

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Review of 2022-2031 Storm Protection Plan, pursuant to Rule 25-6.030, F.A.C., Florida Public Utility Company.

DOCKET NO.: 20220049-EI

FILED: July 13, 2022

**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-2022-0119-PCO-EI, issued March 17, 2022, and the Amended Order Establishing Procedure, Order No. PSC-2022-0226-PCO-EI, issued June 24, 2022, hereby submit this Prehearing Statement.

**APPEARANCES:**

Richard Gentry  
Public Counsel

Patricia A. Christensen  
Associate Public Counsel

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

On behalf of the Citizens of the State of Florida

**1. WITNESSES:**

<b>Witness</b>	<b>Subject Matter</b>	<b>Issue #</b>
<b>Direct</b>		
Lane Kollen	Storm Protection Plan, Costs/Benefits, Decision Criteria for SPP	1, 2, 5, 6, 10, OPC Issue A-E
Kevin Mara	Storm Protection Plan, Costs/Benefits, Decision Criteria for SPP	1, 2, 3, 4, 5, 6, 10, OPC Issue A-E

**2. EXHIBITS:**

<b>Witness</b>	<b>Proffered By</b>	<b>Exhibit No.</b>	<b>Description</b>	<b>Issue #</b>
Lane Kollen	OPC	LK-1	Resume	All Issues

Lane Kollen	OPC	LK-2	Summary of Each Utility's Decision Criteria	All Issues
Lane Kollen	OPC	LK-3	OPC's Third Set of Interrogatories No. 13	All Issues
Lane Kollen	OPC	LK-4	OPC's Third Set of Interrogatories No. 14	All Issues
Lane Kollen	OPC	LK-5	OPC's Second Set of Interrogatories No. 9	All Issues
Lane Kollen	OPC	LK-6	OPC's Third Set of Interrogatories No. 19	All Issues
Lane Kollen	OPC	LK-7	OPC's Third Set of Interrogatories No. 20	All Issues
Kevin J. Mara	OPC	KJM-1	Curriculum Vitae	All Issues
Kevin J. Mara	OPC	KJM-2	Florida 2018 Hurricane Preparedness Report	All Issues
Kevin J. Mara	OPC	KJM-3	138 KV Transmission Line Alt 1A	All Issues
Kevin J. Mara	OPC	KJM-4	Fernandina Observer Article	All Issues
Kevin J. Mara	OPC	KJM-5	DOE CHP Dataset	All Issues

### **3. STATEMENT OF BASIC POSITION**

FPUC's Storm Protection Plan programs and projects are not prudent and reasonable and the costs are not reasonable as presented. The burden of proof remains on the company to justify compliance with the statute and rules, as well as to demonstrate the reasonableness and prudence of the programs and projects and their related costs. By challenging these programs, projects, and costs, the OPC and its experts have not assumed the burden of proof in this case.

FPUC is proposing to spend a total capital costs of \$243.1 million plus an incremental \$20 million in O&M costs for the SPP plan. FPUC has provided no dollar benefits. SPP programs and projects should be authorized only if the benefits exceed the costs; in other words, the benefit-to-cost ratio should be at least 100%. FPUC should be required to amend their filing and provide the necessary data for each program as required by Rule 25-6.030, F.A.C. with an opportunity for intervenors to provide review and testimony.

However, if an amended filing is not required, given FPUC's lack of decision criteria or dollar cost benefits, the Commission should look at the ratio of capital spending per customers. To reduce the excessive increase in rates for all FPUC customers, FPUC's 10-year SPP capital budget should be reduced by \$159.8 million as set forth in OPC Witness Mara's testimony. The 10-year capital budget should be reduced by the following: \$12.1 million for Distribution-OH Lateral Hardening; \$31.1 million for Distribution – OH Lateral Underground; all \$30.0 million for future T&D Enhancements; and all \$86.1 million for Transmission/Substation Resiliency.

#### **4. STATEMENT OF FACTUAL ISSUES AND POSITIONS**

**ISSUE 1:** Does the Company's Storm Protection Plan contain all of the elements required by Rule 25-6.030, Florida Administrative Code?

OPC's edit: Does the Company's Storm Protection Plan contain all of the elements, including but not limited to, a comparison of the costs and dollar benefits, required by Rule 25-6.030, Florida Administrative Code?

OPC: No. FPUC provided no dollar quantifications of the benefits in the SPP filings and refused to provide any dollar quantification in response to discovery. SPP programs and projects should be authorized only if the benefits exceed the costs; in other words, the benefit-to-cost ratio should be at least 100%. FPUC should be required to amend their filing and provide the necessary data for each program as required by Rule 25-6.030, F.A.C. with an opportunity for intervenors to provide review and testimony.

**ISSUE 2:** To what extent is the Company's Storm Protection Plan expected to reduce restoration costs and outage times associated with extreme weather events and enhance reliability?

OPC's edit: To what extent, and by how much, are each of the Company's Storm Protection Plan programs and projects expected to reduce restoration costs and outage times associated with extreme weather events?

OPC: FPUC did not include any estimate of cost reduction of their programs other than vague language about reducing costs without any monetized value of these reduction. Nor did FPUC include any estimate of the reduction in outage times other than FPUC's belief that outage times will be reduced. SPP programs and projects should be authorized only if the benefits exceed the costs; in other words, the benefit-to-cost ratio should be at least 100%. FPUC should be required to amend their filing and provide the necessary data for each program as required by Rule 25-6.030, F.A.C. with an opportunity for intervenors to provide review and testimony.

**OPC Proposed Issue A:**

Are the Company's Storm Protection Plan programs and projects new or expansions of existing activities that are incremental, and are the programs designed specifically for the purpose of reducing restoration costs and outage times?

OPC: To qualify for inclusion on the SPP proceedings and cost recovery in the SPPCRC proceedings, the projects and the costs of the projects must reduce restoration costs, reduce outage times and be incremental, not simply like for like equipment replacement with the same strength and functionality and/or necessary to meet the requirements of the National Electric Safety Code that would have been incurred during the normal course of business. Further, only SPP programs and projects whose benefits exceed the costs should be authorized; in other words, the benefit-to-cost ratio should be at least 100%. To the extent that any of FPUC's programs and projects are not in compliance with all of these requirements, OPC requests that the Commission reject those programs and projects.

**OPC Proposed Issue B:**

What decision criteria, including economic, did the Company use to qualify, rank (select), and determine the magnitude (optimal and/or maximum levels and timing of capital expenditures and expenses) of the Company's Storm Protection Plan programs and projects, and are these criteria reasonable and properly applied for the purposes of mitigating outage times and restoration costs of extreme storms?

OPC: FPUC did not provide any decision criteria, including economic, used by the Company to qualify, rank (select), and determine the magnitude (optimal and/or maximum levels and timing of capital expenditures and expenses) of the Company's Storm Protection Plan programs and projects. Only SPP programs and projects whose benefits exceed the costs should be authorized; in other words, the benefit-to-cost ratio should be at least 100%. Since some of the programs have a greater impact on reducing outage times and lowering restoration costs, the goal should be to prioritize investment in storm hardening activities that benefit utility customers at a cost that is reasonable relative to those benefits. Given FPUC's lack of decision criteria, the Commission should look at the ratio of capital spending per customers and reduce the excessive increase in rates for all FPUC customers.

**ISSUE 3:** To what extent does the Company's Storm Protection Plan prioritize areas of lower reliability performance?

OPC: FPUC did not include prioritization of areas of lower reliability performance.

**ISSUE 4:** To what extent is the Company's Storm Protection Plan regarding transmission and distribution infrastructure feasible, reasonable, or practical in certain areas of the Company's service territory, including, but not limited to, flood zones and rural areas?

OPC: FPUC is proposing a new 138 KV transmission line that is not necessary or prudent. The proposed 138 KV transmission line is located in a very poor right-of-way and

is \$86 million, or approximately 35% of the capital costs of the 10-year SPP. Further, the 138 KV line is not a prudent option when the existing transmission system is already hardened for extreme weather. Further, the capacity increase that would be created by the proposed 138 KV line to the existing CHP plant needs to be evaluated on a power supply cost prospective, not storm hardening since there is no guarantee that plant would be operational for the hours after a storm. Further, the transmission enhancement program that proposes to include some type of automation or smart grid technology including Supervisory Control and Data Acquisition (SCADA) system, does not include any specific costs and details. As currently described by the Company, the transmission enhance program would not reduce the number of outages or reduce restoration costs. Thus, without any detail about the type of system or actual monetized benefits of the system, this program does not meet the requirements of Rule 25-6.030, F.A.C.

**ISSUE 5:** What are the estimated costs and benefits to the Company and its customers of making the improvements proposed in the Storm Protection Plan?

OPC's edit: What are the estimated costs and dollar benefits to the Company and its customers of the Storm Protection Plan programs and projects?

OPC: FPUC is proposing to spend a total capital costs of \$243.1 million plus an incremental \$20 million in O&M costs for the SPP plan. FPUC has provided no dollar benefits. FPUC has provided no dollar benefits and the costs per customer (\$7,369) is extremely high compared to other Florida utilities. SPP programs and projects should be authorized only if the benefits exceed the costs; in other words, the benefit-to-cost ratio should be at least 100%. FPUC should be required to amend their filing and provide the necessary data for each program as required by Rule 25-6.030, F.A.C. with an opportunity for intervenors to provide review and testimony. However, if an amended filing is not required, given FPUC's lack of decision criteria or dollar cost benefits, the Commission should look at the ratio of capital spending per customers. To reduce the excessive increase in rates for all FPUC

customers, FPUC's 10-year SPP capital budget should be reduced by \$159.8 million as set forth in OPC Witness Mara's testimony.

**OPC Proposed Issue C:**

Are the Company's Storm Protection Plan programs and projects prudent and reasonable and are the costs reasonable?

OPC: No, FPUC's Storm Protection Plan programs and projects are not prudent and reasonable and are the costs are not reasonable as presented. FPUC is proposing to spend a total capital costs of \$243.1 million plus an incremental \$20 million in O&M costs for the SPP plan. FPUC has provided no dollar benefits and the costs per customer (\$7,369) is extremely high compared to other Florida utilities. SPP programs and projects should be authorized only if the benefits exceed the costs; in other words, the benefit-to-cost ratio should be at least 100%. FPUC should be required to amend their filing and provide the necessary data for each program as required by Rule 25-6.030, F.A.C. with an opportunity for intervenors to provide review and testimony.

However, if no amended filing is required, given FPUC's lack of decision criteria or dollar cost benefits, the Commission should look at the ratio of capital spending per customers. To reduce the excessive increase in rates for all FPUC customers, FPUC's 10-year SPP capital budget should be reduced by \$159.8 million as set forth in OPC Witness Mara's testimony.

**ISSUE 6:** What is the estimated annual rate impact resulting from implementation of the Company's Storm Protection Plan during the first 3 years addressed in the plan?

OPC's edit: What are the estimated annual rate impacts resulting from implementation of the Company's Storm Protection Plan during the first 3 years addressed in the plan, and are those impacts properly calculated?

OPC: FPUC is proposing to spend a total capital costs of \$30.7 million. However, FPUC has provided no dollar benefits and the costs per customer (\$7,369) is extremely high compared to other Florida utilities.

**ISSUE 7:** WITHDRAWN BY FPL.

**ISSUE 8:** WITHDRAWN BY FPL.

**ISSUE 9:** Should the Commission approve, approve with modification, or deny FPL's new Transmission Access Enhancement Program?

OPC: Not applicable to FPUC.

**OPC Proposed Issue D:**

Should a return on CWIP be included in the Company's annual rate impacts or deferred and included in the rate impacts only after a project is completed and determined to be prudent.

OPC: The Commission should exclude CWIP from both the return on rate base and depreciation expense, and instead allow a deferred return on CWIP until it is converted to plant in service or prudently abandoned.

**OPC Proposed Issue E:**

Should credits be reflected in the Company's annual rate impacts for savings in depreciation on base rate assets that are retired when replaced with SPP project assets and savings in base rate operation and maintenance and other operating expenses that are avoided due to SPP programs and projects?

OPC: Yes, the Commission should require a credit for the avoided depreciation expense on plant that is retired due to SPP plant investments and savings in base rate



operation and maintenance and other operating expenses that are avoided due to SPP programs and projects.

**ISSUE 10:** Is it in the public interest to approve, approve with modification, or deny the Company's Storm Protection Plan?

OPC: FPUC's Storm Protection Plan programs and projects are not prudent and reasonable and the costs are not reasonable as presented. FPUC is proposing to spend a total capital costs of \$243.1 million plus an incremental \$20 million in O&M costs for the SPP plan. FPUC has provided no dollar benefits. SPP programs and projects should be authorized only if the benefits exceed the costs; in other words, the benefit-to-cost ratio should be at least 100%. FPUC should be required to amend their filing and provide the necessary data for each program as required by Rule 25-6.030, F.A.C. with an opportunity for intervenors to provide review and testimony.

However, if an amended filing is not required, given FPUC's lack of decision criteria or dollar cost benefits, the Commission should look at the ratio of capital spending per customers. To reduce the excessive increase in rates for all FPUC customers, FPUC's 10-year SPP capital budget should be modified and reduced by \$159.8 million as set forth in OPC Witness Mara's testimony. The 10-year capital budget should be modified and reduced by the following from the Table on page 14 of the Direct Testimony of Kevin J. Mara: \$12.6 million for Distribution-OH Lateral Hardening; \$31.1 million for Distribution – OH Lateral Underground; all \$30.0 million for future T&D Enhancements; and all \$86.1 million for Transmission/Substation Resiliency.

Capital	Total 2022-2031 SPP \$Millions	Reductions Proposed by Mara	Net 2022-2031 SPP \$Millions	Reason for Reduction
Distribution - OH Feeder Hardening	\$ 17.1	\$ -	\$ 17.1	
Distribution - OH Lateral Hardening	\$ 24.7	\$ (12.6)	\$ 12.1	Limit impact to customers
Distribution - OH Lateral Underground	\$ 63.3	\$ (31.1)	\$ 32.2	Limit impact to customers
Distribution - Pole Insp. & Replace	\$ 12.6	\$ -	\$ 12.6	
T&D - Vegetation Management	\$ -	\$ -	\$ -	
Future T&D Enhancements	\$ 30.0	\$ (30.0)	\$ -	Does not comply with Rule 25-6.030
Transmission / Substation Resiliency	\$ 86.1	\$ (86.1)	\$ -	Not prudent
Transmission - Inspection and Hardening	\$ 7.1	\$ -	\$ 7.1	
SPP Program Management	\$ 2.2	\$ -	\$ 2.2	

Also, in determining elements of cost to be included in the SPP for recovery in the SPPCRC, the Commission should further exclude CWIP from both the return on rate base and depreciation expense, and instead allow a deferred return on CWIP until it is converted to plant in service or prudently abandoned. Alternatively, a return on CWIP can be deferred either as an allowance for funds used during construction (AFUDC) or as a miscellaneous deferred debit.

**ISSUE 11:** Should this docket be closed?

OPC: Not as this time.

**5. STIPULATED ISSUES:**

None at this time.

**6. PENDING MOTIONS:**

None.

**7. REQUESTS FOR CONFIDENTIALITY:**

OPC has no pending requests for claims for confidentiality.

8. **OBJECTIONS TO QUALIFICATION OF WITNESSES AS AN EXPERT:**

OPC has no objections to any witness' qualifications as an expert in this proceeding.

9. **SEQUESTRATION OF WITNESSES**

OPC does not request the sequestration of any witness at this time.

10. **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 13<sup>th</sup> day of July, 2022

Respectfully submitted,

Richard Gentry  
Public Counsel

/s/Patricia A. Christensen  
Patricia Christensen  
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Attorneys for Office of Public Counsel

**CERTIFICATE OF SERVICE**  
**DOCKET NO. 20220049-EI**

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 13<sup>th</sup> day of July 2022, to the following:

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