testimony and discovery, OPC raised the issue of whether the Gulf and FPL SPP costs to be recovered through the SPPCRC in Docket No. 20200092-EI will include costs recovered through base rates;

WHEREAS, after an extensive review and evaluation of Gulf's SPP and FPL's SPP, as well as the issue of whether the Gulf SPP costs and the FPL SPP costs to be recovered through the SPPCRC will include costs recovered through base rates, the Parties to this Agreement have undertaken to reach a full and complete resolution of all matters in Docket Nos. 20200070-EI and 20200071-EI and a partial resolution of significant matters in Docket No. 20200092-EI;

WHEREAS, the Parties have entered into this Agreement in compromise of positions taken in accord with their rights and interests under Chapters 350, 366, and 120, Florida Statutes, as applicable, and as a part of the negotiated exchange of consideration among the Parties to this Agreement each has agreed to concessions to the others with the expectation that all provisions of the Agreement will be enforced by the Commission as to all matters addressed herein with respect to all Parties regardless of whether a court ultimately determines such matters to reflect Commission policy, upon acceptance of the Agreement as provided herein and upon approval as in the public interest; and

NOW THEREFORE, in consideration of the foregoing and the covenants contained herein, the Parties hereby stipulate and agree:

Gulf 2020-2029 Storm Protection Plan
(Docket No. 20200070)

1. The Parties agree that the record supports a Commission finding that Gulf's Distribution Inspection Program is in the public interest and that Gulf proceeding to implement the program is not evidence of imprudence.
2. The Parties agree that the record supports a Commission finding that Gulf's Transmission Inspection Program is in the public interest and that Gulf proceeding to implement the program is not evidence of imprudence.
3. The Parties agree that Gulf's pilot Distribution Hardening – Lateral Undergrounding Program, limited for the years 2020-2022 in the amounts reflected for those years in the SPP, should be approved for the years 2020-2022. In this pilot, Gulf will select laterals that experienced an outage during Hurricane Michael and/or other recent extreme weather events as a primary selection criteria for undergrounding or, as a secondary selection criteria, that have a history of vegetation outages or overall reliability issues that could be exacerbated in an extreme weather event. For Distribution Hardening – Lateral Undergrounding Program activities for the year 2023, Gulf shall file an SPP update in 2022 in order to seek recovery of costs for such 2023 activities in 2023. The Parties further agree that their consent to this pilot program under the terms of this Agreement will not be binding upon or have any precedential value on any future lateral undergrounding program or projects that Gulf may propose in future SPPs or otherwise.
4. Gulf agrees to conduct post-storm analysis after any named storm that impacts Gulf's system, where reasonably possible, to help quantify the benefits of undergrounding laterals and substation flooding mitigation. This analysis may include, among other things,

comparisons of overhead laterals to those that have been placed underground in terms of outage and restoration time, as well as comparing the availability of power from substations that have flooded with that of substations that have received flood mitigation measures.

5. The Parties agree that the record supports a Commission finding that Gulf's Vegetation Management – Distribution Program is in the public interest and that Gulf proceeding to implement the program is not evidence of imprudence.
6. The Parties agree that the record supports a Commission finding that Gulf's Vegetation Management – Transmission Program is in the public interest and that Gulf proceeding to implement the program is not evidence of imprudence.
7. The Parties agree that the record supports a Commission finding that Gulf's Distribution Feeder Hardening Program is in the public interest and that Gulf proceeding to implement the program is not evidence of imprudence.
8. The Parties agree that the record supports a Commission finding that Gulf's Transmission Hardening Program, including Gulf's Transmission and Substation Resiliency program and Gulf's Substation Flood Monitoring and Hardening program, is in the public interest and that Gulf proceeding to implement the program is not evidence of imprudence.
9. The Parties agree that the approval hereunder should not include or imply any determination of prudence for any particular project under said Program. OPC retains the right to challenge the prudence or reasonableness of any projects or costs for any project submitted through the SPPCRC.

10. The Parties agree that Gulf will work with Walmart to discuss and evaluate new potential SPP programs prior to filing its next SPP. OPC takes no position with regard to this provision.

FPL 2020-2029 Storm Protection Plan
(Docket No. 20200071)

11. The Parties agree that the record supports a Commission finding that FPL's Pole Inspections – Distribution Program is in the public interest and that FPL proceeding to implement the program is not evidence of imprudence.
12. The Parties agree that the record supports a Commission finding that FPL's Structures/Other Equipment Inspections – Transmission Program is in the public interest and that FPL proceeding to implement the program is not evidence of imprudence.
13. The Parties agree that the record supports a Commission finding that FPL's Feeder Hardening (EWL) – Distribution Program is in the public interest and that FPL proceeding to implement the program is not evidence of imprudence.
14. The Parties agree that the record supports a Commission finding that FPL's Wood Structures Hardening (Replacing) – Transmission Program is in the public interest and that FPL proceeding to implement the program is not evidence of imprudence.
15. The Parties agree that the record supports a Commission finding that FPL's Substation Storm Surge/Flood Mitigation –Program, for the 10 substations identified in FPL's SPP on page 31 (Exhibit MJ-1, page 35 of 48) is in the public interest and that FPL proceeding to implement the program is not evidence of imprudence.

16. The Parties agree that the record supports a Commission finding that FPL's Vegetation Management – Distribution Program is in the public interest and that FPL proceeding to implement the program is not evidence of imprudence.
17. The Parties agree that the record supports a Commission finding that FPL's Vegetation Management – Transmission Program is in the public interest and that FPL proceeding to implement the program is not evidence of imprudence.
18. The Parties agree that with regard to FPL's Distribution Lateral Hardening-Undergrounding Program, FPL should continue this Program as a pilot through 2022 ("Continued Pilot"). The priority for undergrounding in this Continued Pilot will be targeted for feeders that have the most number of laterals that experienced an outage during Hurricanes Matthew and/or Irma and that have a history of vegetation outages or overall reliability issues, as further described on page 26 of FPL's SPP (Exhibit MJ-1, page 30 of 48). The Parties agree that the record supports a Commission finding that the total number of laterals identified in Appendix C to FPL's SPP (Exhibit MJ-1, Appendix C, page 2 of 2) for the years 2020-2022 should be approved. Further, as part of this Continued Pilot, FPL will collect information and data to establish protocols for determining when a lateral for a feeder being evaluated for undergrounding in FPL's system should be overhead hardened as opposed to being placed underground, and FPL will use such protocols in future SPP work. The Parties retain all rights to assert or challenge the reasonableness of FPL's projected costs and prudence of FPL's actual costs on individual projects under this program in the SPPCRC. For Distribution Lateral Hardening –Undergrounding Program activities for the year 2023, FPL shall file an SPP update in 2022 in order to seek recovery of costs for such 2023 activities in 2023. The Parties further agree that their consent to this

Continued Pilot program under the terms of this Agreement will not be binding upon or have any precedential value on any future lateral undergrounding program or projects that FPL may propose in future SPPs or otherwise.

19. FPL agrees to conduct post-storm analysis after any named storm that impacts FPL's system, where reasonably possible, to help quantify the benefits of undergrounding laterals and substation flooding mitigation. This analysis may include, among other things, comparisons of overhead laterals to those that have been placed underground in terms of outage and restoration time, as well as comparing the availability of power from substations that have flooded with that of substations that have received flood mitigation measures.
20. The Parties agree that the approval hereunder should not include or imply any determination of prudence for any particular project under said Program. OPC retains the right to challenge the prudence or reasonableness of any projects or costs for any project submitted through the SPPCRC.
21. The Parties agree that FPL will work with Walmart to discuss and evaluate new potential SPP programs prior to filing its next SPP. OPC takes no position with regard to this provision.

Gulf and FPL Storm Protection Plan Cost Recovery Clause
(Docket No. 20200092)

22. The Parties agree that FPL and Gulf will not seek recovery of any SPP program O&M expenses incurred in 2020 or 2021 through the SPPCRC. FPL and Gulf will address the recovery of future SPP program O&M expenses in their next base rate cases, including

whether such O&M expenses are to be recovered through base rates or through the SPPCRC.

23. The Parties agree that FPL and Gulf may seek recovery of and return on capital expenditures and assets related to the SPP programs approved in Docket Nos. 20200070-EI and 20200071-EI, in the following manner:

- a. Capital expenditures incurred prior to January 1, 2021, shall be recovered through base rates. This means that both the return on the net investment (which includes net plant in service and/or construction-work-in-progress, subject to section D.2.d. below) associated with a capital project cost incurred before January 1, 2021, and the related depreciation expense shall continue to be recovered through base rates and will not be recoverable through the SPPCRC. FPL and Gulf will maintain their records on a basis sufficient to provide the Commission and intervenors with a sufficient audit trail to track net investment costs for purposes of this provision.
- b. The return on the net investment (which includes net plant in service and/or construction-work-in-progress, subject to section D.2.d. below) associated with a capital project cost incurred on or after January 1, 2021, and the related depreciation expense may be eligible for cost recovery through the SPPCRC, subject only to a reasonableness review of projected SPP costs and a prudence review of actual SPP costs in the applicable SPPCRC proceeding. FPL and Gulf will maintain their records on a basis sufficient to provide the Commission and intervenors with a sufficient audit trail to track net investment costs for purposes of this provision.

- c. FPL and Gulf will not seek recovery through the SPPCRC of either cost of removal or retirements incurred in 2021 related to existing assets.
- d. FPL and Gulf will not include any construction-work-in-progress balances as of January 1, 2021, in the beginning SPPCRC rate base balances.
- e. The Parties acknowledge that there are depreciation expense savings in base rates resulting from the retirement of existing assets removed from service during the SPP project. These depreciation expense savings exist until FPL and Gulf next set base rates at which time depreciation expense would be adjusted and recovery of any remaining net book value of the retired assets would be incorporated. The Parties agree to meet to revisit issues related to the recovery of depreciation expense for SPP capital investments in base rates and in the SPPCRC no later than three months prior to the anticipated date of the opening of the 2023 SPPCRC Docket. In lieu of making system modifications related to netting depreciation expense recovery in the SPPCRC, the Parties agree that FPL and Gulf will not seek recovery of any property taxes through the SPPCRC associated with storm protection plan capital investments incurred in 2020, 2021, or 2022. Instead, FPL and Gulf will recover property taxes related to SPPCRC capital investments through base rates for each of these periods, including any test year projections filed in a base rate case.
- f. To avoid any issues regarding “AFUDC bundling” or the aggregation of SPP projects for the purposes of meeting the threshold for the accrual of AFUDC for SPP projects between the date of this Agreement through 2022, FPL and

Gulf will not accrue or seek recovery of AFUDC for any 2020, 2021, or 2022 SPP programs or projects.

g. FPL and Gulf will apply the utility's most recent Commission-approved depreciation rates to calculate depreciation expense on all capitalized SPP expenditures.

24. The Parties agree that costs incurred for programing, administrative, and additional resources ("implementation costs") are necessary for FPL and Gulf to manage and track SPP projects on an annual basis and are incremental costs eligible for cost recovery through the SPPCRC, subject only to a reasonableness review of projected implementation costs and a prudence review of actual implementation costs in the applicable SPPCRC proceeding.

25. Whenever FPL and/or Gulf petition for a change to its base rates and charges pursuant to sections 366.06 and/or 366.07, Florida Statutes, the assets being recovered through the SPPCRC that have been determined prudent through a final true-up in the SPPCRC by the Commission as of the end of the historic year presented in the Company's minimum filing requirements may, at the Company's option, be included in the Company's minimum filing requirement schedules and included in retail rate base for the applicable test year. Once recovery begins through base rates, these costs will simultaneously be removed from the SPPCRC. Thereafter, new SPP capital and assets related to SPP programs that were not included in the test year used to set base rates may be submitted for recovery through the SPPCRC petition process.

26. By the earlier of April 30, 2021, or the date when FPL and/or Gulf is required to file its projected 2022 SPPCRC costs pursuant to the Order Establishing Procedure issued in the

2022 SPPCRC Docket, FPL and/or Gulf will provide project-level detail to the other Parties for costs expected to be requested for 2022 SPP cost recovery included in FPL's and/or Gulf's current plan at that time, recognizing that planning is on-going and changes may be expected. As necessary, FPL and Gulf will update this information when it files for cost recovery in the SPPCRC later in 2021.

27. The Parties agree that FPL's and Gulf's SPPCRC factors will be a demand charge (\$/kW) for rate classes that have base rate demand charges. OPC takes no position with regard to this provision except to note that this provision must be consistent with Section 366.96(8), F.S.
28. The Parties agree and acknowledge that all issues not addressed herein may, consistent with Rule 25-6.031, F.A.C, still be subject to review and challenge by all Parties.
29. The Parties agree that nothing in this Agreement shall be construed to prevent any Party from challenging the reasonableness and/or prudence of SPP costs in any future SPPCRC proceedings.

OTHER PROVISIONS

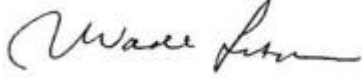
30. Nothing in the Agreement will have precedential value.
31. The provisions of the Agreement are contingent upon approval by the Commission in its entirety without modification. Except as expressly set out herein, no Party agrees, concedes, or waives any position with respect to any of the issues identified in the Prehearing Order, and this Agreement does not expressly address any specific issue or any position taken thereon. The Parties will support approval of the Agreement and will not

request or support any order, relief, outcome, or result in conflict with it. No Party to the Agreement will request, support, or seek to impose a change to any provision of the Agreement. Approval of the Agreement in its entirety will resolve all matters and issues in this docket. This docket will be closed effective on the date that the Commission Order approving this Agreement is final, and no Party to the Agreement will seek appellate review of any order issued in this docket.

32. The Parties agree that approval of the Agreement is in the public interest.
33. This Agreement may be executed in counterpart originals, and a scanned .pdf copy of an original signature shall be deemed an original. Any person or entity that executes a signature page to this Agreement shall become and be deemed a Party with the full range of rights and responsibilities provided hereunder, notwithstanding that such person or entity is not listed in the first recital above and executes the signature page subsequent to the date of this Agreement, it being expressly understood that the addition of any such additional Party(ies) shall not disturb or diminish the benefits of this Agreement to any current Party.

In Witness Whereof, the Parties evidence their acceptance and agreement with the provisions of this Agreement by their signature.

FLORIDA POWER & LIGHT COMPANY



By: _____
R. Wade Litchfield
Vice President and General Counsel
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420

OFFICE OF PUBLIC COUNSEL

By: _____
J.R. Kelly
The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, FL 32899-1400

GULF POWER COMPANY

By: _____
Russell A. Badders
VP & Associate General Counsel
Gulf Power Company
One Energy Place
Pensacola, FL 32520

WALMART INC.

By: _____
Stephanie U. Eaton
Spilman Thomas & Battle, PLLC
110 Oakwood Drive, Suite 500
Winston-Salem, NC 27103

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WALMART INC.

By: /s/Stephanie U. Eaton
Stephanie U. Eaton
Spilman Thomas & Battle, PLLC
110 Oakwood Drive, Suite 500
Winston-Salem, NC 27103

CERTIFICATE OF SERVICE
Docket Nos. 20200070, 20200071, 20200092

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished
 by electronic service on this 27th day of July 2020 to the following:

<p>Charles Murphy, Esquire Rachael Dziechciarz, Esquire Shaw Stiller, Esquire Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399 rdziehc@psc.state.fl.us cmurphy@psc.state.fl.us sstiller@psc.state.fl.us <i>For Commission Staff</i></p>	<p>Office of Public Counsel c/o The Florida Legislature 111 West Madison Street, Room 812 Tallahassee, FL 32399-1400 kelly.jr@leg.state.fl.us rehwinkel.charles@leg.state.fl.us christensen.patty@leg.state.fl.us david.tad@leg.state.fl.us morse.stephanie@leg.state.fl.us fall-fry.mireille@leg.state.fl.us <i>For Office of Public Counsel</i></p>
<p>John T. Burnett Vice President and Deputy General Counsel Jason A. Higginbotham Senior Attorney Florida Power & Light Company 700 Universe Boulevard Juno Beach, FL 33408-0420 Email: john.t.burnett@fpl.com Email: jason.higginbotham@fpl.com</p> <p>Russell A. Badders Vice President & Associate General Counsel Gulf Power Company One Energy Place Pensacola, FL 32520 Email: russell.badders@nexteraenergy.com <i>For Gulf Power Company</i></p>	<p>Dianne M. Triplett Deputy General Counsel Duke Energy Florida, LLC 299 First Avenue North St. Petersburg, FL 33701 E: Dianne.Triplett@Duke-Energy.com</p> <p>Matthew R. Bernier Associate General Counsel Duke Energy Florida, LLC 106 E. College Avenue, Suite 800 Tallahassee, FL 32301 E: Matthew.Bernier@Duke-Energy.com FLRegulatoryLegal@Duke-Energy.com <i>For Duke Energy Florida, LLC</i></p>

<p>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 Email: john.t.burnett@fpl.com Email: christopher.wright@fpl.com <i>For Florida Power & Light Company</i></p>	<p>James D. Beasley J. Jeffrey Wahlen Malcolm M. Means Ausley McMullen Post Office Box 391 Tallahassee, Florida 32302 Email: jbeasley@ausley.com Email: jwahlen@ausley.com Email: mmeans@ausley.com</p> <p>Ms. Paula K. Brown Regulatory Affairs P. O. Box 111 Tampa FL 33601-0111 regdept@tecoenergy.com <i>For Tampa Electric Company</i></p>
<p>Jon C. Moyle, Jr. Karen A. Putnal Moyle Law Firm, P.A. 118 North Gadsden Street Tallahassee, Florida 32301 Telephone: (850) 681-3828 Facsimile: (850) 681-8788 jmoyle@moylelaw.com kputnal@moylelaw.com mqualls@moylelaw.com <i>For Florida Industrial Power Users Group</i></p>	<p>Stephanie U. Eaton Spilman Thomas & Battle, PLLC 110 Oakwood Drive, Suite 500 Winston-Salem, NC 27103 seaton@spilmanlaw.com</p> <p>Derrick Price Williamson Spilman Thomas & Battle, PLLC 1100 Bent Creek Boulevard, Suite 101 Mechanicsburg, PA 17050 dwilliamson@spilmanlaw.com <i>For Walmart Inc.</i></p>
<p>James W. Brew Laura Wynn Baker Stone Mattheis Xenopoulos & Brew, PC 1025 Thomas Jefferson Street, NW Suite 800 West Washington, DC 20007-5201 jbrew@smxblaw.com lwb@smxblaw.com <i>For PCS Phosphate - White Springs</i></p>	

/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