

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Storm Protection Plan,
pursuant to Rule 25-6.030, F.A.C., Florida
Power & Light Company.

DOCKET NO. 20220051-EI

FILED: July 13, 2022

PRE-HEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL

The Citizens of the State of Florida, by and through the Office of Public Counsel, pursuant to the Order Establishing Procedure, Order No. PSC-2022-0119-PCO-EI, issued March 17, 2022, hereby submit this Prehearing Statement.

APPEARANCES:

Stephanie A. Morse
Associate Public Counsel

Charles Rehwinkel
Deputy 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:

Witness	Subject Matter	Issue #
Kevin J. Mara	Engineering	All Issues
Lane Kollen	Accounting	All Issues

2. EXHIBITS:

Witness	Proffered by	Exhibit No.	Description	Issue #
Direct				
Lane Kollen	OPC	LK-1	Resume of Lane Kollen	All Issues
Lane Kollen	OPC	LK-2	Summary of Each Utility's Decision Criteria	All Issues
Kevin J. Mara	OPC	KJM-1	Curriculum Vitae of Kevin J. Mara	All Issues

Kevin J. Mara	OPC	KJM-2	FPL's Response to OPC's First Set of Interrogatories, (1-8)	All Issues
Kevin J. Mara	OPC	KJM-3	FPL's Response to OPC's Second Set of Interrogatories, (9-13)	All Issues
Kevin J. Mara	OPC	KJM-4	FEMA Chronology – National Flood Insurance Program	All Issues
Kevin J. Mara	OPC	KJM-5	FPL's 2020-2029 Storm Protection Plan	All Issues
Kevin J. Mara	OPC	KJM-6	Report: Resilience for Black Sky Days	All Issues
Kevin J. Mara	OPC	KJM-7	FPL's Substation Changes	All Issues
Kevin J. Mara	OPC	KJM-8	Order No. PSC 2020-0293-AS-EI	All Issues
	OPC	OPC-1	FPL's Answers to Citizens' First Request for Production (Nos. 1-5)	All Issues
	OPC	OPC-2	FPL's Answers to Citizens' Second Request for Production (Nos. 6)	All Issues
	OPC	OPC-3	FPL's Answers to Citizens' Third Request for Production (Nos. 7-10)	All Issues
	OPC	OPC-4	FPL's Answers to Citizen's Third Set of Interrogatories (Nos. 14-19)	All Issues
	OPC	OPC-5	FPL's Answers to Citizens Fourth Set of Interrogatories (Nos. 20-63)	All Issues
	OPC	OPC-6	FPL's Answers to Citizens' Fourth Request for Production (Nos. 11-31)	All Issues
	OPC	OPC-7	FPL's Answers to Citizens Fifth Set of Interrogatories (Nos. 64-66)	All Issues
	OPC	OPC-8	FPL's Answers to Citizens' Fifth Request for Production (Nos. 32-33)	All Issues

3. STATEMENT OF BASIC POSITION

The Office of Public Counsel's (OPC) 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 public policy contained in Section 366.96, Florida Statutes and Rule 25-6.030, Florida Administrative Code (F.A.C.) The OPC has focused on whether the programs and projects proposed by Florida Power & Light Company (FPL) satisfy the statutory and rule requirements for permissible programs and projects as well as whether the appropriate cost/benefit analyses have been performed and whether that analysis supports the cost of the programs and projects contained in the SPPs filed by the IOUs. Unfortunately, there are instances within FPL's 2023-2032 SPP where some programs and projects do not meet the legal requirements of permissible SPP programs and projects and there are also some instances where the analysis of the cost and benefits do not justify the programs and projects. The Commission should deny the programs and projects that OPC identifies as impermissible and/or fiscally unjustifiable. 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.

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. The Company failed to provide the requisite dollar benefits necessary for the Commission to determine whether the continuation and expansion of existing programs and the implementation of new programs are prudent and reasonable.

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: Some of FPL's proposed programs and projects will have a greater impact on reducing outages times and lowering restoration costs than others. Additionally, several programs and projects are not unique to extreme weather storm hardening programs and/or incremental to base rate recoverable costs in the normal cost of business, and thus, should not be included in FPL's SPP.

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 be incremental, not simply displacements of base rate costs that would have been incurred during the normal course of business, as well as prudent, used and useful, and just and reasonable both as to amount and customer impact. To the extent that any of FPL'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: The Company failed to use objectively measurable criteria to identify beneficial programs and projects, select and rank those projects, or determine the magnitude of those projects. More specifically, the Company failed to quantify the dollar benefits of any of its programs and failed to use comparisons of benefits to costs to identify beneficial programs and projects, select and rank those projects, or determine the magnitude of those projects.

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

OPC: FPL has several proposed projects that prioritize areas of lower reliability performance; however, many of those programs and projects either do not qualify as permissible SPP programs or projects and/or are not economically justifiable.

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: Many of FPL's proposed SPP programs and projects involving transmission and distribution infrastructure in flood zones and rural areas are neither feasible, reasonable, or practical, but more importantly for this docket, they do not qualify as SPP programs or projects. A large number of programs and projects that FPL has proposed as SPP programs and projects in flood zones are more appropriately addressed in a base rate case since they do not harden the system from extreme storm events. Additionally, many programs and projects do not reduce BOTH restoration costs and outage times.

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: The Company failed to quantify the dollar benefits of any of its programs and failed to use comparisons of benefits to costs to identify beneficial programs and projects, select and rank those projects, or determine the magnitude of those projects.

OPC Proposed Issue C:

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

OPC: No. The Company failed to quantify the dollar benefits of any of its programs and failed to use comparisons of benefits to costs to identify beneficial programs and projects, select and rank those projects, or determine the magnitude of those projects. The Commission cannot make a determination that the programs are prudent and reasonable and that the costs are reasonable without consideration of such foundational information.

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: Since FPL improperly included certain programs and projects in its proposed SPP, FPL's customer rate impacts are not properly calculated.

ISSUE 7: WITHDRAWN BY FPL.

ISSUE 8: WITHDRAWN BY FPL

ISSUE 9: Should the Commission not approve, approve with modification, or deny FPL's new Transmission Access Enhancement Program?

OPC: The Commission should approve FPL's Transmission Access Enhancement Program without the modifications recommended by OPC.

OPC Proposed Issue D:

Should a return on construction work-in-progress (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: The Commission should reflect credits in the Company's annual rate impacts for savings in depreciation the depreciation expense 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

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

OPC: The Commission should make the adjustments reflected in the table below from page 13 of the Direct Testimony of Kevin J. Mara:

Capital	Total 2023-2032 SPP \$Millions	Reductions Proposed by Mara	Net 2023-2032 SPP \$Millions	Reason for Reduction
Distribution Inspection Program	\$629	\$-	\$629	
Transmission Inspection Program	\$657	\$-	\$657	
Distribution Feeder Hardening Program	\$2,437	\$-	\$2,437	
Distribution Lateral Hardening Program	\$9,389	\$(3,389)	\$6,000	Limit impact to customers
Transmission Hardening Program	\$499	\$-	\$499	
Distribution Vegetation Management Program	\$28	\$-	\$28	
Transmission Vegetation Management Program	\$-	\$-	\$-	
Substation Storm Surge/Flood Mitigation Program	\$16	\$(16)	\$-	Does not comply with 25-6.030
Distribution Winterization Program	\$93	\$(93)	\$-	Does not comply with 25-6.030
Transmission Winterization Program	\$45	\$(45)	\$-	Does not comply with 25-6.030
Transmission Access Enhancement Program	\$116	\$(116)	\$-	Does not comply with 25-6.030
Total Capital	\$13,907.9	\$(3,658.4)	\$10,249.5	

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 at this time.

5. STIPULATED ISSUES

None at this time.

6. **PENDING MOTIONS**

OPC has no pending motions at the time.

7. **STATEMENT OF PARTY'S PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY**

There are no pending requests for claims for confidentiality filed by OPC.

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

OPC has no objections to the qualification of any witnesses as an expert in the field which they pre-filed testimony as of the present date.

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 OPC cannot comply.

Respectfully Submitted,

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Public Counsel

/s/ Stephanie A. Morse

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CERTIFICATE OF SERVICE
DOCKET NO. 20220051-EJ

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail on this 13th day of July 2022, to the following:

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