

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Storm protection plan cost recovery
clause.

DOCKET NO. 20210010-EI
ORDER NO. PSC-2021-0290-PHO-EI
ISSUED: July 30, 2021

PREHEARING ORDER

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on July 26, 2021, in Tallahassee, Florida, before Commissioner Andrew Giles Fay, as Prehearing Officer.

APPEARANCES:

DIANNE M. TRIPLETT, ESQUIRE, 299 First Avenue North, St. Petersburg, Florida 33701; and STEPHANIE A. CUELLO, ESQUIRE, 106 East College Avenue, Suite 800, Tallahassee, Florida 32301
On behalf of Duke Energy Florida, LLC (DEF).

CHRISTOPHER T. WRIGHT, ESQUIRE, Florida Power & Light Company, 700 Universe Boulevard, Juno Beach, Florida 33408-0420
On behalf of Florida Power & Light Company (FPL) and Gulf Power Company (GULF).

JAMES D. BEASLEY, J. JEFFRY WAHLEN, and MALCOM N. MEANS, ESQUIRES, Ausley McMullen, Post Office Box 391, Tallahassee, Florida 32302
On behalf of Tampa Electric Company (TECO).

RICHARD GENTRY, CHARLES REHWINKEL, and MARY A. WESSLING, ESQUIRES, Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399
On behalf of the Citizens of the State of Florida (OPC).

JON C. MOYLE, JR. and KAREN PUTNAL, ESQUIRES, Moyle Law Firm, PA, 118 North Gadsden Street, Tallahassee, Florida 32301
On behalf of the Florida Industrial Power Users Group (FIPUG).

JAMES W. BREW and LAURA WYNN BAKER, ESQUIRES, Stone Mattheis Xenopoulos & Brew, PC, 1025 Thomas Jefferson St., NW, Eighth Floor, West Tower, Washington, DC 20007
On behalf of White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs (PCS Phosphate).

PETER J. MATTHEIS and MICHAEL K. LAVANGA, ESQUIRES, Stone Mattheis Xenopoulos & Brew, PC, 1025 Thomas Jefferson St., NW, Eighth Floor, West Tower, Washington, DC 20007
On behalf of Nucor Steel Florida, Inc. (NUCOR).

STEPHANIE U. EATON, ESQUIRE, Spilman Thomas and Battle, PLLC, 110 Oakwood Drive, Suite 500, Winston-Salem, North Carolina 27103
On behalf of Walmart Inc. (WALMART).

SHAW P. STILLER, JENNIFER S. CRAWFORD, MARGO A. DUVAL, and STEFANIE-JO OSBORN, ESQUIRES, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Florida Public Service Commission (Staff).

MARY ANNE HELTON, ESQUIRE, Deputy General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
Advisor to the Florida Public Service Commission.

KEITH C. HETRICK, ESQUIRE, General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
Florida Public Service Commission General Counsel.

I. CASE BACKGROUND

In 2019, the Florida Legislature enacted Section 366.96, Florida Statutes (F.S.), entitled “Storm protection plan cost recovery.” Pursuant to Subsection 366.96(7), F.S., the Commission must conduct an annual proceeding to determine a utility’s prudently incurred transmission and distribution storm protection plan costs and allow the utility to recover such costs through a charge separate and apart from its base rates, to be referred to as the storm protection plan cost recovery clause (“SPPCRC”). If the Commission determines that costs were prudently incurred, those costs will not be subject to disallowance or further prudence review except for fraud, perjury, or intentional withholding of key information by the public utility.

DEF, FPL (representing the merged and consolidated operations of FPL and the former GULF), and TECO petitioned the Commission for recovery of costs through the SPPCRC on May 3, 2021. This docket is set for an administrative hearing on August 3-6, 2021. OPC, FIPUG, PCS Phosphate, NUCOR, and WALMART have each been granted intervention. On July 12, 2021, DEF, FPL, TECO, OPC, FIPUG, PCS Phosphate, NUCOR, WALMART, and Staff filed Prehearing Statements.

II. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, F.A.C., this Prehearing Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapter 366, F.S. This hearing will be governed by said Chapter, Chapter 120, F.S., and Chapters 25-6, 25-22, and 28-106, F.A.C., as well as any other applicable provisions of law.

IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Information for which proprietary confidential business information status is requested pursuant to Section 366.093, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Subsection 119.07(1), F.S., pending a formal ruling on such request by the Commission or pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Section 366.093, F.S. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, F.S., to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, F.S., at the hearing shall adhere to the following:

- (1) When confidential information is used in the hearing that has not been filed as prefiled testimony or prefiled exhibits, parties must follow the procedures for providing confidential electronic exhibits to the Commission Clerk prior to the hearing.
- (2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the

Office of Commission Clerk's confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C., if continued confidentiality of the information is to be maintained.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties (and Staff) has been prefiled and will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to timely and appropriate objections. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to three minutes.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer. After all parties and Staff have had the opportunity to cross-examine the witness, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

The parties shall avoid duplicative or repetitious cross-examination. Further, friendly cross-examination will not be allowed. Cross-examination shall be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Any party conducting what appears to be a friendly cross-examination of a witness should be prepared to indicate why that witness's direct testimony is adverse to its interests.

All witnesses have been excused with testimony and exhibits to be included in the record.

VI. ORDER OF WITNESSES

| <u>Witness</u> | <u>Proffered By</u> | <u>Issues #</u> |
|-------------------------|---------------------|-----------------|
| <u>Direct</u> | | |
| Christopher A. Menendez | DEF | 1 - 9 |
| Sharon Bauer | DEF | 2 - 3 |

| | | |
|---------------------------|----------|-------------------------------|
| Ron Adams | DEF | 2 - 3 |
| David Doss | DEF | 2 - 3 |
| Brian Lloyd | DEF | 2 - 3 |
| Michael Jarro | FPL/GULF | 2 - 4 |
| Renae Deaton ¹ | FPL/GULF | 1 - 12 |
| Mark R. Roche | TECO | 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 |
| David L. Plusquellic | TECO | 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 |
| Lisa V. Perry | WALMART | 7 |

VII. BASIC POSITIONS

DEF: Not applicable. DEF's positions on specific issues are listed below.

**FPL &
GULF:**

FPL's actual/estimated true-up of its 2021 SPP costs is consistent with the 2021 SPPCRC Factors approved by Commission Order No. PSC-2020-0409-AS-EI, consistent with the FPL SPP approved by Commission Order No. PSC-2020-0293-AS-EI, applies the methodology and prescribed schedules contained in Commission Forms 1E through 9E, and meets the requirements of Section 366.96, F.S., and Rule 25-6.031(7)(b), F.A.C. Therefore, the Commission should approve FPL's actual/estimated true-up over-recovery amount of \$742,850, including interest, for the period of January 2021 through December 2021.

Gulf's actual/estimated true-up of its 2021 SPP costs is consistent with the 2021 SPPCRC Factors approved by Commission Order No. PSC-2020-0409-AS-EI, consistent with the Gulf SPP approved by Commission Order No. PSC-2020-0293-AS-EI, applies the methodology and prescribed schedules contained in Commission Forms 1E through 9E, and meets the requirements of Section 366.96, F.S., and Rule 25-6.031(7)(b), F.A.C. Therefore, the Commission should approve Gulf's actual/estimated true-up over-recovery amount of \$974,333, including interest, for the period of January 2021 through December 2021.

FPL's consolidated 2022 SPPCRC Factors are reasonable, are consistent with the FPL and Gulf 2020-2029 SPPs approved by Commission Order No. PSC-2020-0409-AS-EI, fully comply with the requirements of Section 366.96, F.S., and Rule 25-6.031, F.A.C., and are consistent with the Commission's methodology for calculating the recovery factors. Therefore, subject to and contingent upon the

¹ On July 1, 2021, FPL filed an Errata Sheet correcting page 12, line 17 of the direct testimony of FPL witness Deaton to reflect that the 2022 SPPCRC projections reflected the depreciation rates proposed in FPL's 2021 Rate Case pending in Docket No. 20210015-EI. No other changes or corrections have been made to the direct testimony or exhibits of FPL witness Deaton.

Commission's approval of FPL's request in the 2021 Rate Case pending in Docket No. 20210015-EI to unify rates, the Commission should approve the consolidated 2022 SPPCRC Factors set forth in Appendix III of Exhibit RBD-1 attached to the direct testimony of FPL witness Deaton for application to bills beginning the first billing cycle in January 2022 through the last billing cycle December 2022, and continuing until modified by subsequent order of this Commission.

In the event the Commission declines to approve FPL's pending request for unified rates in Docket No. 20210015-EI, the Commission should approve the standalone FPL and Gulf 2022 SPPCRC Factors set forth in Appendices I and II, respectively, of Exhibit RBD-2 attached to the direct testimony of FPL witness Deaton for application to bills beginning the first billing cycle in January 2022 through the last billing cycle December 2022, and continuing until modified by subsequent order of this Commission. The standalone FPL and Gulf 2022 SPPCRC Factors are reasonable, are consistent with the FPL and Gulf 2020-2029 SPPs approved by Commission Order No. PSC-2020-0409-AS-EI, fully comply with the requirements of Section 366.96, F.S., and Rule 25-6.031, F.A.C., and are consistent with the Commission's methodology for calculating the recovery factors.

Finally, in the event the Commission adopts any changes or modifications in the 2021 Rate Case pending in Docket No. 20210015-EI that impact the 2022 jurisdictional cost recovery amounts, FPL will include those impacts and adjustment in its 2022 actual/estimated and final true-up filings for Commission review and approval. FPL will have the burden in its 2022 actual/estimated and final true-up filings to demonstrate that any changes or modifications adopted by the Commission in the 2021 Rate Case that impact the 2022 jurisdictional cost recovery amounts have been incorporated into the 2022 actual/estimated and final true-up filings.

TECO: The Commission should determine that Tampa Electric has properly calculated its Storm Protection Plan cost recovery true-up and projections and the Storm Protection Plan cost recovery factors set forth in the testimony and exhibits of witness Mark R. Roche during the period January 2022 through December 2022. The Commission should find that Tampa Electric's actual 2020 Storm Protection Plan costs were prudently incurred.

OPC: The OPC's basic position in this case is that the Commission's determinations regarding the Storm Protection Plans (SPP) that have been filed must be consistent with the provisions and the public policy contained in Section 366.96, Florida Statutes, Rule 25-6.030 and Rule 25-6.031, F.A.C. The OPC supports the goal of the legislature in encouraging cost-effective measures to enhance the resiliency and reliability of investor-owned electric utilities' (IOUs) existing infrastructure for the benefits of customers and the state as a whole.

The utilities have the burden of proof to justify and support the recovery of costs and their proposal(s) seeking the Commission's adoption of policy statements (whether new or changed) or other affirmative relief sought, regardless of whether the Interveners provide evidence to the contrary. Regardless of whether the Commission has previously approved a program as meeting the Commission's requirements, the utilities must still meet their burden of demonstrating that the costs submitted for final recovery meet the statutory test(s) and are reasonable in amount and prudently incurred.

FIPUG: The respective petitioners must prove that amounts sought to be recovered through the Storm Protection Plan Cost Recovery Clause are reasonable, prudent and within the scope of the SPPCRC as authorized.

PCS

PHOSPHATE: In Order No. PSC-2021-0202-AS-EI, issued June 4, 2021, the Commission approved a multi-year base rate agreement for Duke Energy Florida, LLC ("Duke" or "DEF"). The agreement confirmed that all Storm Protection Plan costs eligible for recovery in the Storm Protection Plan Cost Recovery Clause ("SPPCRC") were being removed from base rates and subject to recovery in the SPPCRC factor to be established in this docket. This rate setting change, along with increases in DEF storm protection plan spending, is producing a significant increase in the SPPCRC factor compared to the initial factor established for the year 2021. PCS has ongoing concerns regarding the appropriate allocation of costs that are subject to recovery through this clause.

NUCOR: This case addresses the Storm Protection Plan Cost Recovery Clauses ("SPPCRC") of several utilities. Since Nucor is a customer of Duke Energy Florida, LLC ("DEF"), Nucor's interest in this case is limited to DEF's SPPCRC. Nucor's basic position is that DEF bears the burden of proof to justify the costs it seeks to recover through the SPPCRC and any other relief DEF requests in this proceeding.

WALMART: The Commission should carefully consider the Utilities' respective SPP cost allocation proposals and rate design for this separate charge to their respective customers pursuant to the SPPCRC. *See* § 366.96(7), F.S.

As for cost allocation, DEF proposes to allocate the demand component based on each rate classes' contribution to monthly system peaks adjusted for certain losses and allocate the energy component based on each classes' contribution to total kWh sales adjusted for certain losses. *See* Direct Testimony of Christopher A. Menendez, p. 15, line 17 to p. 16, line 2. FPL/Gulf proposes to allocate SPP costs consistent with FPL's last rate case by allocating transmission costs to all rate classes based on the 12 monthly Coincident Peak, and distribution costs based on the Group Non-Coincident Peak. *See* Direct Testimony of Renae B. Deaton, p. 13, lines 18-24. Lastly, TECO is proposing to allocate SPP costs consistent with its cost of service study prepared for Docket No. 20130040-EI and as applied for its

current base rates. *See* Testimony and Exhibit of Mark R. Roche, p. 22, lines 10-15. Walmart is in agreement with the proposed cost allocations as set forth by the Utilities.

As to rate design, the Utilities, including DEF, are proposing to recover SPP costs from their demand customers through a demand charge, or \$/kW charge, in each Utility's SPPCRC.² Walmart does not oppose the Utilities' proposed methodology for allocating SPP costs and recovering those costs from their demand-metered customers through the demand charge, on a \$/kW basis. *See* generally Direct Testimony of Lisa V. Perry.

No other party has proposed an alternative allocation, rate design, or other modifications to the Utilities' proposed methodologies.

STAFF: Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions stated herein.

VIII. ISSUES AND POSITIONS

ISSUE 1: What are the final Storm Protection Plan Cost Recovery Clause jurisdictional cost recovery true-up amounts for the period January 2020 through December 2020?

Type 2 Proposed Stipulation, See Section X

ISSUE 2: What are the actual/estimated Storm Protection Plan Cost Recovery Clause jurisdictional cost recovery true-up amounts for the period January 2021 through December 2021?

Type 2 Proposed Stipulation, See Section X

ISSUE 3: What are the projected Storm Protection Plan Cost Recovery Clause jurisdictional cost recovery amounts for the period January 2022 through December 2022?

² *See* Direct Testimony of Christopher A. Menendez, Exh. No. 8 (CAM-2), Form 6P, p. 83; *see* Petition of Florida Power & Light Company for Approval of the 2021 Actual/Estimated Storm Protection Plan Cost Recovery Clause True-Up and the 2022 Projected Storm Protection Plan Cost Recovery Clause Factors, Form 5P; *see* Testimony and Exhibit of Mark R. Roche, p. 22, lines 19-20.

Type 2 Proposed Stipulation, See Section X

ISSUE 4: What are the Storm Protection Plan Cost Recovery Clause total jurisdictional cost recovery amounts, including true-ups, to be included in establishing Storm Protection Plan Cost Recovery factors for the period January 2022 through December 2022?

Type 2 Proposed Stipulation, See Section X

ISSUE 5: What depreciation rates should be used to develop the depreciation expense included in the total Storm Protection Plan Cost Recovery Clause amounts for the period January 2022 through December 2022?

Type 2 Proposed Stipulation, See Section X

ISSUE 6: What are the appropriate jurisdictional separation factors for the projected period January 2022 through December 2022?

Type 2 Proposed Stipulation, See Section X

ISSUE 7: What are the appropriate Storm Protection Plan Cost Recovery Clause factors for the period January 2022 through December 2022 for each rate group?

Type 2 Proposed Stipulation, See Section X

ISSUE 8: What should be the effective date of the new Storm Protection Plan Cost Recovery Clause factors for billing purposes?

Type 2 Proposed Stipulation, See Section X

ISSUE 9: Should the Commission approve revised tariffs reflecting the new Storm Protection Plan Cost Recovery Clause factors determined to be appropriate in this proceeding?

Type 2 Proposed Stipulation, See Section X

ISSUE 10: In the event that the Commission declines to approve FPL's pending request for unified rates in Docket No. 20210015-EI, what are the appropriate Storm Protection Plan Cost Recovery Clause factors for the period January 2022 through December 2022?

Type 2 Proposed Stipulation, See Section X

ISSUE 11: How should the assumptions used to develop FPL's 2022 Storm Protection Plan Cost Recovery Clause factors approved in this proceeding be revised to

reflect any changes or modifications adopted by the Commission in the 2021 Rate Case pending in Docket No. 20210015-EI?

Type 2 Proposed Stipulation, See Section X

ISSUE 12: Should this docket be closed?

Type 2 Proposed Stipulation, See Section X

IX. EXHIBIT LIST

| <u>Witness</u> | <u>Proffered By</u> | | <u>Description</u> |
|----------------------|---------------------|-------------------|---|
| <u>Direct</u> | | | |
| Christopher Menendez | DEF | (CAM-1) | Schedules supporting Duke's 2021 amount |
| Christopher Menendez | DEF | (CAM-2) | Schedules supporting Duke's 2022 amount |
| Sharon Bauer | DEF | (CAM-1) | Schedules supporting Duke's 2021 amount |
| Sharon Bauer | DEF | (CAM-2) | Schedules supporting Duke's 2022 amount |
| Ron Adams | DEF | (CAM-2) | Schedules supporting Duke's 2022 amount |
| Brian Lloyd | DEF | (CAM-1) | Schedules supporting Duke's 2021 amount |
| Brian Lloyd | DEF | (CAM-2) | Schedules supporting Duke's 2022 amount |
| Michael Jarro | FPL | MJ-1 ³ | FPL Storm Protection Plan 2020-2029, approved by the Commission in Docket No. 20200071-EI |

³ On May 25, 2021, FPL filed an Errata Sheet correcting the headers on Exhibits MJ-1 and MJ-2 attached to the direct testimony of FPL witness Jarro to remove references to prior dockets and to

| <u>Witness</u> | <u>Proffered By</u> | | <u>Description</u> |
|----------------|---------------------|-------------------------------|---|
| Michael Jarro | GULF | MJ-2 ⁴ | Gulf Storm Protection Plan 2020-2029, approved by the Commission in Docket No. 20200070-EI |
| Michael Jarro | FPL | MJ-3 | FPL Actual/Estimated Storm Protection Plan Work to be Completed in 2021 |
| Michael Jarro | GULF | MJ-4 | Gulf Actual/Estimated Storm Protection Plan Work to be Completed in 2021 |
| Michael Jarro | FPL | MJ-5 | Consolidated FPL Storm Protection Plan Work Projected to be Completed in 2022 |
| Michael Jarro | FPL | MJ-6 | Supplemental Standalone FPL Storm Protection Plan Work Projected to be Completed in 2022 |
| Michael Jarro | GULF | MJ-7 | Supplemental Standalone Gulf Storm Protection Plan Work Projected to be Completed in 2022 |
| Michael Jarro | FPL | Form 6P in RBD-1 Appendix III | Form 6P - Program Description and Progress Report: Describes the program activities, identifies the fiscal expenditures incurred to date, reports on the progress for the current year, and provides a projection of work to be completed and the associated costs for the subsequent year. |

correct the pagination of each exhibit. No other changes or corrections have been made to the direct testimony or exhibits of FPL witness Jarro.

⁴ See footnote [above].

| <u>Witness</u> | <u>Proffered By</u> | <u>Description</u> |
|----------------|----------------------------|---|
| Rena Deaton | FPL RBD-1 Appendix I | FPL 2021 Actual/Estimated SPPCRC: <ul style="list-style-type: none">- Form 1E - Summary of Current Period Estimated True-Up- Form 2E - Calculation of True-Up Amount-Form 3E - Calculation of Interest Provision for True-Up Amount- Form 4E - Variance Report of Annual O&M Costs by Program- Form 5E - Calculation of Annual Revenue Requirements for O&M Programs- Form 6E - Variance Report of Annual Capital Investment Costs by Program- Form 7E Summary - Calculation of Annual Revenue Requirements for Capital Investment Programs- Form 7E - Capital - Estimated Revenue Requirements by Program- Form 8E – Approved Capital Structure and Cost Rates |

| <u>Witness</u> | <u>Proffered By</u> | <u>Description</u> |
|----------------|---------------------|--|
| Rena Deaton | GULF | RBD-1 Appendix II |
| | | Gulf 2021 Actual/Estimated SPPCRC: <ul style="list-style-type: none">- Form 1E - Summary of Current Period Estimated True-Up- Form 2E - Calculation of True-Up Amount-Form 3E - Calculation of Interest Provision for True-Up Amount- Form 4E - Variance Report of Annual O&M Costs by Program- Form 5E - Calculation of Annual Revenue Requirements for O&M Programs- Form 6E - Variance Report of Annual Capital Investment Costs by Program- Form 7E Summary - Calculation of Annual Revenue Requirements for Capital Investment Programs- Form 7E - Capital - Estimated Revenue Requirements by Program- Form 8E – Approved Capital Structure and Cost Rates |

| <u>Witness</u> | <u>Proffered By</u> | <u>Description</u> |
|----------------|---------------------|---|
| Rena Deaton | FPL | <p>RBD-1 Appendix III</p> <p>Consolidated FPL 2022 Projections: - Form 1P - Summary of Projected Period Recovery Amount - Form 2P - Calculation of Annual Revenue Requirements for O&M Programs - Form 2P - Projects - Project Listing by Each O&M Program - Form 3P - Calculation of the Total Annual Revenue Requirements for Capital Investment Programs - Form 3P - Projects - Project Listing by Each Capital Program - Form 3P - Capital - Calculation of Annual Revenue Requirements for Capital Investment by Program - Form 4P - Calculation of the Energy & Demand Allocation % By Rate Class - Form 5P - Calculation of the Cost Recovery Factors by Rate Class - Form 7P - Approved Capital Structure and Cost Rates</p> |
| Rena Deaton | FPL | <p>RBD-1 Appendix IV</p> <p>Retail separation factors</p> |
| Rena Deaton | FPL | <p>RBD-1 Appendix V</p> <p>Allocation of implementation costs between transmission and distribution</p> |

| <u>Witness</u> | <u>Proffered By</u> | <u>Description</u> |
|----------------|---------------------|---|
| Rena Deaton | FPL | RBD-2 Appendix I |
| | | Supplemental Standalone FPL 2022 Projections: <ul style="list-style-type: none">- Form 1P - Summary of Projected Period Recovery Amount- Form 2P - Calculation of Annual Revenue Requirements for O&M Programs- Form 2P - Projects - Project Listing by Each O&M Program- Form 3P - Calculation of the Total Annual Revenue Requirements for Capital Investment Programs- Form 3P - Projects - Project Listing by Each Capital Program- Form 3P - Capital - Calculation of Annual Revenue Requirements for Capital Investment by Program- Form 4P - Calculation of the Energy & Demand Allocation % By Rate Class- Form 5P - Calculation of the Cost Recovery Factors by Rate Class- Form 7P - Approved Capital Structure and Cost Rates |

| <u>Witness</u> | <u>Proffered By</u> | | <u>Description</u> |
|----------------|---------------------|---|--|
| Rena Deaton | GULF | RBD-2 Appendix II | <p>Supplemental Standalone Gulf 2022 Projections:</p> <ul style="list-style-type: none"> - Form 1P - Summary of Projected Period Recovery Amount - Form 2P - Calculation of Annual Revenue Requirements for O&M Programs - Form 2P - Projects - Project Listing by Each O&M Program - Form 3P - Calculation of the Total Annual Revenue Requirements for Capital Investment Programs - Form 3P - Projects - Project Listing by Each Capital Program - Form 3P - Capital - Calculation of Annual Revenue Requirements for Capital Investment by Program - Form 4P - Calculation of the Energy & Demand Allocation % By Rate Class - Form 5P - Calculation of the Cost Recovery Factors by Rate Class - Form 7P - Approved Capital Structure and Cost Rates |
| Mark R. Roche | TECO | MRR-1; Schedule A-1, filed April 1, 2021 | Schedules supporting cost recovery amount, actual January 2020 – December 2020 |

| <u>Witness</u> | <u>Proffered By</u> | <u>Description</u> | |
|----------------------|---------------------|--|---|
| Mark R. Roche | TECO | MRR-2; Schedule E-1 and E-2, filed May 3, 2021; revised May 10, 2021 | Schedules supporting cost recovery amount, projected January 2021- December 2021. |
| Mark R. Roche | TECO | MRR-2; Schedule P-1, filed May 3, 2021; revised May 10, 2021 | Schedules supporting costs recovery amount, projected for the period January 2022 – December 2022 |
| David L. Plusquellic | TECO | DLP-1 filed April 1, 2021 | Storm Protection Plan Accomplishments |
| David L. Plusquellic | TECO | DLP-2 filed May 3, 2021; revised May 10, 2021 | Project List and Summary of Costs |
| Lisa V. Perry | WALMART | LVP-1 | Witness Qualifications Statement |

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination. The procedure for submitting exhibits to be used during cross-examination is set forth in Attachment A to this Prehearing Order.

X. PROPOSED STIPULATIONS

There are proposed Type 2 stipulations⁵ as stated below.

DEF, FPL/Gulf, and TECO support proposed stipulations one through nine, and twelve (1-9 & 12). FIPUG, PCS Phosphate, NUCOR, and Walmart take no positions on these issues.

⁵ A Type 2 stipulation occurs on an issue when the utility and the staff, or the utility and at least one party adversarial to the utility, agree on the resolution of the issue and the remaining parties (including staff if they do not join in the agreement) do not object to the Commission relying on the agreed language to resolve that issue in a final order.

FPL/Gulf supports proposed stipulations ten and eleven (10 & 11). DEF, TECO, FIPUG, PCS Phosphate, NUCOR, and Walmart take no positions on these issues.

The OPC position on each Type 2 stipulation, one through 12 (1-12), is as follows:

OPC takes no position on these issues nor does it have the burden of proof related to them. As such, the OPC represents that it will not contest or oppose the Commission taking action approving a proposed stipulation between the Company and another party or staff as a final resolution of the issue. No person is authorized to state that the OPC is a participant in, or party to, a stipulation on these issues, either in this docket, in an order of the Commission or in a representation to a Court.

All witnesses are excused. All testimony and all hearing exhibits are to be included in the record.

PROPOSED STIPULATION

ISSUE 1: What are the final Storm Protection Plan Cost Recovery Clause jurisdictional cost recovery true-up amounts for the period January 2020 through December 2020?

DEF: \$0

**FPL &
GULF:** \$0

TECO: Under-recovery of \$4,996,136, including interest.

PROPOSED STIPULATION

ISSUE 2: What are the actual/estimated Storm Protection Plan Cost Recovery Clause jurisdictional cost recovery true-up amounts for the period January 2021 through December 2021?

DEF: Over-recovery of \$966,652.

**FPL &
GULF:** FPL's actual/estimated true-up amount, including interest, is an over-recovery of \$742,850. Gulf's actual/estimated true-up amount, including interest, is an over-recovery of \$974,333.

TECO: For the period January through December 2021, the total net true-up /over-recovery is \$443,115 including interest. Due to 2021 being the first year of cost recovery, the projected costs for 2020 were being recovered during the 2021 period. This resulted in an additional over-recovery amount during the period of \$990,560, including

interest, which resulted in a total end of period true-up over-recovery of \$1,433,675 for 2021.

PROPOSED STIPULATION

ISSUE 3: What are the projected Storm Protection Plan Cost Recovery Clause jurisdictional cost recovery amounts for the period January 2022 through December 2022?

DEF: \$105,270,501.

**FPL &
GULF:**

FPL has requested that the Commission approve unified rates (FPL & Gulf) in Docket No. 20210015-EI. If the Commission approves this request, the total costs associated with the consolidated SPP programs projected to be incurred between January 1, 2022 and December 31, 2022, are \$234,663,632. If the Commission does not approve unified rates, the total costs associated with the SPP programs projected to be incurred between January 1, 2022, and December 31, 2022, are \$215,055,700 for standalone FPL and \$19,568,582 for standalone Gulf.

TECO: \$49,354,329.

PROPOSED STIPULATION

ISSUE 4: What are the Storm Protection Plan Cost Recovery Clause total jurisdictional cost recovery amounts, including true-ups, to be included in establishing Storm Protection Plan Cost Recovery factors for the period January 2022 through December 2022?

DEF: \$104,303,849.

**FPL &
GULF:**

FPL has requested that the Commission approve unified rates (FPL & Gulf) in Docket No. 20210015-EI. If the Commission approves this request, the total jurisdictional SPP costs for consolidated FPL are \$233,114,170, including prior period true-up amounts and revenue taxes. If the Commission does not approve unified rates, the total jurisdictional SPP costs are \$214,467,156 for standalone FPL and \$18,607,637 for standalone Gulf, including prior period true-up amounts and revenue taxes.

TECO: \$47,955,157 including current period estimated true-up.

PROPOSED STIPULATION

ISSUE 5: What depreciation rates should be used to develop the depreciation expense included in the total Storm Protection Plan Cost Recovery Clause amounts for the period January 2022 through December 2022?

DEF: The depreciation rates approved in Order No. PSC-2021-0202A-AS-EI.

FPL &

GULF: The depreciation rates used to calculate the depreciation expense will be the final depreciation rates approved by the Commission in Docket No. 20210015-EI in the 2022 actual/estimated and final true-up filings.

TECO: The depreciation rates approved in Order No. PSC-12-0175-PAA-EI.

PROPOSED STIPULATION

ISSUE 6: What are the appropriate jurisdictional separation factors for the projected period January 2022 through December 2022?

DEF: DEF will apply the appropriate jurisdictional separation factors approved in Order No. PSC-2021-0202A-AS-EI, shown in the MFRs for 2022 in Exhibit 1:

Distribution: 1.0000000
Transmission: 0.7199434
Labor: 0.9541460

FPL &

GULF: FPL has requested that the Commission approve unified rates (FPL & Gulf) in Docket No. 20210015-EI. If the Commission approves this request, the appropriate FPL consolidated jurisdictional separation factors for the period January 2022 through December 2022 are:

Consolidated FPL

Retail Jurisdictional Factors

| | |
|---|------------|
| a. Distribution Demand Jurisdictional Factor | 1000.0000% |
| b. Transmission Demand Jurisdictional Factor | 90.2581% |
| c. General & Intangible Plant Jurisdictional Factor | 96.8984% |

If the Commission does not approve unified rates, the appropriate jurisdictional separation factors for standalone FPL and standalone Gulf for the period January 2022 through December 2022 are:

Standalone FPL

Retail Jurisdictional Factors

| | |
|---|------------|
| a. Distribution Demand Jurisdictional Factor | 1000.0000% |
| b. Transmission Demand Jurisdictional Factor | 90.1706% |
| c. General & Intangible Plant Jurisdictional Factor | 96.2686% |

Consolidated Gulf

Retail Jurisdictional Factors

| | |
|---|------------|
| a. Distribution Demand Jurisdictional Factor | 1000.0000% |
| b. Transmission Demand Jurisdictional Factor | 97.4531% |
| c. General & Intangible Plant Jurisdictional Factor | 99.7842% |

TECO: The appropriate jurisdictional separation factors are as follows:

| | |
|----------------------------|----------|
| FPSC Jurisdictional Factor | 92.5763% |
| FERC Jurisdictional Factor | 7.4237% |

PROPOSED STIPULATION

ISSUE 7: What are the appropriate Storm Protection Plan Cost Recovery Clause factors for the period January 2022 through December 2022 for each rate group?

| DEF: | <u>Customer Class</u> | <u>SPPCRC Factor</u> |
|-------------|----------------------------------|----------------------|
| | Residential | 0.329 cents/kWh |
| | General Service Non-Demand | 0.277 cents/kWh |
| | @ Primary Voltage | 0.274 cents/kWh |
| | @ Transmission Voltage | 0.271 cents/kWh |
| | General Service 100% Load Factor | 0.132 cents/kWh |
| | General Service Demand | 0.69 \$/kW |
| | @ Primary Voltage | 0.67 \$/kW |
| | @ Transmission Voltage | 0.14 \$/kW |
| | Curtaillable | 0.65 \$/kW |
| | @ Primary Voltage | 0.64 \$/kW |
| | @ Transmission Voltage | 0.64 \$/kW |
| | Interruptible | 0.58 \$/kW |
| | @ Primary Voltage | 0.44 \$/kW |
| | @ Transmission Voltage | 0.11 \$/kW |
| | Standby Monthly | 0.063 \$/kW |

| | |
|------------------------|-----------------|
| @ Primary Voltage | 0.062 \$/kW |
| @ Transmission Voltage | 0.062 \$/kW |
| Standby Daily | 0.030 \$/kW |
| @ Primary Voltage | 0.030 \$/kW |
| @ Transmission Voltage | 0.029 \$/kW |
| Lighting | 0.212 cents/kWh |

**FPL &
GULF:**

FPL has requested that the Commission approve unified rates (FPL & Gulf) in Docket No. 20210015-EI. If the Commission approves this request, the appropriate FPL consolidated SPPCRC Factors for the period January 2022 through December 2022 are:

Consolidated FPL 2022 SPPCRC Factors

| Rate Class | SPP Factor (\$/kW) | SPP Factor (\$/kWh) | RDC (\$/KW) | SDD (\$/KW) |
|-----------------------------|--------------------|---------------------|-------------|-------------|
| RS1/RTR1 | | 0.00214 | | |
| GS1/GST1 | | 0.00202 | | |
| GSD1/GSDT1/HLFT1 | 0.64 | | | |
| OS2 | | 0.00600 | | |
| GSLD1/GSLDT1/CS1/CST1/HLFT2 | 0.73 | | | |
| GSLD2/GSLDT2/CS2/CST2/HLFT3 | 0.69 | | | |
| GSLD3/GSLDT3/CS3/CST3 | 0.07 | | | |
| SST1T | | | 0.09 | 0.04 |
| SST1D1/SST1D2/SST1D3 | | | 0.09 | 0.04 |
| CILC D/CILC G | 0.69 | | | |
| CILC T | 0.08 | | | |
| MET | 0.66 | | | |
| OL1/SL1/SL1M/PL1 | | 0.00221 | | |
| SL2/SL2M/GSCU1 | | 0.00136 | | |

If Commission does not approve unified rates, the appropriate standalone FPL and standalone Gulf SPPCRC Factors for the period January 2022 through December 2022 are:

Standalone FPL 2022 SPPCRC Factors

| Rate Class | SPP Factor (\$/kW) | SPP Factor (\$/kWh) | RDC (\$/KW) | SDD (\$/KW) |
|------------|--------------------|---------------------|-------------|-------------|
| RS1/RTR1 | | 0.00217 | | |
| GS1/GST1 | | 0.00197 | | |

| | | | | |
|-----------------------------|------|---------|------|------|
| GSD1/GSDT1/HLFT1 | 0.63 | | | |
| OS2 | | 0.00752 | | |
| GSLD1/GSLDT1/CS1/CST1/HLFT2 | 0.73 | | | |
| GSLD2/GSLDT2/CS2/CST2/HLFT3 | 0.66 | | | |
| GSLD3/GSLDT3/CS3/CST3 | 0.06 | | | |
| SST1T | | | 0.09 | 0.04 |
| SST1D1/SST1D2/SST1D3 | | | 0.09 | 0.04 |
| CILC D/CILC G | 0.70 | | | |
| CILC T | 0.06 | | | |
| MET | 0.64 | | | |
| OL1/SL1/SL1M/PL1 | | 0.00230 | | |
| SL2/SL2M/GSCU1 | | 0.00136 | | |

Standalone Gulf 2022 SPPCRC Factors

| RATE CLASS | SPP Factors (¢/kWh) | SPP Factors (\$/kW) |
|-------------------|------------------------|------------------------|
| RS, RSVP, RSTOU | 0.212 | |
| GS | 0.209 | |
| GSD, GSDT, GSTOU | 0.145 | 0.46 |
| LP, LPT | | 0.52 |
| PX, PXT, RTP, SBS | 0.112 | |
| OS-I/II | 0.099 | |

TECO: The January 2022 through December 2022 cost recovery clause factors utilizing the appropriate recognition of Federal Energy Regulatory Commission transmission jurisdictional separation, revenue tax factors and the rate design and cost allocation as put forth in Docket No. 20130040-EI are as follows:

| <u>Rate Schedule</u> | <u>Cost Recovery Factors (cents per kWh)</u> |
|--------------------------------|--|
| RS | 0.291 |
| GS and CS | 0.292 |
| GSD Optional – Secondary | 0.197 |
| GSD Optional – Primary | 0.195 |
| GSD Optional – Subtransmission | 0.193 |
| LS-1, LS-2 | 0.514 |

| <u>Rate Schedule</u> | <u>Cost Recovery Factors (dollars per kW)</u> |
|----------------------|---|
| GSD – Secondary | 0.84 |
| GSD – Primary | 0.83 |

| | |
|-----------------------|------|
| GSD – Subtransmission | 0.82 |
| SBF – Secondary | 0.84 |
| SBF – Primary | 0.83 |
| SBF – Subtransmission | 0.82 |
| IS - Primary | 0.11 |
| IS - Subtransmission | 0.11 |

TECO has certain proposals pending in Docket No. 20210034-EI that may affect storm protection plan recovery charges and associated tariffs. The above cost recovery clause factors may be amended to reflect base rate revisions ordered by the Commission.

PROPOSED STIPULATION

ISSUE 8: What should be the effective date of the new Storm Protection Plan Cost Recovery Clause factors for billing purposes?

DEF: The 2022 SPPCRC Factors will become effective for application to bills beginning the first billing cycle in January 2022 through the last billing cycle December 2022 and continuing until modified by subsequent order of this Commission.

**FPL &
GULF:**

The 2022 SPPCRC Factors will become effective for application to bills beginning the first billing cycle in January 2022 through the last billing cycle December 2022 and continuing until modified by subsequent order of this Commission.

TECO: The 2022 SPPCRC Factors will become effective for application to bills beginning the first billing cycle in January 2022 through the last billing cycle December 2022 and continuing until modified by subsequent order of this Commission.

PROPOSED STIPULATION

ISSUE 9: Should the Commission approve revised tariffs reflecting the new Storm Protection Plan Cost Recovery Clause factors determined to be appropriate in this proceeding?

DEF: Yes. The Commission should approve DEF's revised tariffs reflecting the Storm Protection Plan Cost Recovery Clause factors determined to be appropriate in this proceeding. The Commission should direct staff to verify that the revised tariffs are consistent with the Commission's decision. Commission should grant Staff administrative authority to approve revised tariffs reflecting the new Storm Protection Plan Cost Recovery Clause factors determined to be appropriate in this proceeding.

FPL &

GULF:

Yes. FPL will submit revised tariffs reflecting the Storm Protection Plan Cost Recovery Clause factors determined to be appropriate in this proceeding. The Commission should direct staff to verify that the revised tariffs are consistent with the Commission's decision. Commission should grant Staff administrative authority to approve revised tariffs reflecting the new Storm Protection Plan Cost Recovery Clause factors determined to be appropriate in this proceeding.

TECO:

Yes. The Commission should approve TECO's revised tariffs reflecting the Storm Protection Plan Cost Recovery Clause factors determined to be appropriate in this proceeding. The Commission should direct staff to verify that the revised tariffs are consistent with the Commission's decision. Commission should grant Staff administrative authority to approve revised tariffs reflecting the new Storm Protection Plan Cost Recovery Clause factors determined to be appropriate in this proceeding.

PROPOSED STIPULATION

ISSUE 10: In the event that the Commission declines to approve FPL's pending request for unified rates in Docket No. 20210015-EI, what are the appropriate Storm Protection Plan Cost Recovery Clause factors for the period January 2022 through December 2022?

FPL &

GULF:

Same as Issue 7.

PROPOSED STIPULATION

ISSUE 11: How should the assumptions used to develop FPL's 2022 Storm Protection Plan Cost Recovery Clause factors approved in this proceeding be revised to reflect any changes or modifications adopted by the Commission in the 2021 Rate Case pending in Docket No. 20210015-EI?

FPL &

GULF:

In the event the Commission adopts any changes or modifications in the 2021 Rate Case pending in Docket No. 20210015-EI that impact or require adjustments to the consolidated, standalone FPL, or standalone Gulf 2022 SPPCRC jurisdictional amounts, FPL will include those impacts and adjustment in its 2022 actual/estimated and final true-up filings for Commission review and approval. FPL will have the burden in its 2022 actual/estimated and final true-up filings to demonstrate that any changes or modifications adopted by the Commission in the 2021 Rate Case that impact the 2022 SPPCRC jurisdictional amounts have been incorporated into the 2022 actual/estimated and final true-up filings.

PROPOSED STIPULATION

ISSUE 12: Should this docket be closed?

No. This is a continuing docket and should remain open until a new docket number is assigned next year.

XI. PENDING MOTIONS

There are no pending motions at this time.

XII. PENDING CONFIDENTIALITY MATTERS

There are no pending confidentiality matters at this time.

XIII. POST-HEARING PROCEDURES

If no bench decision is made, each party shall file a post-hearing statement of issues and positions. A summary of each position, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of this Prehearing Order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, F.A.C., a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages and shall be filed at the same time.

XIV. RULINGS

Opening statements, if any, shall not exceed three minutes per party.

It is therefore,

ORDERED by Commissioner Andrew Giles Fay, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Andrew Giles Fay, as Prehearing Officer, this 30th day of July, 2021.



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.

SPS/SFO/MAD

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.

ATTACHMENT A

Requirements related to providing Cross-Examination Exhibits prior to Hearing

By July 29, 2021, each party must provide the Commission Clerk an electronic copy of all cross-examination exhibits, including impeachment exhibits, the party plans to use during the hearing. All cross-examination exhibits must be provided to the Clerk's Office on either USB flash drives or CDs. Confidential documents must be placed on one USB flash drive or CD, and non-confidential exhibits must be placed on a different or separate USB flash drive or CD. This is because the Clerk's Office will process the confidential exhibits, and will transmit all non-confidential exhibits to the General Counsel's Office for processing. All USB flash drives or CDs provided to the Clerk's Office must be clearly labeled as confidential or non-confidential, and the label must also include the Docket Number(s) and the name of the party providing the exhibits.

Each party must also provide to the Clerk by close of business July 29, 2021, a table listing the exhibit numbers and short titles of each cross-examination exhibit provided to the Clerk. Pursuant to Rule 25-22.006(3), F.A.C., a notice of intent to request confidential classification must be filed for all confidential information.

Each party must pre-number each exhibit with the following sequential numbering system that clearly denotes confidential exhibits. For example, Duke Energy Florida, LLC will pre-identify its cross-examination exhibits DEF-1, DEF-2, DEF-3, etc. All confidential exhibits must include the letter "C" placed after the number. Thus, if DEF's third exhibit is confidential, it will be labeled DEF-3C.

Each exhibit must be saved as a separate electronic file, and each file must be labeled with the exhibit number that reflects the information contained in the exhibit. The exhibit number will serve as the filename in the virtual folder during the hearing. Each exhibit must also include a cover page that includes the exhibit number. In addition, each exhibit must include sequentially numbered pages. The page numbers must be placed in the upper right-hand corner of each page.

The confidential and non-confidential cross-examination exhibits will be made available to the parties in virtual folders the day before the hearing. The cross-examination exhibits will be made available to the parties for the sole purpose of providing the witnesses and their counsel with the opportunity to print the exhibits or download them to their electronic devices for use during the hearing. The parties must not view or read the exhibits prior to the hearing. Parties will be provided usernames and passwords by Commission staff that will give them access to the confidential exhibits and any other confidential information that will be used during the hearing. By close of business July 29, 2021, parties must provide the Commission Clerk with the list of names of those persons who should be given a user name and password to access confidential information.