

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricane Michael and approval of second implementation stipulation, by Duke Energy Florida, LLC.

DOCKET NO. 20190110-EI
ORDER NO. PSC-2020-0437-PCO-EI
ISSUED: November 16, 2020

FOURTH ORDER MODIFYING ORDER ESTABLISHING PROCEDURE
AND GRANTING DUKE ENERGY FLORIDA, LLC'S AND THE OFFICE OF PUBLIC
COUNSEL'S SECOND JOINT MOTION TO ABATE
HEARING AND POST-HEARING PROCESS

Order No. PSC-2020-0039-PCO-EI (Procedural Order), issued on January 30, 2020, established hearing procedures to govern this docket, including controlling dates. On June 24, 2019, the Office of Public Counsel's (OPC) intervention was acknowledged by Order No. PSC-2019-0239-PCO-EI. On May 11, 2020, Order No. PSC-2020-0138-PCO-EI (First Modified Procedural Order) was issued to modify the controlling dates in Section VIII of the Procedural Order. On July 1, 2020, Order No. PSC-2020-0226-PCO-EI (Second Modified Procedural Order) was issued to modify the controlling dates in Section VIII of the Procedural Order a second time. On August 20, 2020, Duke Energy Florida, LLC (DEF) and OPC submitted an unopposed joint motion to temporarily abate the hearing and post-hearing process (First Joint Motion). On August 27, 2020, Order No. PSC-2020-0288-PCO-EI (Third Modified Procedural Order) was issued to grant DEF and OPC's First Joint Motion, and to modify the controlling dates in Section VIII of the Procedural Order for a third time. The Third Modified Procedural Order set the Prehearing Conference for November 19, 2020, and set the hearing for December 8-9, 2020, with post-hearing briefs due on January 8, 2021.

On November 12, 2020, DEF and OPC (the Parties) submitted a second joint motion to abate the hearing and post-hearing process (Second Joint Motion). In support of the Second Joint Motion, the Parties argue that an abatement of 90 days will enable further communication that will assist in narrowing the issues in this docket that require litigation. The Parties also argue that overall efficiency and conservation of resources would occur if they are permitted additional time to review and evaluate the issues pending in this docket. The Parties advise that if the Second Joint Motion is granted, at the end of the abatement period they will jointly inform the Commission of the outcome of their discussions, and request at that time that the Commission either: (a) extend the abatement period to facilitate additional discussions by the Parties, or (b) set prehearing, hearing, and post-hearing brief controlling dates. The Second Joint Motion is unopposed.

Pursuant to Rule 28-106.211, F.A.C., the Prehearing Officer before whom a case is pending may issue any order necessary to effectuate discovery, to prevent delay, and to promote the just, speedy, and inexpensive determination of all aspects of the case. Additionally, Rule 28-

106.204(4), F.A.C., provides that motions for extension of time shall state good cause for the request. Based on the claims alleged in the Parties' Second Joint Motion, including their intent to narrow the scope of litigation, it appears that allowing more time for the Parties to communicate will promote the just determination of this case. Therefore, I find that the Parties have stated good cause for their request to abate the controlling dates for the prehearing, hearing, and post-hearing briefs. Accordingly, the Second Joint Motion is hereby granted. The Parties shall advise the Commission of the outcome of their discussions during the abatement period, and to either submit a request to extend the abatement period, or to request that a date be set for the prehearing, hearing, and post-hearing briefs, by February 12, 2021.

At this time, it is also necessary to modify the Procedural Order to abate the remaining controlling dates. As such, Section VIII of the Procedural Order will be modified as follows:

(7)	Prehearing Conference	November 19, 2020	ABATED
(8)	Hearing	December 8-9, 2020	ABATED
(9)	Briefs	January 8, 2021	ABATED

All other requirements established by the Procedural Order are hereby reaffirmed in all other aspects.

Based on the foregoing, it is

ORDERED by Commissioner Andrew Giles Fay, as Prehearing Officer, that Duke Energy Florida, LLC's and the Office of Public Counsel's Second Joint Motion to abate the hearing and post-hearing process is hereby granted. It is further

ORDERED that by February 12, 2021, Duke Energy Florida, LLC and the Office of Public Counsel shall jointly inform the Commission of the outcome of their discussions, and request at that time that the Commission either extend the abatement period, or set prehearing, hearing, and post-hearing brief controlling dates.

ORDERED that the Procedural Order, First Modified Procedural Order, Second Modified Procedural Order, and Third Modified Procedural Order are modified as set forth in the body of this Order. It is further

ORDERED that all other requirements established by the Procedural Order, First Modified Procedural Order, Second Modified Procedural Order, and Third Modified Procedural Order in this docket that are not inconsistent with this Order shall remain in full force and effect.

By ORDER of Andrew Giles Fay, as Presiding Officer, this 16th day of November, 2020.



ANDREW GILES FAY
Commissioner and Prehearing Officer
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.