

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Storm Protection
Plan Pursuant to Rule 25-6.030, F.A.C., Duke
Energy Florida, LLC

Docket No. 20220050-EI

Dated: July 13, 2022

**DUKE ENERGY FLORIDA, LLC'S
PREHEARING STATEMENT**

Pursuant to the Order Establishing Procedure, Order No. PSC-2022-00119-PCO-EI as modified by Order No. PSC-2022-0226-PCO-EI (collectively, the "OEP"), Duke Energy Florida, LLC ("DEF") hereby submits its Prehearing Statement with respect to its 2023-2032 Storm Protection Plan Pursuant to Rule 25-6.030, F.A.C.

1. **Known Witnesses** - DEF intends to offer the testimony of:

Direct		
Witness	Subject Matter	Issues#
Brian Lloyd	The process used to evaluate various programs and projects that would meet the criteria set out for Distribution in the SPP statute and rule.	1C, 2C, 3C, 4C, 10C
Amy Howe	The process used to evaluate various programs and projects that would meet the criteria set out for Transmission in the SPP statute and rule	1C, 2C, 3C, 4C, 10C
Christopher Menendez	Calculation of the estimated revenue requirements for each year of the SPP and estimated rate impacts for each of the first three years	1C, 5C, 6C, 10C
Rebuttal		
Witness	Subject Matter	Issues#
Brian Lloyd	Rebuttal of OPC's witnesses Kollen and Mara	1C, 2C, 3C, 4C, 10C

Amy Howe	Rebuttal of OPC’s witnesses Kollen and Mara	1C, 2C, 3C, 4C, 10C
Christopher Menendez	Rebuttal of OPC’s witnesses Kollen and Mara	1C, 5C, 6C, 10C

2. **Known Exhibits** - DEF intends to offer the following exhibits:

Witness	Proffered By	Exhibit #	Description
	Direct		
Brian Lloyd	DEF	(BML-1)	DEF SPP Program Descriptions and Summaries
Brian Lloyd	DEF	(BML-2)	DEF SPP Support
Brian Lloyd	DEF	(BML-3)	DEF Service Area
Amy Howe	DEF	(BML-1)	DEF SPP Program Descriptions and Summaries - Transmission Portion
Amy Howe	DEF	(BML-2)	DEF SPP Support - Transmission Portion
Christopher Menendez	DEF	(BML-1)	DEF SPP Program Descriptions and Summaries - Estimated Revenue Requirements and Estimated Rate Impact
	Rebuttal		
Brian Lloyd	DEF	(BML-4)	DEF SPP Self-Healing Team Benefits Report

DEF reserves the right to identify additional exhibits for the purpose of cross-examination or rebuttal.

3. **Statement of Basic Position** -

As required by Section 366.96, Florida Statutes (the “SPP Statute”), Rule 25-6.030, F.A.C. (the “SPP Rule”), and the OEP, on April 11, 2022, DEF filed its proposed Storm Protection Plan (“SPP” or the “Plan”). DEF’s transmission and distribution SPP covers the immediate 10-year planning period (2023-2032) and explains the systematic approach DEF will follow to protect and strengthen its transmission and distribution infrastructure to achieve the objectives of reducing restoration costs and outage times associated with extreme weather events and enhancing overall reliability, as demonstrated by the pre-filed testimonies and exhibits of DEF’s witnesses Mr. Brian

Lloyd and Ms. Amy Howe, and converted into the 3-year projected rates and revenue requirements as required by the SPP Rule and included in the testimony and exhibit of Mr. Christopher Menendez. DEF's SPP, which includes all elements required by the SPP Rule, is in the public interest and should be approved by this Commission.

4. **Statement of Facts**

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

DEF Yes (Howe, Lloyd, Menendez)

ISSUE 2C 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?

DEF The SPP's expected reduction in restoration costs and outage times associated with extreme weather events is provided in Exhibit No. __ (BML-1), broken down by SPP Program.
(Howe, Lloyd)

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

DEF The prioritization methodology for each SPP Program includes the "Probability of Damage" from extreme weather events for each major asset component. Historical reliability performance of these assets is correlated with simulated future weather exposure conditions. This technique prioritizes areas of lower reliability performance. This is more fully described in Exhibit No. __ (BML-1). (Howe, Lloyd)

ISSUE 4C 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?

DEF DEF's SPP is feasible, reasonable, and practical throughout the Company's service territory. The model used to produce DEF's SPP, detailed in Exhibit No. __ (BML-1) and Exhibit No. __ (BML-2), considered the geographic location and characteristics of each asset as part of the analysis of the feasibility and reasonableness of implementing the various SPP Programs at each given location.
(Howe, Lloyd)

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

DEF The estimated costs and benefits are discussed in detail in Exhibit No. ___ (BML-1), broken out by each Program. (Howe, Lloyd, Menendez)

ISSUE 6C 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?

DEF The estimated annual rate impacts for the first 3 years of DEF's SPP are provided in Exhibit No. ___ (BML-1), page 56 of 56. (Menendez)

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

DEF No position.

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

DEF Yes, DEF's Storm Protection Plan is in the public interest and should be approved without modification. (Howe, Lloyd, Menendez)

ISSUE 11C Should this docket be closed?

DEF Yes.

5.

CONTESTED ISSUES

DEF's specific positions regarding the inclusion of OPC's proposed Issues and proposed revisions to Staff's Issues are provided below, but in general it appears to DEF that OPC's revisions should be rejected because they fall into one of two categories (or both, in some instances): 1) an attempt to improperly include cost recovery-specific issues that are more appropriate for the Storm Protection Plan Cost Recovery Clause ("SPPCRC") rather than the Storm Protection Plan ("SPP") dockets; and 2) the proposed issues are not neutrally worded issues that leave the Commission with a range of potential outcomes, but rather inappropriately presuppose the Commission has accepted OPC's arguments prior to making a determination on the issue presented.

If the Prehearing Officer determines that some or all of OPC's proposed revisions and new issues are appropriate and will be included, DEF reserves the right to provide a substantive position within the timeframe provided by the prehearing officer.

ISSUE 1 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,¹ required by Rule 25-6.030, Florida Administrative Code?

DEF The Company disagrees that the proffered addition is necessary. As Staff has framed the issue, the Commission is required to determine if the filings include “all of the elements” required by the Rule. To then call out one of the requirements listed in the Rule (the comparison of costs to benefits required by subparagraph (3)(d)4.) seems to elevate the importance of that requirement vis a vis the requirements that have not been singled out. There is no support in the rule for such a distinction.

Moreover, OPC has included “dollar” prior to benefits;² this is improper as the rule simply does not include the word dollar in this context (or at all, for that matter). Rather, this is an argument being put forward by OPC and to the extent OPC wishes to argue DEF’s filing fails to satisfy the requirements of the Rule, it is free to do so, but it is not proper to include that argument in the actual issue to be decided.

ISSUE 2 To what extent, and by how much, are each of is the Company’s Storm Protection Plan programs and projects expected to reduce restoration costs and outage times associated with extreme weather events ~~and enhance reliability?~~

DEF DEF believes the issue as framed by Staff was sufficient for determining the appropriateness of the proposed plans. DEF does not agree that the issue should be framed in such a manner as to require determination at the Program or project level, as DEF disagrees with OPC’s contention that each Program or project is required to fulfill the dual purposes of both reducing restoration costs and outage times. This is a difference in interpretation, and without addressing the substance of the contention, it should be sufficient to note the dispute and note that OPC is again attempting to frame an issue in a manner that is designed to further its arguments rather than as a neutral presentation of an issue.

Finally, the phrase “and enhance reliability” should not be struck from Staff’s proposed issue. Both the statute and rule include improving overall reliability as one of the Plan’s intended benefits, and thus it is proper for the Commission to consider. *See* § 366.96(4)(a) (“The extent to which the plan is expected to reduce restoration costs and outage times associated with extreme weather events ***and enhance reliability***...”); Rule 25-6.030(3)(b), F.A.C. (“A description of how implementation of the proposed Storm Protection Plan will reduce restoration costs

¹ OPC’s proposed revisions to Staff’s Issues are shown in underscored type, deletions as struck-through type; where OPC has presented completely new issues, DEF has incorporated OPC’s naming convention.

² OPC has included a similar addition of “dollar” prior to “benefits” in its revisions to Staff’s proposed Issue 5. DEF would offer this response to the same proposed revision in Issue 5.

and outage times associated with extreme weather conditions *therefore improving overall service reliability.*”) (e.s.).

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?

DEF’s Response:

This issue (which seems to be a compound issue combining two unrelated topics) is improper and should be excluded. Simply put – OPC posits in its testimony that programs and projects must be “new or expansions of existing activities that are incremental” to be properly considered as SPP programs or projects. *See* Kollen p. 14. Similarly, the second part of OPC’s issue seems to suggest a new standard for the SPP, that programs be “designed specifically for the purpose of reducing restoration costs and outage times.” While DEF disagrees with these arguments because they have no basis whatsoever in the governing statute or rule, DEF agrees OPC has the right to put forward any argument it deems appropriate in its position statement.

However, it is improper to include an issue that essentially accepts OPC’s argument as a necessary predicate. That is, OPC should first be required to convince the Commission that its dubious legal argument has merit before DEF should be required to prove its Programs and projects satisfy the newly created test. OPC’s framing of the issue puts the proverbial cart before the horse.

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?

DEF’s Response

DEF does not believe this issue is necessary as it is subsumed in other identified issues (e.g., Staff’s Issue 1 and Issue 10), is more properly an issue for discussion during the SPPCRC process (as Mr. Kollen indicates on page 21 of his testimony), and because it is once again an attempt to frame an issue out of OPC’s arguments presented in its testimony. That is, OPC is arguing that the Commission should “adopt and consistently apply specific decision criteria for the selection, ranking,

and magnitude of the utilities' SPP programs and projects for the four utilities to ensure that the utilities are not able to use the SPP and SPPCRC process to displace base rate costs that are subject to and recoverable through the base rate process and shift those costs to recover them through the SPP and SPPCRC process." Kollen, p. 21. Of course, what OPC's witness has described is a rule making proceeding. As this is not a rule making proceeding, this is simply not the right time to make such a request. However, OPC is still free to argue DEF (or the other companies) have not followed an adequate decision-making process, and the Staff identified issues provide ample opportunity for the arguments OPC wishes to put forward. This issue is unnecessary and should be excluded.

OPC PROPOSED ISSUE C

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

DEF's Response:

This issue is improper and unnecessary.

First, under section 366.96(5), Fla. Stat., the Commission is required to determine if the proposed SPP is in the "public interest" – there is simply no requirement in the statute or rule for the Commission to determine whether any specific program (let alone any specific project) is "reasonable and prudent." Therefore, the first clause of the proposed issue is simply an attempt to shift the standard of review to a standard not identified by the legislature.

Second, whether the costs are "reasonable" is a consideration for the SPPCRC where the Commission will look at projects proposed for the next (projected) year and determine whether those costs are reasonable. The SPP is a 10-year planning document (that will be updated in no more than 3 years), and while DEF agrees that OPC can argue the Commission should require modifications, that argument can be made within the auspices of Staff's proposed Issue 10. Moreover, even absent any modification at this time, the Commission retains the authority to determine that projected scope/spend presented in the annual SPPCRC proceeding is "unreasonable" and thus should be slowed. The second clause of this proposed issue is a cost recovery issue that will be determined in the SPPCRC proceeding.

ISSUE 6

What are is 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?

DEF

DEF has no objections to OPC's grammatical edits, but objects to the inclusion of the "proper calculation" portion of the issue as unnecessary to resolve the ultimate

issue of presented in this docket – whether DEF’s proposed SPP is in the public interest. DEF agrees with Staff that the calculation of rate impacts is an issue for the SPPCRC where rates are actually set. The 3 years of *estimated* rate impacts are presented as required by the SPP Rule, but it is not technically possible to properly calculate what the actual rate impacts would be (even if the SPP is adopted without modification) as there are variables in the actual calculation that are simply not available at this time (e.g., tax rates, sales forecast). Again, the actual calculations will be presented in the SPPCRC process where the Commission and intervenors will be able to analyze the calculations.

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.

DEF’s Response

As with OPC’s proposed revisions to Issue 6, the proper calculation of the rate impacts is an issue that is more appropriately considered in a costs recovery docket such as the SPPCRC. This is not a cost recovery docket and therefore such an issue is irrelevant and unnecessary.

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?

DEF’s Response

As with OPC’s proposed revisions to Issue 6 and proposed Issue D, the proper calculation of the rate impacts is an issue that is more appropriately considered in a costs recovery docket such as the SPPCRC. This is not a cost recovery docket and therefore such an issue is irrelevant and unnecessary.

6. **Stipulated Issues** - None at this time.

7. **Pending Motions** - DEF does not have any pending motions at this time.

8. **Requests for Confidentiality**

DEF has the following pending request for confidential classification:

- June 6, 2022-DEF's Request for Confidential Classification concerning DEF's Response to OPC's Third Request to Produce (Nos. 35-41)(DN 03450-2022);

9. **Objections to Qualifications** - DEF objects to any witness testimony that goes beyond the scope of their expertise, and more specifically objects to any witness testimony purporting to offer expert testimony on the interpretation of statutes or rules, as such a determination is the exclusive province of the Commission.

10. **Sequestration of Witnesses** - DEF has not identified any witnesses for sequestration at this time.

Requirements of Order - At this time, DEF is unaware of any requirements of the Order Establishing Procedure of which it will be unable to comply.

s/ Matthew R. Bernier

DIANNE M. TRIPLETT
Deputy General Counsel
Duke Energy Florida, LLC
299 First Avenue North
St. Petersburg, FL 33701
T: 727.820.4692
F: 727.820.5041
E: Dianne.Triplett@Duke-Energy.com

MATTHEW R. BERNIER
Associate General Counsel
Duke Energy Florida, LLC
106 E. College Avenue, Suite 800
Tallahassee, FL 32301
T: 850.521.1428
F: 727.820.5041
E: Matthew.Bernier@Duke-Energy.com

STEPHANIE A. CUELLO

Senior Counsel

Duke Energy Florida, LLC

106 E. College Avenue, Suite 800

Tallahassee, FL 32301

T: 850.521.1425

F: 727.820.5041

E: Stephanie.Cuello@Duke-Energy.com

FLRegulatoryLegal@duke-energy.com

CERTIFICATE OF SERVICE

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

/s/ Matthew R. Bernier

Attorney

<p>Jacob Imig Theresa Tan Walter Trierweiler Office of General Counsel FL Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 jimig@psc.state.fl.us ltan@psc.state.fl.us wtrierwe@psc.state.fl.us</p> <p>Jon C. Moyle, Jr. Karen A. Putnal FIPUG Moyle Law Firm 118 North Gadsden Street Tallahassee, FL 32301 jmoyle@moylelaw.com kputnal@moylelaw.com mqualls@moylelaw.com</p> <p>Stephanie U. Eaton Walmart SPILMAN THOMAS & BATTLE, PLLC 110 Oakwood Drive, Suite 500 Winston-Salem, NC 27103 seaton@spilmanlaw.com</p> <p>Derrick Price Williamson Steven W. Lee Walmart SPILMAN THOMAS & BATTLE, PLLC 1100 Bent Creek Boulevard, Suite 101 Mechanicsburg, PA 17050 dwilliamson@spilmanlaw.com slee@spilmanlaw.com</p>	<p>Anastacia Pirrello / Richard Gentry Office of Public Counsel 111 W. Madison St., Room 812 Tallahassee, FL 32399-1400 pirrello.anastacia@leg.state.fl.us gentry.richard@leg.state.fl.us</p> <p>James Brew / Laura W. Baker Stone Mattheis Xenopoulos & Brew, P.C. White Springs/PCS Phosphate 1025 Thomas Jefferson St., N.W. Eighth Floor, West Tower Washington, DC 20007 jbrew@smxblaw.com lwb@smxblaw.com</p> <p>Peter J. Mattheis Michael K. Lavanga Joseph R. Briscar Nucor Steel Florida, Inc. Stone Mattheis Xenopoulos & Brew, PC 1025 Thomas Jefferson Street, NW Suite 800 West Washington, DC 20007-5201 pjm@smxblaw.com mkl@smxblaw.com jrb@smxblaw.com</p>
---	---