BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of a regulatory asset to record costs incurred due to COVID-19, by Gulf Power Company.	DOCKET NO. 20200151-EI
In re: Petition for approval of a regulatory asset to record costs incurred due to COVID-19, by Utilities, Inc. of Florida.	DOCKET NO. 20200189-WS
In re: Petition for approval of regulatory assets to record costs incurred due to COVID-19, by Florida Public Utilities Company, Florida Public Utilities Company - Indiantown Division, Florida Public Utilities Company - Fort Meade, Florida Division of Chesapeake Utilities Corporation.	DOCKET NO. 20200194-PU FILED: May 21, 2021

PRE-HEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL

The Citizens of the State of Florida, through the Office of Public Counsel ("OPC"), pursuant to the Order Establishing Procedure in this docket, Order No. PSC-2021-0104-PCO-PU, issued March 21, 2021, and the Amended Order Establishing Procedure, Order No. PSC-2021-0123-PCO-PU, issued April 7, 2021, hereby submit this Prehearing Statement.

APPEARANCES:

Richard Gentry
Public Counsel

Stephanie Morse
Associate Public Counsel

Anastacia Pirrello
Associate Public Counsel

Patricia Christensen
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Office of Public Counsel
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On behalf of the Citizens of the State of Florida

A. WITNESSES:

Witness	Subject Matter	Issue Numbers
Direct		
Daniel J. Lawton	Economic issues and potential regulatory policy impacts of the deferred accounting requests; the requested deferral amounts, earnings levels, and offsetting savings; the deferral requests as part of the business risks incorporated in the authorized equity returns, the Companies' financial integrity issues, and cash flow issues related to return and risk.	1 - 4

B. EXHIBITS:

Witness	Proffered By	Exhibit No.	Description	Issue Numbers
Direct				
Daniel J. Lawton	OPC	DJL-1	Resume	
Daniel J. Lawton	OPC	DJL-2	Economic Reports and Statistics	1 - 4

C. STATEMENT OF BASIC POSITION

Utilities, Inc. of Florida ("UIF") filed a Notice of Voluntary Dismissal on March 30, 2021, so its petition should not be considered at the hearing, and any issues proposed by UIF should be deemed denied. Prior to the hearing, an Order should be entered dismissing UIF from the proceedings and closing PSC Docket No. 20200189-WS.

As the Commission makes a determination on whether deferred accounting treatment should be approved, three basic standards or requirements should be applied, as follows: i) accounting requirements, ii) financial integrity requirements, and iii) the equity balance between customers and shareholder interests that all regulatory authorities must constantly weigh and evaluate. If a company's proposal fails to satisfy any of these standards, then the request for this type of extraordinary deferral should be denied.

As to Gulf Power Company ("Gulf" or "the Company"), the Company has failed to meet its burden of proving that a regulatory asset should be established for the costs it claims to have incurred due to the COVID-19 pandemic. COVID-19 related costs may have been unexpected – not only for Gulf, but for all its customers who already paid for these very same costs through the rates established in Order No. PSC-20170178-S-EI and who also continue to pay for their own

COVID-19 safety and pandemic-related costs. However, Gulf failed to show that its costs posed a threat to either Gulf's financial integrity or that of Florida Power & Light Co. ("FPL") after the merger of Gulf and FPL. In fact, the evidence indicates some of Gulf's financial metrics improved during the pandemic, particularly as to cost savings and adjusted earnings. Gulf has failed to fully account for savings offsets in its claims for cost deferrals. Gulf earned well within its approved rate of return range during 2020, and is expected to earn in the upper half of its authorized equity return range in 2021. Gulf's own information reveals that without deferral, its earnings inclusive of the COVID-19 expenses would still remain within the 200-basis point range of reasonableness established by the Commission. This means that Gulf will effectively already be recovering those costs. Deferring them and recovering them *again* from future customers means that Gulf's customers essentially pay for the same expenses twice.

Simply put, Gulf does not need extraordinary assistance in the form of the accounting scheme requested in order to continue to operate safely and earn within the profit range that it agreed to in 2017. In contrast, many customers found their financial conditions deteriorated dramatically during the pandemic – many customers lost hours from work or even lost their jobs and income entirely. If Gulf is allowed to defer the claimed COVID-19 related costs, customers will suffer additional harm in the form of paying twice for the same costs; the result would render the rates Gulf agreed to unfair and unreasonable, and directly contrary to statutory requirements governing utility regulation and rates.

Even if Gulf is allowed to establish a regulatory asset, Gulf should only be allowed to defer costs directly related to COVID-19 related bad debt and tangible safety equipment and supplies. Items such as incentive pay, insurance, meals and entertainment, etc. should be disallowed.

As for Florida Public Utility Company ("FPUC"), i.e., Florida Public Utility Company (Electric Division), Florida Public Utilities Company (Gas Division), Florida Public Utilities Company – Indiantown (Gas Division), Florida Public Utilities Company – Ft. Meade (Gas Division), and Florida Division of Chesapeake Utilities Corporation, they have failed to provide sufficient support to justify extraordinary deferred accounting treatment. FPUC's requests fail to satisfy all three of the following standards – (i) accounting requirements, ii) financial integrity requirements, and iii) the equity balance between customers and shareholder interests – therefore FPUC's requests for extraordinary deferred accounting for COVID-19 related costs should be denied.

FPUC's requests include O&M costs that are marginally related to, or unnecessary for its response to, the COVID-19 pandemic and therefore should be removed. The remaining legitimate COVID-19 related O&M expense category, when offset for COVID-19 related savings, yields an overall negative cost. In addition, FPUC's attempt to quantify actual bad debts is merely an estimate and not based on actual write-offs and are overstated; thus, it is difficult to determine a reasonable level of bad debt for 2020. If a regulatory asset is to be contemplated, FPUC should be required to provide actual 2020 write-offs for 2020 and limit costs to only safety-related COVID-19 costs. However, FPUC has not provided sufficient evidence that the COVID-19 impact is material and qualifies for a deferral. In any case, FPUC has failed to satisfy the financial integrity requirement, in that FPUC acknowledged its financial integrity is not threatened by the claimed COVID-19 costs. Thus, there is no basis for FPUC to be granted deferred accounting in this case.

Since the temporary downturn of the U.S. economy in March 2020, both the country and Florida have made substantial, albeit not complete, recovery. While some electric utilities did see stock price declines in 2020, NextEra (Gulf's parent company) did not suffer stock price losses. Given the continued improvement from June 2020 through the first quarter of 2021, FPUC's projections of worsening costs through the end of 2020 is highly questionable. Moreover, it is highly suspect that either utility will experience any significant on-going COVID-19 expenses as the economy continues to reopen fully. On May 3, 2021 Florida's Governor issued executive orders which invalidated local emergency orders (effective July 1, 2021) and suspended local mandates and restrictions (effective immediately). As such, Gulf and FPUC ("the Utilities") should be prohibited from deferring to a regulatory asset any costs incurred after July 1, 2021. Moreover, utility cost of capital actually declined during 2020 as a result of COVID-19 impacts on the economy and Federal Reserve's monetary policy responses. In general, no particular hardship impacts have directly affected the utility industry. However, individuals and small businesses, the Utilities' customers, have suffered significant economic impacts from COVID-19. If the deferred regulatory assets for COVID-19 costs are authorized for Gulf and FPUC, in lieu of their normal, required expensing in the period incurred, the costs will be recovered again from these suffering customers in future rates just so that these Companies can enhance their average overall rate of return during a pandemic. Therefore, Gulf's and FPUC's requests for deferred accounting treatments should be denied.

D. STATEMENT OF FACTUAL ISSUES AND POSITIONS

GENERIC ISSUES

ISSUE 1: **Should the Commission approve the Companies' requests to establish regulatory assets to defer, track and record COVID-19 related costs?**

OPC: No. The Commission should not approve the establishment of a regulatory asset unless each Company satisfies its burden of proof regarding accounting standard requirements, financial integrity criteria, and the appropriate balancing of equities between the Company and its customers. Gulf and FPUC failed to prove requisite elements of their requests; therefore, the Commission should not authorize deferral or establishment of regulatory assets.

ISSUE 2: **If the Commission approves the requests, when should the recording of costs included in the regulatory assets commence?**

OPC: No earlier than the effective date of the order in this docket.

ISSUE 3: **If the Commission approves the requests, what type of costs should be eligible for inclusion in the regulatory assets?**

OPC: COVID-19 related bad debt, COVID-19 related safety equipment and supplies. The Commission should deny carrying charges for the subject COVID-19 related costs.

<u>ISSUE 4:</u> **If the Commission approves the requests, should the Companies be required to file reports detailing the status of their respective regulatory asset? If so, what information should be included in these reports, and how frequently should the reports be filed?**

OPC: Yes. The Companies' reports should be filed monthly to the respective open Regulatory Asset dockets (20200151 and 20200194). Counsel for all parties and interested persons should be served <u>directly</u>, rather than Companies filing the reports in the "undocketed" docket or as attachments to Electronic Surveillance Reports.

<u>ISSUE 5:</u> **Should this docket be closed?**

OPC: No.

GULF CONTESTED ISSUE

<u>ISSUE A:</u> **If the Commission approves the requests, what are the total costs eligible for recovery?**

OPC: The Companies have the burden of proof on this issue. The total costs eligible for recovery will depend on the Commission's determinations regarding Issue 3 and the sufficiency of proof submitted by each of the Companies.

OPC CONTESTED ISSUE

<u>ISSUE A:</u> **What criteria should the Commission apply in determining whether to establish a COVID-19 regulatory asset?**

OPC: The Commission should evaluate and apply i) accounting requirements, ii) financial integrity requirements, and iii) the equity balance between customers and shareholder interests.

UIF CONTESTED ISSUE

<u>ISSUE A:</u> **What is the appropriate amount of legal expense to be deferred, and over what period of time should it be amortized?**

OPC: This issue should be dropped because UIF entered a Notice of Voluntary Dismissal; therefore, UIF should be dismissed from the case and Docket 20200189-WS should be closed.

E. STIPULATED ISSUES:

None at this time.

F. PENDING MOTIONS:

None at this time.

G. REQUESTS FOR CONFIDENTIALITY:

OPC has no pending requests for claims for confidentiality.

H. OBJECTIONS TO QUALIFICATION OF WITNESSES AS AN EXPERT:

None at this time.

I. STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE:

There are no requirements of the Order Establishing Procedure with which the Office of Public Counsel cannot comply.

Dated this 21st day of May, 2021

Respectfully submitted,

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CERTIFICATE OF SERVICE
DOCKET NO. 20200151-EI, 20200189-WS &
20200194-PU

I HEREBY CERTIFY that a true and correct copy of the Office of Public Counsel's Prehearing Statement has been furnished by electronic mail on this 21st day of May 2021, to the following:

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