

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 20220051-EI

Filed: September 6, 2022

POST-HEARING BRIEF
FLORIDA POWER & LIGHT COMPANY

I. INTRODUCTION

Florida Power & Light Company (“FPL”) hereby files with the Florida Public Service Commission (“Commission”) its Post-Hearing Brief in the above-referenced docket pursuant to Rules 28-106.215 and 28-106.307, Florida Administrative Code (“F.A.C.”), Commission Order Nos. PSC-2022-0119-PCO-EI (“OEP”) and PSC-2022-0291-PHO-EI, and the briefing schedule adopted at the final hearing on August 4, 2022.¹

Pending before the Commission is FPL’s proposed Transmission and Distribution (“T&D”) Storm Protection Plan for the years 2023-2032 (hereinafter, the “2023 SPP”).² FPL’s 2023 SPP is a systematic approach to achieve the legislative objectives codified in Section 366.96, Florida Statutes (“F.S.”), to protect and strengthen the T&D infrastructure from extreme weather conditions, reduce outage times and restoration costs, and improve overall service reliability to customers. Based on actual, real-world experience during recent hurricanes, FPL’s storm

¹ In this Post-Hearing Brief, FPL will appropriately not address any issues, testimony, or arguments that were stricken from the evidentiary record pursuant to Commission Order No. PSC-2022-0292-PCO-EI, and which were only proffered for purposes of preserving the record for potential appellate review. To the extent that any party’s Post-Hearing Brief addresses such issues, testimony, or arguments, FPL expressly reserves the right to request that those portions of a party’s Post-Hearing Brief be stricken, and such other relief as may be appropriate and available under existing law.

² The 2023 SPP was included as Exhibit MJ-1 to the direct testimony of FPL witness Jarro filed on April 11, 2022. On July 13, 2022, FPL filed a Revised 2023 SPP (Revised Exhibit MJ-1) to reflect that the proposed Distribution and Transmission Winterization Programs were formally withdrawn. FPL’s Revised Exhibit MJ-1 was entered into the evidentiary record as Exhibit 2 on the Comprehensive Exhibit List (“CEL”). (Tr. vol. 1, 67, 118.) For purposes of this Post-Hearing Brief, the Revised 2023 SPP admitted to the record as CEL Ex. 2 will be referred to as the “2023 SPP.”

hardening programs have already demonstrated they work and will continue to benefit customers through both reductions in restoration costs and customer outage times associated with extreme weather events.

The Office of Public Counsel (“OPC”) was the only party to submit testimony in response to FPL’s 2023 SPP.³ The issues in contention in this proceeding are limited to: (i) whether FPL’s 2023 SPP meets the requirements of Rule 25-6.030, F.A.C., specifically whether FPL provided the SPP benefits and compared those benefits with the SPP costs; (ii) the appropriate budget and deployment of the existing Distribution Lateral Hardening Program; (iii) the appropriate budget and deployment of FPL’s existing Substation Storm Surge/Flood Mitigation Program; and (iv) whether FPL’s proposed new Transmission Access Enhancement Program is a proper SPP program.

The evidence in this proceeding demonstrates that FPL’s 2023 SPP fully complies with the express requirements and plain language of Section 366.96, F.S., and the Commission’s Rule 25-6.030, F.A.C. As explained in detail below, there simply is nothing in Section 366.96, F.S., or Rule 25-6.030(3)(d)(1), F.A.C., that requires the benefits of the SPP programs to be quantified or monetized as suggested by Intervenors. Intervenors ignore the plain language of Rule 25-6.030(3)(d), F.A.C., and improperly seek to add a requirement that does not exist today.

³ The Florida Industrial Power Users Group (“FIPUG”), Walmart Inc. (“Walmart”), and the Southern Alliance for Clean Energy (“SACE”) were granted intervention by Order Nos. PSC-2022-0187-PCO-EI, PSC-2022-0218-PCO-EI, and PSC-2022-0214-PCO-EI, respectively. However, these parties did not submit any testimony or evidence in in this proceeding. In its Prehearing Statement, FIPUG adopted OPC’s position on each of the issues to be addressed in this proceeding. In its Prehearing Statement, Walmart adopted OPC’s position on Issues 1D-5D, took no position on Issues 6D and 9, and recommended for Issue 10 that FPL be directed to collaborate with interested parties before the next SPP. In its Prehearing Statement, SACE summarily asserted the information was not fully provided for Issues 1D, 2D, 5D, and 10D, and took no position on Issues 3D, 4D, 6D, and 9. Because these Intervenors largely adopted OPC’s position or took no position on the issues in their Prehearing Statements, FPL will collectively refer to OPC, FIPUG, Walmart, and SACE as “Intervenors” unless otherwise noted.

As explained in detail below, Intervenor's proposed adjustments to the Distribution Lateral Hardening Program and the Substation Storm Surge/Flood Mitigation Program and opposition to the new Transmission Access Enhancement Program ignore the unrefuted evidence of record and, if accepted, would undermine the legislative objectives of Section 366.96, F.S. Intervenor's proposals would significantly reduce the number of projects to be completed each year and delay when customers will receive the important benefits of storm hardening.

How fast and how many SPP projects are completed, and how quickly customers realize the direct and indirect benefits of storm hardening, is ultimately a regulatory decision for this Commission to be made in the context of the policy, objectives, and requirements of Section 366.96, F.S. FPL submits that it has taken a reasonable and measured approach in its 2023 SPP in order to ensure all customers receive the direct and indirect benefits of storm hardening consistent with the legislative objectives of Section 366.96, F.S., within a reasonable period.

For these reasons, and as further explained below, FPL submits that its 2023 SPP is consistent and complies with the express requirements of Section 366.96, F.S., and Rule 25-6.030, F.A.C., maintains and builds upon FPL's commitment to achieve the legislative objectives of Section 366.96, F.S., and should be found in the public interest and approved.

II. STANDARD OF REVIEW

The Florida Legislature expressly found and determined that it is in the state's interest to harden the electric system to withstand extreme weather conditions by overhead hardening T&D facilities, undergrounding distribution lines, and vegetation management in order to reduce restoration costs and outage times associated with extreme weather events. *See* Section 366.96(1)(c)-(e), F.S. Thus, the Florida Legislature has already found and determined that storm hardening the T&D system is a prudent action to take. Indeed, the Legislature directed each

electric utility to file ten-year SPPs with the Commission every three years to explain how the utility will achieve these legislative objectives. *See* Section 366.96(3), F.S. Thus, there is no question whether the T&D system should be storm hardened – the Legislature has already answered that question in the affirmative. Rather, the issue to be decided by the Commission is how this legislative goal should be accomplished in order to provide these important benefits to FPL’s customers.

To assist the Commission in its review of how the legislative goal to storm harden the T&D system should be accomplished, the Florida Legislature promulgated an explicit standard of review to be applied by the Commission in its review of each SPP:

(4) In its review of each transmission and distribution storm protection plan filed pursuant to this section, **the commission shall consider:**

(a) The extent to which the plan is expected to reduce restoration costs and outage times associated with extreme weather events and enhance reliability, including whether the plan prioritizes areas of lower reliability performance.

(b) The extent to which storm protection of transmission and distribution infrastructure is feasible, reasonable, or practical in certain areas of the utility’s service territory, including, but not limited to, flood zones and rural areas.

(c) The estimated costs and benefits to the utility and its customers of making the improvements proposed in the plan.

(d) The estimated annual rate impact resulting from implementation of the plan during the first 3 years addressed in the plan.

(5) No later than 180 days after a utility files a transmission and distribution storm protection plan that contains all of the elements required by commission rule, **the commission shall determine whether it is in the public interest to approve, approve with modification, or deny the plan.**

See Section 366.96(4)-(5), F.S. (emphasis added).⁴ The Legislature’s use of the term “shall” makes it unmistakably clear that this statutory standard of review is mandatory, not discretionary.

In summary, the statutory standard of review to be applied in this proceeding is whether FPL’s 2023 SPP is in the public interest based upon the Commission’s consideration of the four factors expressly prescribed in Section 366.96(4), F.S.

III. SUMMARY OF ARGUMENT

Pursuant to Section 366.96, F.S., and Rule 25-6.030, F.A.C., FPL has proposed its 2023 SPP to reasonably achieve the legislative objective to strengthen the electric system to withstand extreme weather conditions by overhead hardening of electrical distribution and transmission facilities, undergrounding of certain electrical distribution lines, and vegetation management in order to reduce restoration costs and outage times associated with extreme weather events. Notably, FPL’s 2023 SPP is largely a continuation of the following programs included in the current 2020-2029 Storm Protection Plan (hereinafter, the “2020 SPP”) that were agreed to by OPC and Walmart in a Joint Motion for Approval of a Stipulation and Settlement Agreement (“2020 SPP Settlement”) approved by Commission Order No. PSC-2020-0293-AS-EI:

- Distribution Inspection Program
- Transmission Inspection Program

⁴ The Legislature also directed that after the SPP has been approved, the Commission shall conduct an annual proceeding to determine the utility’s prudently incurred T&D SPP plan costs and allow the utility to recover such costs through a charge separate and apart from its base rates, referred to as the storm protection plan cost recovery clause (“SPPCRC”). See Section 366.96(7), F.S. See also Section 366.96(2)(c), F.S. (defining transmission and distribution storm protection plan costs as “the reasonable and prudent costs to implement an approved transmission and distribution storm protection plan) (emphasis added); and Commission Order No. PSC-2020-0162-PCO-EI, issued May 18, 2020, Docket No. 20200070-EI (holding that the Commission will scrutinize and allow or disallow cost recovery of the actual SPP costs in the SPPCRC proceeding). Thus, the reasonableness and prudence of the actual SPP costs will be determined in the SPPCRC proceeding when FPL seeks to recover the SPP costs.

- Distribution Feeder Hardening Program
- Distribution Lateral Hardening Program
- Transmission Hardening Program
- Distribution Vegetation Management Program
- Transmission Vegetation Management Program
- Substation Storm Surge/Flood Mitigation Program

The majority of the existing SPP programs have been in place since 2007.⁵ Based on actual real-world experience, these existing SPP programs have already demonstrated that they have provided and will continue to provide increased T&D infrastructure resiliency, reduced restoration times, and reduced restoration costs when FPL is impacted by extreme weather events.

As part of the 2023 SPP, FPL also proposed to implement a new Transmission Access Enhancement Program. The new Transmission Access Enhancement Program will help ensure FPL and its contractors have reasonable access to FPL's transmission facilities for repair and restoration activities following an extreme weather event by targeting and addressing areas that become inaccessible due to flooding or saturated soils as a result of extreme weather events.

OPC essentially agrees with eight out of the nine SPP programs included in the Revised 2023 SPP. OPC witness Mara does not oppose but does propose adjustments to the existing Substation Storm Surge/Flood Mitigation Program and the existing Distribution Lateral Hardening Program. OPC witness Mara opposes the proposed new Transmission Access Enhancement Program.

⁵ For certain existing SPP programs, FPL proposed limited modifications to further improve these programs and implement best practices. Notably, OPC, the only other party to file testimony in this case, has not opposed or challenged any of the specific modifications to FPL's existing SPP programs.

With respect to the Storm Surge/Flood Mitigation Program included in FPL's 2023 SPP, OPC recommends that substations with alternate feeds or no history of flooding should be excluded from the program. OPC's recommendation, however, completely overlooks that the Storm Surge/Flood Mitigation Program included in FPL's 2023 SPP is the exact same program included in FPL's current 2020 SPP previously approved by Commission Order No. PSC-2020-0293-AS-EI. Further, all four substations included in FPL's 2023 SPP do, in fact, have a history of storm surge or flooding, and OPC's recommendation to exclude substations with alternate feeds fails to account for the fact that an adjacently tied substation cannot necessarily pick up and support the entire electric load from a de-energized substation. For these reasons, OPC's recommended adjustments to the Storm Surge/Flood Mitigation Program should be rejected.

Notably, OPC does not propose the rejection of the Distribution Lateral Hardening Program, nor does OPC oppose FPL's new overhead hardening protocols or the addition of the Management Region selection approach in 2025. Rather, OPC proposes to arbitrarily cap the annual budget for the Distribution Lateral Hardening Program at \$606 million beginning in 2025, which results in a total ten-year budget reduction of approximately \$3.4 billion. OPC's proposed adjustment overlooks that the Distribution Lateral Hardening Program was initially deployed as a limited pilot program through 2022 and as part of the 2023 SPP is now being deployed as a full-scale SPP program throughout FPL's consolidated service area in order to bring the benefits of hardening to more of FPL's customers, which represent more than half of Florida's residents. OPC's proposed adjustment will reduce the number of laterals to be completed each year and delay when customers will receive the benefits of the Distribution Lateral Hardening Program, which is inconsistent with the intent and purpose of Section 366.96, F.S. For these reasons, OPC's proposed adjustment to the Distribution Lateral Hardening Program should be rejected.

With respect to OPC's objection to FPL's proposed new Transmission Access Enhancement Program, OPC simply ignores the unrefuted evidence of record that the purpose of the Transmission Access Enhancement Program is to ensure FPL has proper access to repair and restore its transmission facilities following an extreme weather event by targeting and addressing areas that become inaccessible due to flooding or saturated soils. The Transmission Access Enhancement Program will allow FPL and its contractors to quickly address such transmission outages following an extreme weather event, which will in turn result in a reduction of outage times for tens of thousands to hundreds of thousands of customers following an extreme weather event. Accordingly, FPL's proposed Transmission Access Enhancement Program should be approved as filed.

Furthermore, and contrary to OPC's assertions, FPL's 2023 SPP provides the information required by and is fully consistent with Section 366.96, F.S., and Rule 25-6.030, F.A.C. Intervenor's attempt to suggest that FPL's 2023 SPP fails to meet the requirements of subpart (3)(d) of Rule 25-6.030, F.A.C., because, according to Intervenor's, the benefits of the SPP programs must be projected, quantified, and monetized. However, there is no such requirement in either Section 366.96, F.S., or Rule 25-6.030, F.A.C. As required by Rule 25-6.030, F.A.C., FPL has provided a "description" of the benefits for all the programs in FPL's 2023 SPP -- in some cases these benefits are qualitative and in others they are quantitative.

For all the reasons discussed above, and as more fully explained below, FPL's proposed 2023 SPP is in the public interest and should be approved. FPL's proposed 2023 SPP complies with the express requirements of Section 366.96, F.S., and of Rule 25-6.030, F.A.C., and provides a systematic approach to achieve the legislative objectives of hardening the T&D system in order to reduce restoration costs and outage times associated with extreme weather events.

IV. STATEMENT OF POSITIONS AND ARGUMENT

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

***FPL Position:** Yes. FPL's 2023 SPP includes all of the information expressly required by Rule 25-6.030(3), F.A.C., and Section 366.96, F.S., which can be used and compared by the Commission to determine if the 2023 SPP is in the public interest. There is nothing in Rule 25-6.030(3), F.A.C., that (i) requires the SPP benefits to be projected, quantified, or monetized, or (ii) requires a formulaic comparison of the SPP costs and benefits as suggested by Intervenors. (*FPL witness Jarro*)

FPL designed its SPP programs and prepared the 2023 SPP based on the express requirements and standards prescribed in Section 366.96, F.S., and Rule 25-6.030, F.A.C., that were in effect at the time FPL filed the 2023 SPP on April 11, 2022, and which remain in effect today. The contents to be included in the SPP are set forth in subpart (3) of Rule 25-6.030, F.A.C. As summarized below, FPL's 2023 SPP tracks the language of and provides information consistent with the express requirements of Rule 25-6.030(3), F.A.C.

- Section II and Appendix A of the 2023 SPP explain how the 2023 SPP will strengthen FPL's T&D system to better withstand extreme weather events and will reduce restoration costs and outage times based on actual, real-world experience with recent extreme weather events, such as Hurricanes Irma and Matthew, and the performance of FPL's T&D facilities with and without storm hardening. (CEL Ex. 2, pp. 8-10 and Appendix A.)
- Section III and Appendix B of the 2023 SPP describe FPL's service area and T&D facilities, including areas prioritized for enhancement and any areas where the utility has determined that enhancement of the utility's existing transmission and distribution facilities would not be feasible, reasonable, or practical. (CEL Ex. 2, pp. 12-13 and Appendix B.)
- Section IV of the 2023 SPP describes each SPP program and includes the following information: (1) description of the SPP program and benefits; (2) actual/estimated start and completion dates; (3) cost estimates; (4) comparison of the costs and benefits; and (5) criteria used to select and prioritize the SPP program. (CEL Ex. 2, pp. 13-59)
- Section V of the 2023 SPP provides the requested information for the first three years of the 2023 SPP (2023-2025). (CEL Ex. 2, p. 60.)

- Section VI of the 2023 SPP provides the estimated annual jurisdictional revenue requirements. (CEL Ex. 2, p. 61.)
- Section VII of the 2023 SPP provides the estimated rate impacts for the first three years (2023-2025). (CEL Ex. 2, p. 62.)
- Appendix C to the Revised 2023 SPP includes the program estimated annual costs and estimated number of projects for the ten-year period of 2023-2032. (CEL Ex. 2, Appendix C.)
- Appendix E to the Revised 2023 SPP includes project level detail for the first year (2023). (CEL Ex. 2, Appendix E.)

FPL submits the information and details provided in the sections and appendices referenced above fully comply with the express requirements of Rule 25-6.030(3), F.A.C.

Intervenors claim FPL’s 2023 SPP failed to meet the requirements of subpart (3)(d)1. of Rule 25-6.030, F.A.C., because it did not project, quantify, and monetize the estimated benefits for each SPP program. Intervenors also claim FPL’s 2023 SPP failed to include the comparison of the SPP costs and benefits required by subpart (3)(d)4. of Rule 25-6.030, F.A.C. FPL will separately address each of these arguments, which should be rejected for the reasons explained below.

A. *There is nothing in Section 366.96, F.S., or Rule 25-6.030, F.A.C., that requires SPP benefits to be projected, quantified, or monetized, and for good reason*

Rule 25-6.030(3)(d)1., F.A.C. requires a SPP to include a “description of how each proposed storm protection program is designed to enhance the utility’s existing transmission and distribution facilities including an estimate of the resulting reduction in outage times and restoration costs due to extreme weather events.” Intervenors argue FPL’s 2023 SPP failed to comply with Rule 25-6.030(3)(d)1., F.A.C., because it did not estimate, quantify, or monetize the benefits of the SPP programs. Intervenors’ argument is misplaced and should be rejected for several reasons.

First, Intervenor’s contention that the SPP must include estimated, quantified, and monetized benefits for each SPP program is a fallout of OPC’s recommendation that the Commission adopt and retroactively apply a new cost benefit analysis and new cost-effectiveness threshold for the SPP programs. This recommendation by OPC would be unlawful under Section 120.54, F.S., was stricken by Order No. 2022-0292-PCO-EI as improper, and will not be further addressed herein.

Second, there is nothing in either Section 366.96, F.S., or Rule 25-6.030, F.A.C., that prescribes or requires the benefits of the SPP programs to be quantified or monetized as suggested by Intervenor.⁶ A review of the plain language of Rule 25-6.030, F.A.C., clearly demonstrates that Intervenor is asking this Commission to improperly add words to the Rule that do not exist today.⁷ Rather, the plain language of Rule 25-6.030, F.A.C., expressly provides that the SPP must include a “**description**” of the benefits of the SPP programs.⁸ FPL’s 2023 SPP complies with that

⁶ The rules of statutory construction apply equally to the interpretation of regulations. *See, e.g., Bleich v. Chicago Title Ins. Co.*, 117 So. 3d 1163, 1164–65 (Fla. 3d DCA 2013) (applying the canons of statutory construction to interpret regulations); *Halifax Area Council on Alcoholism v. City of Daytona Beach*, 385 So. 2d 184, 187 (Fla. 5th DCA 1980) (regulations are subject to the same rules of construction as are state statutes). The Florida Supreme Court has reiterated the application of the rules of statutory construction in Florida:

When construing a statute, this Court attempts to give effect to the Legislature’s intent, looking first to the actual language used in the statute and its plain meaning.... When the statutory language is clear or unambiguous, this Court need not look behind the statute’s plain language or employ principles of statutory construction to determine legislative intent.... In such an instance, the statute’s plain and ordinary meaning must control unless that meaning leads to a result that is unreasonable or clearly contrary to legislative intent.... When the statutory language is unclear or ambiguous, this Court applies rules of statutory construction to discern legislative intent....

English v. State, 191 So. 3d 448 (Fla. 2016).

⁷ It is a basic principle of statutory construction that courts “are not at liberty to add words to statutes that were not placed there by the Legislature.” *Seagrave v. State*, 802 So. 2d 281, 287 (Fla. 2001) (quoting *Hayes v. State*, 750 So. 2d 1, 4 (Fla. 1999); *Overstreet vs. State*, 629 So. 2d 125, 126 (Fla. 1993)).

⁸ *See* Rule 25-6.030(3)(b), F.A.C. (“A description of how the proposed Storm Protection Plan will reduce restoration costs and outage times associated with extreme weather conditions” (emphasis added)); *see also* Rule 25-6.030(3)(d)1., F.A.C. (“A description of how each proposed storm protection program is designed to enhance the utility’s existing transmission and distribution facilities including an estimate of the resulting reduction in outage times and restoration costs due to extreme weather events” (emphasis added)).

requirement. It provides a description of the benefits of the SPP programs based on actual, real-world experience. These real-world results demonstrate that the SPP programs have achieved and will continue to achieve the legislative objectives of reducing restoration costs and customer outage times associated with extreme weather events. (Tr. vol. 1, pp. 74-76, 79-80, 83-85, 96-97, and 115-16.) Indeed, no party disputes that the programs included in FPL’s 2023 SPP will in fact reduce restoration costs and customer outage times.

Third, Intervenors’ interpretation of subpart (3)(d)1. of Rule 25-6.030, F.A.C., improperly focuses on a limited portion of this subpart to the exclusion of the remaining language in the subpart. During the cross-examination of FPL witness Jarro, Intervenors focused on the phrase “including an estimate of the resulting reduction times and restoration costs” to support their contention that Rule 25-6.030(3)(d)1., F.A.C., requires a quantification of projected reductions in outage times and restoration costs. (Tr. vol. 1, 72, 74, 76-77, 79, 82, 96.) However, such an interpretation completely ignores the rest of subpart (3)(d)1. of the Rule. The complete language of Rule 25-6.030, F.A.C., provides as follows: “A description of how each proposed storm protection program is designed to enhance the utility’s existing transmission and distribution facilities including an estimate of the resulting reduction in outage times and restoration costs due to extreme weather events.” Intervenors’ reading of subpart (3)(d)1. of the Rule, if adopted, would essentially repeal the primary component of the subpart requiring a “description” of the SPP benefits or, at minimum, render it meaningless.⁹

⁹ “A basic tenet of statutory interpretation is that a ‘statute should be interpreted to give effect to every clause in it, and to accord meaning and harmony to all of its parts.’” *Jones v. ETS of New Orleans, Inc.*, 793 So. 2d 912, 914-15 (Fla. 2001) (quoting *Acosta v. Richter*, 671 So. 2d 149, 153-54 (Fla. 1996)). Courts are to avoid interpretations that “render any language superfluous.” *Dep’t of Env’tl. Prot. v. Millender*, 666 So. 2d 882, 886 (Fla. 1996). *See also Martinez v. State*, 981 So.2d 449, 452 (Fla.2008) (“It is a basic rule of statutory construction that ‘the Legislature does not intend to enact useless provisions, and courts should avoid readings that would render part of a statute meaningless.’” (quoting *State v. Bodden*, 877 So.2d 680, 686 (Fla.2004))).

Fourth, and relatedly, Intervenors incorrectly rely on the word “including” in subpart (3)(d)1. of Rule 25-6.030, F.A.C. to suggest that the description of SPP benefits must include and is limited to a projection of estimated SPP benefits. However, as the appellate courts have explained, the terms “include” and “including” are typically interpreted to suggest a non-exhaustive list and provide an illustrative application of a general principle.¹⁰ Thus, in the context of Rule 25-6.030(3)(d)1., F.A.C., the phrase “including an estimate of the resulting reduction in outage times and restoration costs” is a non-exhaustive illustrative example of the general requirement to provide a “description of how each proposed storm protection program is designed to enhance the utility’s existing transmission and distribution facilities.”

Fifth, storm hardening is not a simple cost-effective proposition as suggested by Intervenors. Intervenors’ interpretation of subpart (3)(d)1. focuses only on program costs and savings in restoration costs associated with extreme weather conditions (*i.e.*, a strictly quantitative analysis). The fundamental flaw with the Intervenors’ interpretation is it completely ignores the qualitative component required by both Section 366.96, F.S., and Rule 25-6.030, F.A.C. – that is, a reduction in customer outage times. It cannot be reasonably disputed that customers want the extended outage times associated with extreme weather events to be reduced. (Tr. vol. 6, 1116.) This unassailable fact underscores a primary goal and finding of the Florida Legislature in passing the SPP statute: “to mitigate restoration costs and outage times to utility customers when developing transmission and distribution storm protection plans.” *See* Section 366.96(1)(e), F.S. (emphasis added).

¹⁰ The Florida Supreme Court has directed that “[g]enerally, it is improper to apply *expressio unius* to a statute in which the Legislature used the word ‘include,’” as that is “a word of expansion, not one of limitation.” *White v. Mederi Caretenders Visiting Servs. of Se. Fla., LLC*, 226 So. 3d 774, 781 (Fla. 2017). “Commonly, the term ‘include’ suggests that a list is non-exhaustive.” *Id.* at 783. “[T]he term ‘including’ is not one of all-embracing definition, but connotes simply an illustrative application of the general principle.” *Pro-Art Dental Lab, Inc. v. V-Strategic Grp., LLC*, 986 So. 2d 1244, 1257 (Fla. 2008) (*quoting Fed. Land Bank of St. Paul v. Bismarck Lumber Co.*, 314 U.S. 95, 100, 62 S. Ct. 1, 86 L. Ed. 65 (1941)).

Sixth, the argument that a reduction of future outage times should be monetized ignores the very real and simple fact that the monetary value individual customers or communities place on reduced outage times cannot be accurately or uniformly estimated. Indeed, some customers may be willing to pay a premium to never have a power outage, while others may be willing to tolerate a few short outages. (Tr. vol. 6, 1116, 1181.) As explained above, Rule 25-6.030(3)(d)1., F.A.C., does not require the outage times to be monetized with good reason, as there is no uniform Commission or industry method to do so. (Tr. vol. 1, 83, 116; Tr. vol. 6, 1117.) Further, such analyses are necessarily dependent on several highly speculative assumptions regarding the frequency and impacts of future extreme weather events, and a very wide range of subjective economic assumptions, including, but not limited to: the range of values individual customers place on reduced outage times, including comfort, health, and convenience; economic impact to individual customers due to spoilage, loss or disruption of business, and loss of equipment or supplies; and financial and disruptive impact to the state and local economies. (Tr. vol. 6, 1117, 1181-82.) Thus, even if Rule 25-6.030(3)(d)1., F.A.C., did require reductions in outage times to be monetized, which it does not, there is significant uncertainty and variability in how any such analysis should be done and certainly fair debate on whether the results would provide meaningful value to the Commission. Indeed, this fact is acknowledged by OPC witness Kollen when he notes that FPL, Duke Energy Florida, Tampa Electric Company, and Florida Public Utilities Company all took different approaches to describe the benefits of the SPP programs. (Tr. vol. 5, 841, 844-45.)

Seventh, there is no accurate way to truly provide a forward-looking view of the estimated benefits of the SPP programs for the entire 2023-2032 SPP period.¹¹ (Tr. vol. 1, 75-76.) In order

¹¹ In an effort to support Intervenors' contention that the SPP benefits must be quantified or monetized, OPC witness Kollen recommends that FPL should use its Storm Damage Model to quantify the projected
(Continued on next page)

to provide a reasonably reliable forecast of the benefits expected from of storm hardening projects, it is necessary to know the location of the future storm hardening projects completed each year over the forecast period. For example, a storm hardening project located in a densely populated urban area could have different costs and benefits than a storm hardening project located in a less populated rural area. (Tr. vol. 6, 1119.) However, beyond year one of the SPP (2023), FPL does not know which specific projects will be completed each year or where they will be located, which would be essential in projecting the savings expected from the future storm hardening projects. (Tr. vol. 1, 76; Tr. vol. 6, 1119.) Further, even assuming FPL could accurately project the scope and location of the SPP projects for the entire 2023-2032 SPP period, there is no accurate or industry accepted method to forecast the frequency, strength, speed, and path of future storms over this period, which would directly affect the estimated reduction in restoration costs and outage times associated with the SPP projects. (Tr. vol. 6, 1120.) In short, there are too many unknown variables and assumptions to accurately forecast the SPP benefits over the 2023-2032 SPP period. (Tr. vol. 1, 75-76.) For these reasons, FPL appropriately relied on real-life experience and the performance of the T&D system with and without storm hardening during actual storms to demonstrate the expected SPP benefits.

Eighth, Intervenors' argument that FPL's SPP programs require quantified or monetized benefits before they can be approved is directly contrary to OPC's own testimony. OPC witness Mara recommends the Commission reject only the proposed new Transmission Access Enhancement Program (*i.e.*, only one of the nine programs included in FPL's 2023 SPP) for an

benefits and savings associated with the programs included in FPL's 2023 SPP. (Tr. vol. 5, 845.) However, it is unrefuted that FPL's Storm Damage Model is not designed or equipped to forecast and model future SPP programs or projects as explained in the rebuttal testimony of FPL witness Jarro. (Tr. vol. 6, 1118-20.)

alleged failure to comply with the requirements of Rule 25-6.030, F.A.C.¹² (Tr. vol. 4, 645, 648-66.) Stated differently, OPC witness Mara does not dispute that it would be reasonable for the Commission to allow FPL to continue to implement eight of the nine programs included in the 2023 SPP.¹³

Finally, it must be remembered that FPL's approach to describing the benefits of the 2023 SPP is the exact same approach used for the 2020 SPP that OPC agreed to in the 2020 SPP Settlement approved by Commission Order No. PSC-2020-0293-AS-EI.¹⁴ (Tr. 1184; CEL Ex. 19, pp. 1-39.) Simply put, OPC cannot credibly argue in this proceeding that FPL's approach to describing the benefits of the 2023 SPP fails to meet the requirements of Rule 25-6.030(3)(d)1., F.A.C., where FPL used the exact same approach for the 2020 SPP and OPC agreed that the programs in the 2020 SPP are in the public interest.¹⁵

Based on the foregoing, there is nothing in Section 366.96, F.S., or Rule 25-6.030, F.A.C. that requires the benefits of the SPP programs to be projected, quantified, or monetized, and for good reasons as explained above. As required by Rule 25-6.030(3)(d)1., F.A.C., FPL has provided a description of the benefits for all the programs in FPL's 2023 SPP – in some cases these benefits are qualitative and in others they are quantitative as further explained in Issue 2D below. Given the significant variability, speculation, and subjectivity required to forecast estimated benefits of

¹² FPL will further address Intervenor's opposition to the proposed new Transmission Access Enhancement Program in Issue 9 below.

¹³ OPC witness Mara proposes adjustments to the Distribution Lateral Hardening Program and the Substation Storm Surge/Flood Mitigation Program, which FPL will further address below in Issue 5D, but does not assert that either of these programs should be rejected for failure to comply with the requirements of Rule 25-6.030, F.A.C. (*See* Tr. Vol. 4, 645, 648-66.)

¹⁴ Notably, the current 2020 SPP included eight of the same programs in FPL's 2023 SPP (Tr. vol. 1, 53-54), which are the very same eight programs that OPC witness Mara has acknowledged comply with Rule 25-6.030, F.A.C., as explained above.

¹⁵ As noted above, the 2023 SPP is an update and continuation of the current 2020 SPP. Per Section 366.96(6), F.S., the Commission "shall approve, modify, or deny each updated plan pursuant to the criteria used to review the initial plan."

future SPP programs over a ten-year period, FPL reasonably relied on its historical experience and results during actual hurricane events as a more realistic and reliable proxy to estimate the benefits expected from the programs included in FPL's 2023 SPP. (Tr. vol. 6, 1172-73, 1183-84.) Therefore, the Commission should find FPL's approach to describing the SPP benefits based on its historical real-world experience, which is the very same approach used for the 2020 SPP, complies with the express requirements of Rule 25-6.060(3)(d)1., F.A.C.

B. There is nothing in Section 366.96, F.S., or Rule 25-6.030, F.A.C., that requires a quantitative comparison of estimated costs and benefits of the SPP Programs

Rule 25-6.030(3)(d)4., F.A.C., requires a SPP to include a "comparison of costs identified in subparagraph (3)(d)3. and the benefits identified in subparagraph (3)(d)1." Intervenors argue that FPL's 2023 SPP failed to include this comparison, citing subpart (3)(d)4. of the Rule, because the 2023 SPP did not provide a comparison of costs and benefits in terms of dollars. Intervenors' argument is flawed and should be rejected for multiple reasons.

Intervenors' argument is a fallout of OPC's recommendation that the Commission adopt and retroactively apply a new formulaic cost-benefit analysis and new cost-effectiveness threshold for the SPP programs. Again, this recommendation by OPC would be unlawful under Section 120.54, F.S., was stricken by Order No. 2022-0292-PCO-EI as improper, and will not be further addressed herein.

There simply is nothing in Section 366.96, F.S., or Rule 25-6.030, F.A.C., that prescribes or requires a cost-benefit, economic, or cost-effectiveness test or threshold for the SPP programs and projects. (Tr. vol. 1, 88-89.) A review of the plain language of Rule 25-6.030, F.A.C., clearly demonstrates that Intervenors are improperly asking this Commission to add words to the Rule

that do not exist today.¹⁶ Subpart (3)(d)4. of the Rule requires the SPP to include a “comparison” of the estimated costs and identified benefits; it does not require a comparison of the “quantified and monetized benefits” as suggested by Intervenors. Such a conclusion would ignore that both Section 366.96, F.S., and Rule 25-6.030, F.A.C., contemplate the SPP programs to provide reduced outage times to customers, which is a qualitative benefit, and not just reduced restoration costs.¹⁷

Intervenors also ignore that the SPP benefits to be compared under subpart (3)(d)4. of the Rule are “the benefits identified in subparagraph (3)(d)1.” There is nothing in subpart (3)(d)1. of the Rule that prescribes or requires the SPP benefits to be quantified or monetized as further explained above in subsection A of Issue 1D, which is incorporated as though fully set forth herein. For these same reasons, Intervenors’ argument that subpart (3)(d)4. of the Rule requires a quantitative comparison of costs and benefits must also fail.

While OPC posits that a formulaic quantitative comparison of the SPP costs and benefits must be deployed to ensure that the SPP programs are cost effective and benefit customers (Tr. vol. 4, 639; Tr. vol. 5, 846), none of their experts have done that test, nor could they in a credible manner. Instead, OPC simply attacks other utilities’ attempts to provide such information claiming those analyses lack credibility. Thus, OPC has espoused a test that no one, including it, can ever pass. FPL submits such a result was clearly not intended by the Legislature when it passed Section 366.96, F.S.

No parties dispute that FPL has provided estimated costs for each of the programs included in the 2023 SPP. Based on actual, real-world experience with extreme weather events and storm hardening, FPL has provided a description of the benefits for its SPP programs consistent with the express language in Rule 25-6.030(3)(d)1., F.A.C., as further discussed in Issue 2D below. FPL’s

¹⁶ See footnote 7.

¹⁷ Even OPC witness Kollen acknowledges that the analysis includes “qualitative assessments of whether the programs and projects will reduce restoration costs and outage times.” (Tr. vol. 5, 835.)

approach in the 2023 SPP to comparing the estimated costs with the described benefits is the same approach FPL used in the 2020 SPP that OPC agreed to in the 2020 SPP Settlement approved by Commission Order No. PSC-2020-0293-AS-EI. (Tr. vol. 6, 1184.) The Commission can and should compare this information, in conjunction with the factors expressly enumerated in the statutory standard of review prescribed in Section 366.96(4), F.S., to support a determination that FPL's 2023 SPP is in the public interest and should be approved.

Issue 2D: 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?

***FPL Position:** FPL has demonstrated in Sections II and IV, and Appendix A of Revised Exhibit MJ-1 that each of its SPP programs have and will continue to provide increased T&D infrastructure resiliency, reduced outage times, and reduced restoration costs when FPL's system is impacted by extreme weather conditions. (*FPL witness Jarro*)

Florida remains the most hurricane-prone state in the nation and, with the significant coast-line exposure of FPL's system and the fact that the vast majority of FPL's customers live within twenty miles of the coast, FPL's service area has a high probability of being impacted by multiple extreme weather events every year. (Tr. vol. 6, 1120.) The estimate of cumulative reductions in restoration costs and outage times associated with the 2023 SPP will be directly affected by how frequently FPL's service areas are impacted by extreme weather events. Of course, no one can predict with certainty the frequency, strength, speed, and path of storms that will impact FPL's service area. (Tr. vol. 6, 1120.)

For the many reasons explained in Issue 1D above, which is incorporated as through fully set forth herein, FPL's 2023 SPP did not provide projected reductions in restoration costs and outage times associated with extreme weather events for the 2023-2032 plan period. (Tr. vol. 1, 74.) Rather, as FPL witness Jarro explained repeatedly during cross-examination, given the many

highly variable and subjective factors in providing such projected benefits, as well as the fact that there is no industry- or Commission-accept method to do so, FPL relied on its actual and real-world experience with recent extreme weather events, such as Hurricanes Irma and Matthew, which clearly demonstrate FPL's storm hardening programs work and will continue to provide customers with both reductions in restoration costs and outage times associated with extreme weather events. (Tr. vol. 1, pp. 74-76, 79-80, 83-85, 96-97, and 115-16.) FPL witness Jarro summarized FPL's approach as follows:

So, no, an estimate was not -- a forecasted estimate for future benefits of the program was not included. However, in several instances throughout the SPP plan, and in our responses, we've provided a historical representation of what those benefits could be with real life actual storms, and the actual impacts that would be seen by these natural disasters or hurricanes.

For example, we did an analysis for both Hurricane Irma and Matthew, leveraging our storm damage model to effectively evaluate what the impacts of those storms would have been without the investments that have been made since 2007 in the resiliency of the grid.

And that analysis, again, using real life examples of a true storm, allowed us to essentially make the statements that we would expect, as we continue to execute on our storm protection plans as filed, they will, again, continue to deliver on what's expected by the Legislature and the rule, which is to increase the resiliency and drive down storm costs, and also the time it takes to restore after a natural disaster.

(Tr. vol. 1, 74-75.) Given the significant variability, speculation, and subjectivity required to forecast estimated benefits of future SPP programs over a ten-year period, as explained in subsection A of Issued 1D above, FPL reasonably relied on its historical experience and results during actual hurricane events as a more realistic and reliable proxy to estimate the benefits expected from the programs included in FPL's 2023 SPP. (Tr. vol. 6, 1172-73, 1183-84.)

Importantly, FPL's 2023 SPP is largely a continuation of the programs included in the current 2020 SPP that were agreed to by OPC and Walmart in the 2020 SPP Settlement approved by Commission Order No. PSC-2020-0293-AS-EI. (Tr. vol. 6, 1108; CEL Ex. 19, pp. 1-39.) The

majority of FPL’s existing SPP programs have been in place since 2007 and have already demonstrated that they have provided and will continue to provide increased T&D infrastructure resiliency, reduced restoration times, and reduced restoration costs when FPL is impacted by extreme weather events. (Tr. vol. 6, 1108-09.)

FPL performed an analysis of Hurricanes Matthew and Irma that indicated the restoration construction man-hours (“CMH”), days to restore, and storm restoration costs for these storms would have been significantly greater without FPL’s storm hardening programs. (See CEL Ex. 2, Appendix A.) In the case of Hurricane Matthew, FPL estimated that without hardening, restoration would have taken two additional days (50% longer) and resulted in additional restoration costs of \$105 million (36% higher than actual costs). (Tr. vol. 1, 55.) In the case of Hurricane Irma, FPL estimated that without hardening, restoration would have taken four additional days (40% longer) and resulted in additional restoration costs of \$496 million (40% higher than actual costs). (Tr. vol. 1, 55-56.) Further, FPL’s underground laterals performed 6.6 times (85%) better during Hurricane Irma than overhead laterals. (Tr. vol. 1, 96, Tr. vol. 6, 1135.) FPL’s experience with recent extreme weather events, such as Tropical Storm Alex, demonstrated similar performance with the lateral system. (Tr. vol. 1, 111-12.)

FPL also calculated the 40-year net present value (NPV) of the savings associated with storm hardening if storms similar to Hurricanes Matthew and Irma were to occur every three and five years. Based on this analysis, the 40-year NPV of the savings related to storm hardening is significant:

Storm	40-Year NPV Savings Every 3 Years (2017\$)	40-Year NPV Savings Every 5 Years (2017\$)
Matthew	\$653 MM	\$406 MM
Irma	\$3,082 MM	\$1,915 MM

(CEL Ex. 2, Appendix A, pp. 10-18.)

While no electrical system can be made completely resistant to the impacts of hurricanes and other extreme weather conditions, the existing and new SPP programs included in FPL's 2023 SPP are appropriate and necessary to meet the requirements of Section 366.96, F.S., and Rule 25-6.030, F.A.C., and will collectively provide increased resiliency and faster restoration to the electric infrastructure that FPL's 5.7 million customers and Florida's economy rely on for their electricity needs. (Tr. vol. 1, 53, 65.) The 2023 SPP will continue and expand the benefits of storm hardening to all customers throughout FPL's system. (Tr. vol. 1, 55.) A detailed description of the benefits of the SPP programs is provided in Section II(A) of the FPL 2023 SPP, and the benefits of each program are provided in Section IV of the 2023 SPP.¹⁸

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

***FPL Position:** FPL's 2023 SPP prioritizes areas of lower reliability performance. FPL has selected, prioritized, and deployed all of its historical storm hardening programs in a deliberate and effective manner over the past sixteen years and FPL is employing this same approach for its 2023 SPP programs. (*FPL witness Jarro*)

While all of FPL's SPP programs are system-wide initiatives, annual activities and projects are prioritized and selected based on certain factors such as last inspection date, last vegetation maintenance date, historic service reliability performance during extreme weather conditions, and efficient use of resources. (CEL Ex. 2, p. 13.) Further, starting in 2025, FPL proposes to add a new Management Region selection approach to its Distribution Lateral Hardening Program to target and prioritize areas of highest risk of hurricane impacts, highest concentration of customers, and areas that would require significant transit for out of state crews during an extreme weather restoration event. (Tr. vol. 1, 60; CEL Ex. 2, p. 36.)

¹⁸ See CEL Ex. 2, pp. 8-10, 16-17, 20-21, 26-27, 32-33, 38, 43, 47-48, 51, and 57-58; see also CEL Ex. 2, Appendix A, pp. 1-18.

A description of the criteria used to select and prioritize storm protection projects is included in the description of each SPP program provided in Section IV of the 2023 SPP.¹⁹ No parties opposed or challenged FPL’s proposed prioritization and selection methodologies for any of the SPP programs included in the 2023 SPP.

Issue 4D: 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?

***FPL Position:** FPL has not identified any areas where its SPP programs would not be feasible, reasonable, or practical. (*FPL witness Jarro*)

FPL has not identified any areas where its SPP programs would not be feasible, reasonable, or practical. (CEL Ex. 2, pp. 13, 18, 22, 28-29, 35-36, 40, 45, 49, 52, and 59.)

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

***FPL Position:** The estimated costs for each SPP program are provided in Section IV and Appendix C of Revised Exhibit MJ-1. Consistent with historical results, FPL expects that the programs included in the 2023 SPP will result in a reduction of restoration costs and outage times associated with extreme weather events. A description the benefits of FPL’s 2023 SPP is provided in Section II, Section IV, and Appendix A of Revised Exhibit MJ-1. (*FPL witness Jarro*)

Based on the results of actual historical events and impacts, each of the SPP programs included in FPL’s 2023 SPP have and will continue to provide increased T&D infrastructure resiliency, reduced outage times, and reduced restoration costs when FPL’s system is impacted by extreme weather events as further explained in Issue 2D above, which is incorporated as though fully set forth herein. Intervenors focus on terms “estimated benefits” and “estimate of the resulting reduction in outage times and restoration costs” to suggest that Section 366.96, F.S., and

¹⁹ See CEL, Ex. 2, pp. 18, 22, 28-29, 35-36, 40, 45, 49, 52, and 59.

Rule 25-6.030, F.A.C., require a projection of quantified and monetized benefits for the 10-year SPP period. As explained in detail in Issue 1D, which is incorporated as though fully set forth herein, Intervenors' interpretation and application of Section 366.96, F.S., and Rule 25-6.030, F.A.C., is flawed for multiple legal and practical reasons and, therefore, should be rejected.

The estimated costs for each of the SPP programs included in FPL's 2023 SPP are provided in Section IV and Appendix C of the 2023 SPP.²⁰ The SPP spending plans go through the same rigorous and long-standing annual processes utilized in the development of FPL's operations and maintenance ("O&M") and capital expenditures budgets. As part of this budget process, FPL evaluates the total customer rate impacts for the overall budget as a whole, which includes the proposed SPP spending plans.²¹ (CEL Ex. 60, FPL Response to OPC Fourth Set of Interrogatories Nos. 59-61.)

The only SPP program costs challenged by Intervenors were for the Substation Storm Surge/Flood Mitigation Program and the Distribution Lateral Hardening Program.²² With respect to the Substation Storm Surge/Flood Mitigation Program, Intervenors recommend an adjustment to exclude substations that have alternate feeds available and do not have a history of flooding. With respect to the Distribution Lateral Hardening Program, Intervenors recommend the annual budget be capped at \$606 million per year for the years 2025 to 2032, which results in a total ten-year budget reduction of approximately \$3.4 billion. Finally, in discovery and through cross examination, Staff raised the potential impacts of reducing the number of projects and budget for

²⁰ See CEL Ex. 2, pp. 17-18, 21, 28, 34, 39-40, 44, 48-49, and 59; see also CEL Ex. 2, Appendix C.

²¹ Using the assumptions and Planning Process Guidelines, the FPL business units develop their objectives and goals, key initiatives, and assumptions, as well as a preliminary funds request to support those business objectives, with the objective of providing a value proposition for the customers. (CEL Ex. 60, FPL Response to OPC Fourth Set of Interrogatories Nos. 59-61.)

²² OPC also proposed that the new Transmission Access Enhancement Program be rejected. FPL will separately address OPC's opposition to the new Transmission Access Enhancement Program in Issue 9 below.

FPL's existing Distribution Feeder Hardening Program and existing Distribution Lateral Hardening Program during the period 2023-2025. FPL will separately respond to each of these adjustments, which should be rejected for the reasons explained below.

A. Intervenors' recommended adjustment to the Storm Surge/Flood Mitigation Program is not reasonable or appropriate

As a preliminary matter, FPL notes that OPC's recommendations regarding the Storm Surge/Flood Mitigation Program are inconsistent. In the table on page 13 of his testimony, OPC witness Mara appears to recommend, without any explanation or support, that the entire budget for the Storm Surge/Flood Mitigation Program should be rejected. (Tr. vol. 4, 645.) However, on pages 16-18 of his testimony, OPC witness Mara recommends that only substations with alternate feeds or no history of flooding should be excluded from the Storm Surge/Flood Mitigation Program. (Tr. vol. 4, 648-50.) Notably, OPC witness Mara does not identify any specific substation that would be excluded by his proposal, nor does he explain or demonstrate how such exclusions would result in the elimination of the entire budget for the Substation Storm Surge/Flood Mitigation Program. (Tr. vol. 6, 1126.)

Despite being expressly stated in FPL's 2023 SPP (CEL Ex. 2, p. 51), Intervenors overlook that the Storm Surge/Flood Mitigation Program included in FPL's 2023 SPP is the same program that was included in FPL's 2020 SPP previously approved by Commission Order No. PSC-2020-0293-AS-EI. (Tr. vol. 6, p. 1126.) In the 2020 SPP, FPL originally projected it would complete the Storm Surge/Flood Mitigation Program by 2022. Due to field conditions and permitting delays that were largely beyond FPL's control, FPL was unable to complete the storm surge/mitigation measures at all of the identified substations by year-end 2022 as originally projected. (Tr. vol. 6, pp. 127-27.) As a result, FPL is only proposing to continue the program to address the remaining four substations originally identified in the 2020 SPP, which are currently expected to be

completed by year-end 2024. FPL has not added new or additional substations to the Storm Surge/Flood Mitigation Program approved as part of the 2020 SPP.²³ (Tr. vol. 6, p. 1127.)

With respect to Intervenor's recommendation that the Substation Storm Surge/Flood Mitigation Program exclude substations with no history of flooding, it is undisputed that all four substations remaining to be completed under the Substation Storm Surge/Flood Mitigation Program have, in fact, experienced floods or storm surge in the past. (Tr. vol. 6, 1128). Accordingly, Intervenor's proposal to exclude substations that have not experienced floods or storm surge is inapplicable to FPL's 2023 SPP.

With respect to substations with an alternate feed, Intervenor recommends that any such substations should be de-energized and the load served by the de-energized substation should be transferred to an adjacent substation via the alternate feed. (Tr. vol. 4, 649-50.) All four substations remaining to be completed under the Storm Surge/Flood Mitigation Program have alternative feeder ties to nearby substations. (Tr. vol. 6, 1127.) However, de-energizing one substation due to storm surge or flooding does not mean an adjacently tied substation can necessarily pick up and support the entire electric load from the de-energized substation as demonstrated during both Hurricanes Matthew and Irma. (Tr. vol. 6, 1127-28.)

Finally, no parties dispute that the Substation Storm Surge/Flood Mitigation Program will reduce restoration costs and outage times associated with the need to de-energize and repair substations impacted by storm surges and/or floods as a result of extreme weather events. Flooding and the need to proactively de-energize substations located in areas susceptible to storm surge and flooding can result in several thousands of customers outages for a de-energized distribution

²³ Intervenor has not offered any reason why it was in the public interest to complete the storm surge/mitigation measures at these substations as part of the 2020 SPP, but not as part of the 2023 SPP. (Tr. vol. 6, 1127.) It also should be noted that the new exclusions proposed by OPC witness Mara were not part of either the 2020 SPP or the 2020 SPP Settlement that OPC and Walmart joined. (Tr. vol. 6, p. 1127; CEL Ex. 19, p. 26).

substation and tens of thousands of customer outages for a de-energized transmission substation. Power to these affected customers cannot be restored until the water subsides and damage therefrom is repaired. (CEL Ex. 2, p. 50.) For example, it took over 24 hours to restore power to approximately 7,000 customers when the St. Augustine Substation had to be de-energized during Hurricane Matthew. (Tr. vol. 6, 1167.) In short, Intervenors' recommended adjustments overlook that the mitigation measures under the Storm Surge/Flood Mitigation Program will not only reduce outages but will reduce restoration costs associated with the need to repair and replace substation equipment that is damaged due to storm surge or flooding following an extreme weather event.

For these reasons, Intervenors' proposed adjustments to the Substation Storm Surge/Flood Mitigation Program, which is simply the completion of the four remaining substations previously agreed to and approved as part of FPL's 2020 SPP, should be rejected and FPL's Substation Storm Surge/Flood Mitigation Program should be approved as filed.

B. OPC's recommended adjustment to the Distribution Lateral Hardening Program is not reasonable or appropriate

FPL's Distribution Lateral Hardening Program includes both overhead hardening and undergrounding of distribution laterals. (CEL Ex. 2, pp. 28-32; Tr. vol. 6, 1175.) No parties oppose FPL's Distribution Lateral Hardening Program or otherwise suggest that it will not reduce restoration costs and customer outage times associated with extreme weather events. In fact, OPC witness Mara acknowledges that "[i]t is apparent from experiences in Florida that undergrounding and hardening poles will reduce outage costs and outage times." (Tr. vol. 4, 666.) OPC witness Mara appears to suggest FPL needs to do more so lateral hardening and undergrounding and their associated benefits are spread to more customers and communities:

My point is that the dollars are concentrated such that only a few customers will see a reduction in customer outage minutes and enjoy the aesthetics and other benefits of an undergrounded system. The

remaining customers only see a benefit cost ratio that is upside down meaning more costs than benefits.

This is a significant investment in a small portion of the system (one feeder) and in a single community. There needs to be a mechanism to help spread the undergrounding and hardening to more communities, which is important since all customers will be contributing to the cost of undergrounding.

(Tr. vol. 4, 664-65 (emphasis added).)

Despite the foregoing, Intervenor's nonetheless recommend that the annual budget for the Distribution Lateral Hardening Program be capped at \$606 million per year for the years 2025 to 2032, which results in a total ten-year budget reduction of approximately \$3.4 billion.²⁴ Although Intervenor's apparently seek to simply maintain the status quo, they overlook that the Distribution Lateral Hardening Program was initially deployed as a limited pilot, which was continued through 2022 as OPC and Walmart agreed in the 2020 SPP Settlement. As part of the 2023 SPP, FPL is seeking to deploy the Distribution Lateral Hardening Program as a full-scale permanent SPP program and, as such, is ramping up the program in order to provide the benefits of underground lateral hardening throughout its system, including in the former Gulf service area. (Tr. vol. 6, 1134.) It should be noted that no parties object to the Distribution Lateral Hardening Program becoming a permanent SPP program.

FPL's Distribution Lateral Hardening Program was designed to achieve the express objectives and goals of Section 366.96, F.S., to undergrounding of certain electrical distribution lines in order to reduce restoration costs and outage times associated with extreme weather events. (Tr. vol. 6, 1134.) FPL's underground lateral program is an impactful and crucial tool to achieve these legislative objectives and is appropriately designed to address the worst performing circuits

²⁴ Intervenor's adjustment appears to be completely qualitative and, together with their other proposed adjustments, is simply intended to reduce the ten-year capital cost per customer to remain similar to the ten-year capital cost per customer for the combined FPL and Gulf's 2020 SPPs. (Tr. vol. 4, 645, 666.)

and areas first based on actual historical experience. (Tr. vol. 6, 11.34-35.) FPL's experience with the most recent extreme weather event, Tropical Storm Alex, demonstrated that underground laterals are successful in reducing outages and restoration costs associated with extreme weather events. (Tr. vol. 1, 111-12.)

The ramp up in the number of laterals to be completed each year under the Distribution Lateral Hardening Program is due primarily to the inclusion of the former Gulf service area and the significant number of laterals remaining to be hardened, the strong local support and interest in the program, as well as the addition of the Management Region selection approach starting in 2025. (Tr. vol. 6, 1135, 1178-79.) Notably, no Parties criticize or challenge the proposed expansion to the former Gulf service area or the addition of the Management Region selection approach.

The annual budget for the Distribution Lateral Hardening Program is a product of the number of estimated projects to be completed throughout FPL's system. (Tr. vol. 6, 1135; *see also* CEL Ex. 2, Appendix C.) FPL has nearly finished its transmission hardening and its feeder hardening programs, which provide benefits to all customers. (*See* CEL Ex. 2, pp. 27-28, 39; CEL Ex. 2, Appendix C.) The Distribution Lateral Hardening Program is the critical step necessary to harden the T&D system consistent with the policy and directive of Section 366.96, F.S., and is necessary to bring the benefits of storm hardening to the individual customers, including both reduced outage times and aesthetics. (Tr. vol. 6, 1135, 1152.) The Intervenors seek to slash this program, which is at the heart of Section 366.96, F.S., by significantly reducing the number of laterals to be completed each year and, in turn, delay when the benefits will be realized by the individual customers. (Tr. vol. 6, 1133.)

How fast and how many lateral projects are completed under the Distribution Lateral Hardening Program, and how quickly customers realize the direct and indirect benefits therefrom,

is ultimately a regulatory decision for the Commission to be made in the context of the policy and objectives of the Section 366.96, F.S. (Tr. vol. 6, 1135.) Based on the availability of resources and materials necessary to execute the Distribution Lateral Hardening Program, FPL submits it has taken a reasonable and measured approach in its 2023 SPP in order to ensure all customers receive the benefits of storm hardening consistent with the legislative objectives of Section 366.96, F.S., within a reasonable period.²⁵ (Tr. vol. 6, 1178-79.)

For these reasons, Intervenors proposed adjustment to the Distribution Lateral Hardening Program, which would reduce the number of laterals to be completed each year and significantly delay when individual customers will receive the direct benefits of storm hardening, should be rejected and FPL's Distribution Lateral Hardening Program should be approved as filed.

C. Any adjustments by Staff to the Distribution Feeder Hardening Program and Distribution Lateral Hardening Program would materially delay the SPP benefits to a significant number of customers

Although Staff did not submit any testimony recommending adjustments to any of the programs included in FPL's 2023 SPP, Staff served its Third Set of Interrogatories Nos. 16 and 17 requesting FPL to provide a hypothetical estimate of the impacts to rates and program costs if FPL completed only 125 projects per year under the Distribution Feeder Hardening Program and only 530 projects per year under the Distribution Lateral Hardening Program during the period 2023-2025. (See CEL Ex. 56.) The hypothetical pullback in the number of projects to be completed in Staff's Third Set of Interrogatories Nos. 16 and 17 was not predicated on any extreme weather-driven criteria but was instead based solely on the ten-year average number of projects to be completed in the Distribution Feeder Hardening Program and Distribution Lateral Hardening

²⁵ Notably, the ramp up of the Distribution Lateral Hardening Program starting in 2025 corresponds with the ramp down and completion of the Distribution Feeder Hardening Program as shown on Appendix C of FPL's 2023 SPP. (CEL Ex. 2, Appendix C.)

Program. Although it is unclear whether Staff will actually recommend such reductions in these two critical storm protection programs, FPL submits that any such adjustments, if adopted, would delay the SPP benefits to a significant number of customers with only very little incremental impact on rates.

With respect to any Staff adjustment to the Distribution Feeder Hardening Program during 2023-2025, it must be remembered that distribution feeders are the backbone of the distribution system and are a critical component to providing safe and reliable electric service to FPL's customers. (CEL Ex. 2, p. 26.) Staff's hypothetical adjustment overlooks the fact that the Distribution Feeder Hardening Program, as currently proposed, is scheduled to be complete in the legacy FPL service area in 2025 and is being continued in order to harden or underground the remaining feeders in the former Gulf service area, with the program scheduled to be completed by 2030. (CEL Ex. 2, pp. 27-28). In its response to Staff's interrogatories, FPL demonstrated that such an adjustment would delay completion of the Distribution Feeder Hardening Program by six years, which would cumulatively impact 1.5 million customers during the same 3-year period 2023-2025 and expose those customers to extended outages after an extreme weather event. (*See* CEL Ex. 56.)

With respect to Staff's hypothetical adjustment to the Distribution Lateral Hardening Program during 2023-2025, the Distribution Lateral Hardening Program is the critical step necessary to bring the benefits of storm hardening to individual customers. (Tr. vol. 6, 1135, 1152.) Staff's hypothetical adjustment overlooks the fact that the ramp up in the number of laterals to be completed each year under the Distribution Lateral Hardening Program is due primarily to the inclusion of the former Gulf service area, the significant number of laterals that remain to be hardened throughout the consolidated FPL service area, the strong local support and interest in the program, and the addition of the unopposed Management Region selection approach starting in

2025. (Tr. vol 6, 1135.) In its response to Staff’s interrogatories, FPL demonstrated that such an adjustment would delay over 5,600 laterals being hardened compared to FPL’s proposed plan, would require an additional ten plus years to complete the program, and would cumulatively impact 1.0 million customers during the ten-year period 2023-2032 and expose those customers to extended outages after an extreme weather event. (See CEL Ex. 56.)

The record confirms that Staff’s hypothetical adjustments to the Distribution Feeder Hardening Program and Distribution Lateral Hardening Program would materially delay critical customer-desired storm protection benefits for a significant number of customers, while having very little customer rate benefit in terms of impact on the typical customer rates as shown in the table below:

	Rate Impact of Staff Adjustment RS-1 (\$/kWh)			Rate Impact of Staff Adjustment GSD-1 (\$/kW)			Rate Impact of Staff Adjustment GSLDT-3 (\$/kW)		
	2023	2024	2025	2023	2024	2025	2023	2024	2025
Distribution Feeder Hardening Program	\$ (0.00027)	\$ (0.00080)	\$ (0.00108)	\$ (0.04)	\$ (0.13)	\$ (0.17)	\$ -	\$ -	\$ -
Distribution Lateral Hardening Program	\$ (0.00009)	\$ (0.00030)	\$ (0.00062)	\$ (0.01)	\$ (0.05)	\$ (0.10)	\$ -	\$ -	\$ -
Total	\$ (0.00036)	\$ (0.0011)	\$ (0.00178)	\$ (0.05)	\$ (0.18)	\$ (0.27)	\$ -	\$ -	\$ -

(See CEL Ex. 56.)

For all of the reasons discussed and demonstrated above, the hypothetical adjustments set forth in Staff’s Third Set of Interrogatories Nos. 16-17 should be rejected and FPL’s Distribution Feeder Hardening Program and Distribution Lateral Hardening Program should be approved as filed.

Issue 6D: 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?

***FPL Position:**

Customer Class	2023	2024	2025
Residential (RS-1) (\$/kWh)	\$0.00431	\$0.00604	\$0.00771
Commercial (GSD-1) (\$/kW)	\$0.73	\$1.03	\$1.33
Industrial (GSLDT-3) (\$/kW)	\$0.10	\$0.14	\$0.17

The estimated rate impacts are based on the total estimated costs of the 2023 SPP programs, which could vary by as much as 10% to 15%, and does not distinguish which costs would be recovered in the SPPCRC and base rates. (*FPL witness Jarro*)

Consistent with the express requirements of Rule 25-6.030(3)(g), F.A.C., FPL provided an estimate of the annual jurisdiction revenue requirements for each year of the 2023 SPP based on the estimated SPP program costs included in the 2023 SPP. (CEL Ex. 2, p. 61.) The estimated annual jurisdiction revenue requirements were then used to estimate the rates provided in the table above for the first three years of the 2023 SPP pursuant to the express requirements of Rule 25-6.030(3)(h), F.A.C.

Importantly, the revenue requirements and rate impacts are estimates based on the total estimated program costs included in the 2023 SPP, which could vary by as much as 10-15%, and include total estimated costs (*i.e.*, includes both costs to be recovered in the SPPCRC and base rates). The actual SPP costs, associated revenue requirements, and actual rates to recover such costs will all be addressed in subsequent filings in separate SPPCRC dockets pursuant to Rule 25-6.031, F.A.C.²⁶ (CEL Ex. 2, pp. 61-62.) As such, the estimated revenue requirements and estimated rate impacts are not intended to be used to set rates but, rather, provide a reasonable

²⁶ As this Commission has previously explained, “even if the Commission approves FPL’s SPP as in the public interest, the cost estimates are not correspondingly ‘approved.’ The Commission will have the opportunity to scrutinize and allow or disallow cost recovery of FPL’s actual costs in the SPPCRC proceeding.” Commission Order No. PSC-2020-0162-PCO-EI, issued May 18, 2020, Docket No. 20200070-EI.

estimate of the customer rate impacts for the Commission to consider, along with the other factors required by the statutory standard of review in Section 366.96(4), F.S., in order to determine whether it is in the public interest to approve, approve with modification, or deny the 2023 SPP.

FPL submits that the estimated revenue requirements and estimated rate impacts comply with the requirements of subparts (g) and (h) of Rule 25-6.030, F.A.C., and are consistent with the intent and purpose of making such information available for the Commission to consider in reaching a determination whether the 2023 SPP is in the public interest.

Issue 7: Withdrawn.

Issue 8: Withdrawn.

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

***FPL Position:** The Commission should approve FPL's new Transmission Access Enhancement Program without modification. The Transmission Access Enhancement Program will allow FPL and its contractors to quickly access transmission facilities in areas that become inaccessible due to severe flooding or saturated soils after an extreme weather event, which would result in a reduction of outage times for tens of thousands to hundreds of thousands of customers following an extreme weather event. (*FPL witness Jarro*)

As part of its 2023 SPP, FPL proposed to implement a new Transmission Access Enhancement Program that was modeled after a similar program agreed to by OPC in a settlement approved by Commission Order No. PSC-2020-0293-AS-EI. (Tr. vol. 6, 1108; CEL Ex. 19, pp. 1-39.) In parts of FPL's service area, transmission facilities are located in areas that are not readily accessible for repair/restoration following an extreme weather event, such as low-lying areas, areas prone to severe flooding, or areas with saturated soils. When these facilities are impacted during a storm, they frequently can only be accessed for restoration using specialized equipment, which

often has limited availability during storm events and is typically a higher cost than traditional equipment. (Tr. vol. 1, 56; Tr. vol. 6, 1137.) The purpose of the Transmission Access Enhancement Program is to target and address such areas on FPL's transmission system so FPL and its contractors can quickly restore transmission outages. (Tr. vol. 1, 56.)

Intervenors completely ignore the scope and purpose of the new Transmission Access Enhancement Program and contend that the Program should be rejected because maintenance of bridges, roads, and culverts to access transmission facilities are ordinary base rate activities. (Tr. vol. 4, 660.) To be clear, FPL is not proposing to simply maintain roads, rights of way, bridges, and culverts for purposes of accessing transmission facilities for day-to-day maintenance and vegetation management activities, which are activities typically scheduled and conducted during drier times of the year and within the existing transmission rights-of-way. (Tr. vol. 6, 1136.) Rather, as clearly set forth in FPL's direct testimony and 2023 SPP, the purpose of the Transmission Access Enhancement Program is to ensure FPL has access to its transmission facilities following an extreme weather event by targeting and addressing areas that become inaccessible due to flooding or saturated soils. (Tr. vol. 1, 56-57; CEL Ex. 2, pp. 57-58; *see also* Tr. vol. 6, 1136.)

Intervenors also argue that FPL did not demonstrate that the new Transmission Access Enhancement Program will reduce restoration costs and outage times associated with extreme weather events. (Tr. vol. 1, 69; Mara pp. 27-28.) In support, Intervenors point to the fact that the Program is new and was not included in the historical analysis of storm hardening benefits provided in Appendix A to the 2023 SPP. (Mara pp. 27-28.) Intervenors' argument is based on their incorrect contention that Rule 25-6.030, F.A.C., requires the SPP benefits to be projected, quantified, and monetized. Intervenors' argument should be rejected for the multiple reasons explained in Issued 1D, which is incorporated as though fully set forth herein. Moreover, it is

undisputed that a transmission-related outage can result in an outage affecting tens of thousands to hundreds of thousands of customers. (Tr. vol. 6, 1137.) FPL’s proposed Transmission Access Enhancement Program will allow FPL and its contractors to quickly address these outages, which will shorten the associated restoration times and restoration costs, by ensuring these transmission facilities are reasonably accessible after an extreme weather event. (Tr. vol 6, 1137.)

Rule 25-6.030(2)(b), F.A.C., defines a storm protection project to include enhancement of T&D areas and not just the T&D facilities themselves: “a specific activity within a storm protection program designed for the enhancement of an identified portion or area of existing electric or distribution facilities for the purpose of reducing restoration costs and reducing outage times associated with extreme weather conditions therefore improving overall service reliability” (emphasis added). FPL submits its proposed new Transmission Access Enhancement Program is consistent with this definition, will improve ingress and egress to existing transmission infrastructure for repair/restoration following an extreme weather event, will reduce the need and associated costs for specialized equipment, and will expedite restoration activities consistent with the legislative objectives of Section 366.96, F.S. Accordingly, FPL’s proposed Transmission Access Enhancement Program should be approved as filed.

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

***FPL Position:** Yes. FPL’s Revised 2023 SPP meets the objectives of Section 366.96, F.S., satisfies the requirements of Rule 25-6.030, F.A.C., is in the public interest, and should be approved without modification. The programs included in the Revised 2023 SPP will collectively provide increased resiliency and faster restoration to the electric infrastructure that FPL’s 5.7 million customers and Florida’s economy rely on for their electricity needs. (*FPL witness Jarro*)

For all the reasons more fully explained in Issues 1D through 9 above, which are incorporated as though fully set forth herein, FPL respectfully submits that the 2023 SPP is in the public interest and should be approved.²⁷

Issue 11(d): Should this docket be closed?

***FPL Position:** Yes. This docket should be closed upon the issuance of an appropriate order approving FPL's Revised 2023 SPP without modification.

V. **CONCLUSION**

Safe and reliable electric service is essential to the life, health, and safety of the public and has become a critical component of modern life. Indeed, the Florida Legislature explicitly found and determined that it is in the State's interest for utilities to harden their T&D facilities in order to reduce restoration costs and outage times associated with extreme weather events. While no electrical system can be made completely resistant to the impacts of hurricanes and other extreme weather conditions, FPL's 2023 SPP provides a systematic approach to achieve these legislative objectives.

Based on actual, extensive real-world experience with extreme weather events and storm hardening, FPL has demonstrated that its storm hardening programs work and will continue to provide customers with reductions in both restoration costs and outage times associated with extreme weather events. Indeed, no parties dispute that the programs included in FPL's 2023 SPP will achieve the legislative objective to harden the T&D systems in order to reduce restoration costs and outage times associated with extreme weather events. The Commission can and should

²⁷ In its Prehearing Statement, Walmart takes the position in response to Issue 10D that the utilities should collaborate with interested stakeholders before their next SPP filing to develop and incorporate customer-sited generation into the SPP. Although FPL fully supports productive collaboration with interested stakeholders, FPL submits that there is a serious question whether generation-related measures are eligible as SPP programs under Section 366.96, F.S.

consider this information and determine whether the benefits of the storm hardening programs are justified by the estimated rate impacts.

Intervenors' opposition to FPL's 2023 SPP is based on a fundamental misreading of the plain language of Rule 25-6.030(3), F.A.C., and would clearly require the Commission to add requirements to the Rule that do not exist today in violation of well-established rules of statutory construction. Further, Intervenors' proposed adjustments to the existing Distribution Lateral Hardening Program and Substation Storm Surge/Flood Mitigation Program and opposition to the new Transmission Access Enhancement Program ignore the unrefuted evidence of record and, if adopted, would significantly delay when customers will receive the direct and indirect benefits of storm hardening. For these reasons, as further explained above, Intervenors' opposition and unsupported adjustments to FPL's 2023 SPP should be rejected.

FPL's 2023 SPP fully complies with the express and plain language requirements of Section 366.96, F.S., and Rule 25-6.030, F.A.C. The programs included in the 2023 SPP will collectively provide increased resiliency and faster restoration to the electric infrastructure that FPL's 5.7 million customers and Florida's economy rely on for their electricity needs. FPL submits it has taken a reasonable and measured approach in its 2023 SPP in order to ensure all customers receive the direct and indirect benefits of storm hardening consistent with the legislative objectives of Section 366.96, F.S., within a reasonable period.

Based on the foregoing, and for all the reasons more fully stated in Issues 1D through 10D, which are incorporated as though fully set forth herein, FPL respectfully submits that the 2023 SPP provided in Revised Ex. MJ-1 (CEL Ex. 2) is in the public interest and should be approved.

Respectfully submitted this 6th day of September 2022,

By: s/Christopher T. Wright

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Electronic Mail to the following parties of record this 6th day of September 2022:

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