

State of Florida



Public Service Commission

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-M-E-M-O-R-A-N-D-U-M-

DATE: September 26, 2022

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (Buys, King, Ramos) *TB*
Office of the General Counsel (Trierweiler, Imig) *ADH*

RE: Docket No. 20220051-EI – Review of Storm Protection Plan, pursuant to Rule 25-6.030, F.A.C., Florida Power & Light Company.

AGENDA: 10/04/22 – Regular Agenda – Post Hearing Decision - Participation is Limited to Commissioners and Staff

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: La Rosa

CRITICAL DATES: October 8, 2022 – 180-day Statutory Deadline Per 366.96(5), Florida Statutes.

SPECIAL INSTRUCTIONS: Please place Dockets Nos. 20220048-EI, 20220049-EI, 20220050-EI, and 20220051-EI in consecutive order on the Agenda.

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Case Background

Section 366.96, Florida Statutes (F.S.), requires each investor-owned electric utility (IOU) to file a transmission and distribution storm protection plan (SPP) that covers the immediate 10-year planning period. The plans are required to be filed with the Florida Public Service Commission (FPSC or Commission) at least every three years and must explain the systematic approach the utility will follow to achieve the objectives of reducing restoration costs and outage times associated with extreme weather events and enhancing reliability. No later than 180 days after a utility files a plan containing all the elements required by Commission rule, the Commission must determine whether it is in the public interest to approve, approve with modification, or deny the plan. Section 366.96(7), F.S., states that once a utility's SPP has been approved, proceeding with actions to implement the plan shall not constitute or be evidence of imprudence. Further, this section requires the Commission conduct an annual proceeding, referred to as the storm protection plan cost recovery clause (SPPCRC), to determine the utility's prudently incurred SPP costs.

Florida Power & Light Company (FPL) and Gulf Power Company (Gulf) filed their first SPPs on April 10, 2020, in Dockets Nos. 20200070-EI (Gulf) and 20200071-EI (FPL).¹ The Office of Public Counsel (OPC), Walmart, Inc. (Walmart), and Florida Industrial Power Users Group (FIPUG) were granted intervention in both dockets. These matters were set for an administrative hearing; however, prior to the hearing FPL/Gulf entered into a Settlement Agreement with OPC and Walmart.² An administrative hearing was held on August 10, 2020 for the Commission to hear oral argument from the parties in support of the Settlement Agreement, to admit testimony and documentary evidence into the record, and to consider the Settlement Agreement. The Commission approved the Settlement Agreement by Order No. PSC-2020-0293-AS-EI, issued August 28, 2020, in Docket Nos. 20200070-EI and 20200071-EI.

Key provisions of the 2020 Settlement are:

- Approval of the Gulf and FPL Settlement Agreement does not include or imply a determination of prudence for any particular project under a given program approved under the settlement. OPC retains the right to challenge the prudence or reasonableness of any projects or costs for any project submitted through the SPPCRC docket for programs approved under the settlement.
- FPL and Gulf will not seek recovery of any SPP program operation and maintenance (O&M) expenses incurred in 2020 or 2021 through the SPPCRC. FPL and Gulf will address the recovery of future SPP program O&M expenses in their next base rate cases, including whether such O&M expenses are to be recovered through base rates or through the SPPCRC.

¹ Gulf was merged with FPL in 2021, however, the utilities remained separate ratemaking entities. As such, the utilities separately administered their SPP programs and projects during 2021. In 2022, the utilities were consolidated, with FPL being the surviving entity.

² FIPUG took no position on the Joint Motion for Expedited Approval of a Stipulation and Settlement Agreement.

On April 11, 2022, FPL filed its proposed SPP for Commission approval which covers the period of 2023-2032 and included eleven programs.³ The majority of these programs are a continuation of both FPL's and Gulf's 2020 SPPs and are described in Attachment A. FIPUG, OPC, Southern Alliance for Clean Energy (SACE), and Walmart were granted intervention in this docket. An administrative hearing was held on August 2-4, 2022.⁴ Post hearing briefs were filed on September 6, 2022. OPC and FIPUG (Joint Parties) filed a joint brief which included a procedural matter which is addressed below.

Procedural Matter

On pages 17-23 of their post-hearing brief, the Joint Parties unilaterally inserted a "post-hearing legal issue" that was not listed in the Prehearing Order.⁵ The Joint Parties argue in this post-hearing issue that the Commission should reverse a prehearing ruling, set forth in Order No. PSC-2022-0292-PCO-EI, where the Prehearing Officer granted motions to strike portions of the prefiled testimony of OPC witness Lane Kollen. In staff's opinion, this legal argument does not raise a new substantive issue not previously ruled upon. The lack of legal relevance of witness Kollen's testimony was addressed in detail by the Prehearing Officer in Order No. PSC-2022-0292-PCO-EI. OPC requested reconsideration of that Order, which was denied by the full Commission. Because the evidentiary concerns relating to the testimony of witness Kollen have twice been addressed on the merits, staff believes it is appropriate to discuss the Joint Parties' "post-hearing legal issue" here only as it raises procedural concerns. For the reasons set forth below, staff believes there is no procedural error that that Commission must consider at this time.

"The fundamental requirements of due process are satisfied by reasonable notice and a reasonable opportunity to be heard." *Florida Public Service Commission v. Triple "A" Enterprises, Inc.*, 387 So. 2d 940, 943 (Fla. 1980). At the administrative hearing held on August 2-4, 2022, in accordance with Sections 120.569 and 120.57, F.S., all parties, including the Joint Parties, were given full opportunity to present argument on all relevant issues in the case and to conduct cross-examination of all witnesses on the case's relevant issues both in the case in chief and in the proffered portions of the hearing. (TR 44).

Neither OPC nor any other party to this proceeding was precluded from making any legal arguments regarding rule interpretation by the exclusion of the testimony. The only effect of the Commission's action in striking the testimony was to exclude expert testimony on the ultimate legal issues, which are the sole province of the tribunal.

Many portions of Witness Kollen's testimony were not stricken. Those portions were moved into the record as though read, and exhibits LK-1 through LK-3 were admitted into evidence. (TR 824-853). OPC separately proffered the portions of Witness Kollen's testimony subject to the order granting the motion to strike and the proffered testimony was also moved into the record as though read. (TR 854-886). On August 3, 2022, Witness Kollen provided a summary and was subject to cross-examination on both the testimony that was not stricken and the proffered

³ On July 11, 2022, FPL filed a notice withdrawing its proposed Distribution and Transmission Winterization Programs. As such, its revised proposed SPP included nine programs rather than eleven.

⁴ FPL's docket was consolidated with the SPP dockets for TECO (20220048-EI), FPUC (20220049-EI), and DEF (20220050-EI) for hearing purposes only.

⁵ Order No. PSC-2022-0291-PHO-EI, issued August 1, 2022.

testimony that had been stricken. Counsel for OPC also made legal arguments about the rule interpretation at that time. (TR 802-808). Although the Commission ultimately decided to strike the OPC witness testimony, OPC was provided an opportunity to make its legal argument at the administrative hearing (TR 798-810), and in its motion for reconsideration. OPC made its arguments again in its post-hearing brief.

The Joint Parties also argue that a Commission Final Order applying Rule 25-6.030, F.A.C., in a manner not consistent with their argument “could be seen as the agency interpreting its [statutory] mandate without an effective or complete delegation of authority.” (Joint Parties BR 23) The cases cited by the Joint Parties in support on this argument all address judicial review of the constitutionality of statutes.⁶ As an agency, the Commission has no jurisdiction to declare a statute unconstitutional. Moreover, following the passage of Article V, Section 21, of the Florida Constitution, the Commission’s interpretation of a statute will not be relevant to a court vested with jurisdiction to consider that constitutional question.

For these reasons, staff does not agree with the Joint Parties’ arguments that the actions taken with respect to witness Kollen’s testimony were procedurally infirmed or negatively impacted the fairness of the proceeding.

There are 9 issues addressed below for the Commission to consider.⁷ The Commission has jurisdiction in this matter pursuant to Section 366.96, and Chapter 120, F.S.

⁶ Post-Hearing Brief at 23 (citing *Askew v. Cross Key Waterways*, 372 So. 2d 913 (Fla. 1978); *Microtel, Inc. v. Florida Pub. Serv. Comm’n*, 464 So. 2d 1189, 1191 (Fla. 1985); *Microtel, Inc. v. Florida Pub. Serv. Comm’n*, 483 So. 2d 415 (Fla. 1986)).

⁷ FPL’s issues are 1D-6D; Issues 7 and 8, which were withdrawn prior to the hearing; Issue 9; Issue 10D and 11D.

Discussion of Issues

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

Recommendation: Yes, FPL appears to have met the criteria and intent of the SPP Rule with its filing and the Commission has adequate information in order to satisfy its statutory requirements. (Trierweiler, Imig, P. Buys)

Position of the Parties

FPL: 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*)

JOINT PARTIES: No. The Company failed to provide the requisite benefit estimates in a form by which comparisons required by the SPP Rule can be meaningfully made; this failure precludes an accurate determination of whether the continuation and expansion of existing programs and implementation of new programs are reasonable. Additionally, the data FPL provided regarding past storm performance is not applicable to the new program regarding Transmission Access.

SACE: FPL's proposed Storm Protection Plan does not contain the necessary elements required by Rule 25-6.030, F.A.C. The FPL Storm Protection Plan does not provide the resulting reduction in restoration costs of its programs, reduction in outage times, or a comparison of costs and dollar benefits. Therefore, the Storm Protection Plan, as filed, cannot be approved. See the argument below.

WALMART: No. Walmart adopts the position of OPC.

PARTIES' ARGUMENTS

FPL

In support of its position, FPL argued that its SPP tracks the language of and provides information consistent with the express requirements of Rule 25-6.030, F.A.C. (FPL BR 9) Additionally, FPL argued that there is nothing in the SPP Statute or Rule that requires SPP benefits to be projected, quantified, or monetized. (FPL BR 10) FPL argued that the SPP Rule expressly provides that the SPP must include a description of the benefits of the SPP programs. (FPL BR 11) FPL argued that storm hardening is not a simple cost-effective proposition and the qualitative component, which is outage times, of the SPP Rule cannot be ignored. (FPL BR 13) FPL also argued that the monetary value individual customers or communities place on reduced outage times cannot be accurately or uniformly estimated, and that such analyses are dependent on highly speculative assumptions regarding the frequency and impacts of future extreme weather events and a very wide range of subjective economic assumptions. (FPL BR 14) FPL

argued 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. (FPL BR 14)

Finally, FPL argued that there is nothing in the SPP Statute or Rule that requires a quantitative comparison of estimated costs and benefits of SPP Programs. (FPL BR 17) FPL argued that nothing in the SPP Statute or Rule requires a cost-effectiveness test or threshold for the SPP programs or projects. (FPL BR 17)

JOINT PARTIES

The Joint Parties argued that the SPP Rule requires a comparison of a cost estimate including capital and operating expense against an estimate of the resulting reduction in outage times and restoration costs expected to be gained from the SPP programs. (Joint Parties BR 3) The Joint Parties argued that the plain text of the SPP Rule requires a comparison of costs and benefits. A meaningful comparison for purposes of the SPP Rule that serves the purpose of the statute regarding customer rates requires a substantive comparison of like factors, i.e., quantification in terms of dollars. (Joint Parties BR 4) Finally, the Joint Parties argued that the best way for the Commission to conduct the evaluation required by the statute is for the utility to present forward-looking data and analyses in its SPP. (Joint Parties BR 5)

SACE

SACE argued that the SPP Rule requires a utility to provide a description of how each proposed storm protection program is designed to enhance the utility's existing transmission and distribution facilities, and that the description must include an estimate of the resulting reduction in outage times and restoration costs due to extreme weather conditions. (SACE BR 4-5) SACE argued that the word "cost" has a clear and definite meaning, the amount paid for something; therefore, restoration "costs" required in the SPP Rule should be provided in a dollar amount. (SACE BR 5) Finally, SACE argued that FPL's SPP fails to meet the requirements of the SPP Rule because FPL did not provide quantitative benefits for its proposed programs. (SACE BR 6)

WALMART

Walmart argued that FPL witness Jarro admitted that FPL did not provide quantified estimates of benefits but instead provided a qualitative description of what the benefits would be. (Walmart BR 3)

ANALYSIS

History

The first utility storm hardening programs were filed for Commission approval in 2007 and were reviewed by the Commission at least every three years thereafter. In 2019, the Florida Legislature emphasized the importance of storm hardening when it enacted Section 366.96, F.S., entitled "Storm Protection Plan Cost Recovery."⁸ Subsection 366.96(3), F.S., requires each IOU

⁸ Subsection 366.96(1), F.S., provides that it is in the state of Florida's interest to strengthen electric utility infrastructure to withstand extreme weather conditions by promoting the overhead hardening of electrical transmission and distribution facilities, the undergrounding of certain electrical distribution lines and vegetation management, and that it is in the state's interest for each utility to mitigate restoration costs and outage times to utility customers when developing transmission and distribution storm protection plans.

to file a transmission and distribution SPP for the Commission's review and directs the Commission to hold an annual proceeding to determine the IOUs' prudently incurred costs to implement the plan and allow recovery of those costs through the SPPCRC.

The Commission promulgated two Rules, 25-6.030, F.A.C., Storm Protection Plan, and 25-6.031, F.A.C., Storm Protection Cost Recovery, to implement and administer Section 366.96, F.S. The full text of Section 366.96 and Rule 25-6.030, F.A.C., are provided as Attachment B. In 2020, FPL's first storm protection plan, which was primarily an extension of the utility's existing storm hardening plans, was approved.

Issue

Throughout this docket, the Joint Parties made arguments about whether SPP filings contained descriptive or narrative information, i.e., "qualitative" information or whether the filings contained information with numeric, dollar amounts i.e., "quantitative" information⁹ to identify SPP benefits. As such, the primary issue raised by the Joint Parties is whether Rule 25-6.030, F.A.C. requires information to be filed in a qualitative or quantitative format. Regardless of how information in a SPP filing is characterized, the Commission will evaluate the information to determine if it meets the requirements of Section 366.96, F.S., and 25-6.030, F.A.C. For the reasons set forth below, staff believes that FPL's SPP meets the requirements of Section 366.96, F.S., and 25-6.030, F.A.C.

Law

Section 366.96(4), F.S., provides:

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.

The Statute further articulates that the Commission must use the public interest standard when considering a SPP. *See* § 366.96(5), stating that the Commission shall determine whether it is in the public interest to approve, modify, or deny the plan. Accordingly, Rule 25-6.030, F.A.C., requires utilities to file certain minimum information in order for the Commission to determine if it is in the public interest to approve, approve with modifications, or deny a utility's storm

⁹ Neither the terms "qualitative" nor "quantitative" are contained within the SPP statute or SPP Rule. Rather, these are terms that Staff and the parties use to assist with the description of the categories of information that are at issue in this docket.

protection plan. In other words, Rule 25-6.030, F.A.C., is a filing requirement rule, not a standard for the Commission's decision. As such, the rule allows the utilities to have the flexibility to submit and manage their hardening plans while simultaneously requiring a utility file the information necessary for the Commission to make a determination about whether it is in the public interest to approve a plan, approve a plan with modifications, or deny a plan.

Rule 25-6.030(3), F.A.C., Storm Protection Plan, identifies the specific information to be included in each IOU's SPP.¹⁰ Rule 25-6.030(3)(d), F.A.C., requires, in relevant part, a comparison of costs and benefits:

A description of each proposed storm protection program that includes:

1. 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 conditions;
2. If applicable, the actual or estimated start and completion dates of the program;
3. A cost estimate including capital and operating expenses;
4. A comparison of the costs identified in subparagraph (3)(d)3. and the benefits identified in subparagraph (3)(d)1.

Neither Section 366.96, F.S., nor Rule 25-6030, F.A.C., explicitly require a cost-effectiveness evaluation or quantitative cost-benefit analysis.

Staff Analysis

Rule 25-6.030(3)(d), F.A.C., requires "...a comparison of the costs identified in subparagraph (3)(d)3. and the benefits identified in 3(d)1." The crux of the Joint Parties' argument is those terms must be read together to mandate filings include a traditional cost-effectiveness evaluation or quantitative cost-benefit analysis that shows estimated benefits outweigh costs in a SPP. The Joint Parties and SACE argued that if no traditional cost-effectiveness evaluation or "quantitative" cost-benefit analysis is contained in the utility's SPP filings, the Commission lacks the information necessary to make a determination that a SPP can be approved in the public interest. In making this argument, however, the Joint Parties make the case for requirements that are outside the scope of the rule for two reasons.

First, the traditional use of the term, phrase, or concept of "cost-effectiveness evaluation," or "quantitative cost-benefit analysis," as promoted by the Joint Parties, is not expressly included in Section 366.96, F.S., nor Rule 25-6.030, F.A.C. An interpretive application of such term, phrase, or concept, as proposed by the Joint Parties, at a minimum would result in the imposition of new filing and analytical requirements that are not contained within the current rule, and therefore would arguably be beyond the scope of the current rule.

Staff believes that the more logical and practicable interpretation of the terms "costs" and "benefits" is found in a plain reading of 366.96, F.S., and Rule 25-6.030, F.A.C. Collectively

¹⁰ Specific elements of Rule 25-6.030, F.A.C., such as areas for prioritization and rate impacts, are discussed in more detail in Issues 2D through 6D.

these provisions require an investor-owned electric utility to provide information that demonstrates their program is likely to mitigate potential outages and reduce restoration time and the subsequent costs, regardless if such information is presented in a qualitative or quantitative format. These provisions also require that the Commission consider the rate impact in order to approve a SPP. The Commission will receive all the cost numbers necessary to make a rate impact determination. Thus, Rule 25-6.030, F.A.C., should be interpreted to allow for both quantitative and qualitative information in the SPPs.

Second, the Joint Parties' argument is flawed given the real world nature of storm hardening. It is not a traditional utility function required for day-to-day service. Rather, creating a SPP is an activity that goes above and beyond the basic "sufficient, adequate, and efficient" standard of service to strengthen existing utility infrastructure to withstand potential extreme weather conditions. This means that storm hardening costs may or may not produce actual financial benefits that exceed costs during a given time, depending on a particular utility's circumstances, and qualitative information may provide additional information of the benefits of a SPP.¹¹

Qualitative information can be meaningful when it demonstrates:

- How storm projects would impact the largest numbers of customers, such as transmission projects, and utility infrastructure serving critical customers such as hospitals, emergency responders, and water treatment plants.
- Whether a proposed SPP program or activity is something in addition to or above-and-beyond normal utility practices.

This means a particular SPP can effectively demonstrate how it meets the statutory criteria of mitigating outages and reducing restoration costs regardless if it is in a quantitative or qualitative format. Also, quantitative or qualitative information can provide the Commission with adequate information to consider the estimated costs and benefits to the utility and its customers of making the improvements proposed in the plan, as required by section 366.96(4)(c), F.S.

However, a determination that a utility met the filing requirements of the SPP Rule, regardless of the type of information provided, does not mean automatic approval of its SPP programs and projects. In other words, meeting the filing requirements of the SPP Rule allows the Commission to go forward with making a determination on approval, denial, or modification of a SPP.

In this case, staff believes the information FPL provided is sufficient to ascertain a comparison of costs and benefits within its SPP, as well as rate impact of its SPP. FPL met the filing requirements of Rule 25-6.030, F.A.C., because FPL provided:

¹¹ Consider the following example: a utility spends \$10 million to convert wooden poles to concrete poles. Based on the assumption that a Category 3 hurricane would strike the area every three years, the projected benefits are \$15 million over 30 years for a net savings to customers of \$5 million. However, if the utility does not experience extreme weather in these locations for a period of time (as was the case for the period 2005 through 2017) there are no monetized benefits to the general body of customers. The customers may nonetheless be receiving qualitative benefits (the system is better prepared for when extreme weather does occur) that are consistent with the public interest requirements of Section 366.96, F.S.

- The estimated costs for each proposed program
- A description of how implementation of the plan will reduce restoration costs
- Outage times and a description of how each program is designed to enhance the facilities including an estimate of the resulting reduction in outage times and restoration costs

FPL provided data as to the costs and benefits associated with its SPP programs and projects. (TR 1116; 82) The qualitative information that FPL provided was historical data that demonstrates how past storm hardening measures have reduced restoration costs and outage times. (FPL BR 16) For example, FPL's analysis of Hurricanes Irma and Matthew indicated the construction man-hours (CMH), days to restore and storm restoration costs would have been significantly greater without its storm hardening programs. Restoration for Hurricane Matthew would have been extended by two additional days (50 percent) and costs increased by \$105 million (36 percent) without hardening. Similarly for Hurricane Irma, FPL estimated that restoration would have been extended by four days (40 percent) and costs increased by \$496 million (40 percent) without hardening. (FPL BR 21)

CONCLUSION

Staff recommends that FPL met the filing requirements required by Rule 25-6.030, F.A.C., and that the Commission has adequate information necessary to make a public interest determination pursuant to Section 366.96, F.S.

Issue 2D: To what extent is FPL's Storm Protection Plan expected to reduce restoration costs and outage times associated with extreme weather events and enhance reliability?

Recommendation: FPL utilized historical data to support its 2023 SPP program evaluation and prioritization. The historical data demonstrates that FPL's SPP may reduce restoration costs and outage times associated with extreme weather events. (P. Buys)

Position of the Parties

FPL: FPL has demonstrated in Sections II, 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*)

JOINT PARTIES: Some of FPL's proposed programs will have a greater impact on reducing outages times and lowering restoration costs than others. FPL asserted its Transmission Pole replacements already resulted in no pole failures from Hurricanes Matthew or Irma. There is no evidence that creating new roads and bridges as suggested in the Transmission Access Program will reduce restoration costs or improve outage times.

SACE: FPL did not provide the necessary information required by Rule 25-6.030, F.A.C., for the resulting reduction in restoration costs and outage times for its proposed programs. As such, one cannot make a determination to what extent and by how much the proposed programs will reduce restoration costs and outage times. Therefore, the FPL Storm Protection Plan, as filed, cannot be approved. See the argument below.

WALMART: Walmart adopts the position of OPC.

PARTIES' ARGUMENTS

FPL

In support of its position, FPL argued that the estimate of cumulative reductions in restoration costs and outage times will be directly affected by how frequently FPL's service area is impacted by extreme weather events. FPL did not provide projected reductions in restoration costs and outage times due to the many highly variable and subjective factors associated with storms and because there is no Industry/Commission-accepted method to do so. Instead, FPL relied on its actual and real-world experience with recent extreme weather events. Using data from Hurricanes Irma and Matthew, FPL demonstrated that its storm hardening programs work and will continue to provide customers with both reductions in restoration costs and outage times associated with extreme weather events. (FPL BR 19-20)

In addition, FPL stated that its 2023 SPP is largely a continuation of the programs included in its current 2020 SPP, and a majority of the programs have been in place since 2007. These programs have already demonstrated that they have provided and will continue to provide increased

infrastructure resiliency, reduced restoration times, and reduced restoration costs. (FPL BR 20-21)

FPL's analysis of Hurricanes Irma and Matthew indicated the CMH, days to restore, and storm restoration costs would have been significantly greater without its storm hardening programs. For example, restoration for Hurricane Matthew would have been extended by two days (50 percent) and costs increased by \$105 million (36 percent) without hardening. Similarly for Hurricane Irma, FPL estimated that restoration would have been extended by four days (40 percent) and costs increased by \$496 million (40 percent) without hardening. Further, FPL pointed out that its underground laterals performed 6.6 times, or 85 percent better, during Hurricane Irma than its overhead laterals. (FPL BR 21)

FPL calculated the 40-year net present value (NPV) of savings associated with storm hardening if similar storms to Hurricanes Matthew and Irma occurred every three and five years to demonstrate the significant savings attributable to storm hardening. These calculations are contained within Appendix A of FPL's SPP. (FPL BR 21; EXH 2)

FPL argued that while no electric system can be made to completely withstand the impacts of extreme weather, its SPP programs are appropriate and necessary to meet the requirements of the SPP Statute and Rule. In addition, FPL argued that the SPP programs will collectively provide increased resiliency and faster restoration to its infrastructure. (FPL BR 21-22)

JOINT PARTIES

The Joint Parties argued that Rule 25-6.030(3)(d), F.A.C., contains a "Two-Prong" test, requiring each program to accomplish both a reduction in outage times and restoration costs in order to be eligible for inclusion in the SPP. (Joint Parties BR 6) As part of its argument, the Joint Parties voiced concern that the utility included general infrastructure work as part of its SPP, which instead should be recovered through base rates as part of normal routine maintenance. The Joint Parties believe that a strict application of the "Two-Prong" test and a reasonable cost-effectiveness standard will ensure implementation of programs that meet the needs of Floridians in an affordable manner. (Joint Parties BR 7)

Further, the Joint Parties argued that FPL did not provide proper data estimating reductions in restoration costs and outage times in order to comply with the requirements of the SPP Rule. Instead, FPL provided historical data, which the Joint Parties argued is inadequate, especially for FPL's new Transmission Access Enhancement program, since the data predates this new program. (Joint Parties BR 8-9)

SACE

SACE argued that FPL's SPP did not meet the requirements of Rule 25-6.030(3)(d)1., F.A.C., because the Company did not provide any estimate of the resulting reduction in outage times or restoration costs due to extreme weather conditions. In addition, SACE argued that FPL did not provide a consistent and measurable metric for a comparison of costs and benefits of its proposed programs. SACE stated that FPL merely provided amorphous narratives as the benefits of the programs and did not provide an estimate of the resulting reduction in outage times or an estimate of restoration costs for any of its proposed programs. (SACE BR 6)

SACE stated that the scope of the cost of the plan is being determined in this docket, which will be shouldered by Florida’s customers. SACE further argued that the matter before the Commission is not whether storm hardening is in the public interest, because that is not disputed, but rather, whether FPL complied with the provisions of the Commission’s rule. SACE argued that the answer is no and that this answer places the Commission in a difficult position of not having facts in the record to support a public interest determination. (SACE BR 10)

WALMART

Walmart adopted the position of OPC on this issue. (Walmart BR 3)

ANALYSIS

Section 366.96(4)(a), F.S., states that when reviewing a utility’s transmission and distribution storm protection plan, the Commission shall consider the extent to which the storm protection plan is expected to reduce restoration costs and outages times associated with extreme weather events, and enhance reliability, including whether the plan prioritizes areas of lower reliability performance. Rule 25-6.030(3)(d)1., F.A.C., requires a utility to provide 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 conditions.

FPL provided an analysis of Hurricanes Matthew and Irma to demonstrate that the existing SPP programs have increased infrastructure resiliency, reduced restoration time, and reduced restoration costs. Table 2D-1 shows how the restoration costs and times for Hurricanes Matthew and Irma would have differed without hardening.

**Table 2D-1
FPL Impacts of Hurricanes Matthew/Irma without any Storm Hardening**

	Hurricane Matthew	Hurricane Irma
Additional Construction Man-Hours	93,000 (36%)	483,000 (40%)
Additional Restoration time (days)	2 (50%)	4 (40%)
Additional Restoration Costs (Millions)	\$105 (36%)	\$496 (40%)

Source: EXH 2, P 9

FPL also conducted a 40-year NPV analysis of savings which indicated the savings achieved from storm hardening if a storm similar to Hurricane Matthew and Hurricane Irma occurred once every year three years and once every five years. FPL’s analysis is shown in Table 2D-2. (EXH 2, P 9-10)

**Table 2D-2
FPL's 40-year NPV Analysis**

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

Source: EXH 2, P 9-10; FPL BR 21

OPC argued that although some of FPL's proposed SPP programs will indeed have a greater impact on reducing outage times and lowering restoration costs than others, FPL's SPP did not meet the requirements set forth in the SPP Rule. (Joint Parties BR 5) SACE also argued that FPL's SPP did not meet these same SPP Rule requirements. (SACE BR 4-8) The parties' arguments and staff's analysis on the requirements of the SPP Rule are addressed in Issue 1D. Additionally, OPC believes that several of the programs are not unique to extreme weather storm hardening and/or are incremental to base rate recoverable costs in the normal cost of business. Therefore, those programs should not be included in FPL's SPP. (Joint Parties BR 7-9) More specifically, OPC witness Mara testified that both the Substation Storm Surge/Flood Mitigation Program and Transmission Access Enhancement Program should be excluded from FPL's SPP, as neither program complied with Rule 25-30.030, F.A.C., as these programs do not reduce outage times. (TR 660; TR 645; TR 649-650) The parties' arguments, as well as staff's recommendation regarding FPL's Substation Storm Surge/Flood Mitigation Program and Transmission Access Enhancement Program are addressed in Issues 4D and 9, respectively.

Staff believes that FPL provided the necessary information to meet the requirements of the SPP Statute and Rule related to this issue. Using historical data, the Company estimated the reduction in outage times and restoration costs that would result from the implementation of its proposed SPP programs. Based on the historical data, FPL demonstrated that its proposed programs may reduce restoration costs and outage times associated with extreme weather.

CONCLUSION

FPL utilized historical data to support its 2023 SPP program evaluation and prioritization. The historical data demonstrates that FPL's proposed SPP may reduce restoration costs and outage times associated with extreme weather events.

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

Recommendation: FPL's SPP appears to prioritize areas of lower reliability performance.
(P. Buys)

Position of the Parties

FPL: 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*)

JOINT PARTIES: FPL has several proposed projects that prioritize areas of lower reliability performance, including Feeder Hardening, Lateral Hardening, and Transmission Hardening. Substation Storm Surge and Transmission Access do not qualify as permissible SPP programs or projects and/or are not economically justifiable; therefore, they must be excluded.

SACE: No position.

WALMART: Walmart adopts the position of OPC.

PARTIES' ARGUMENTS

FPL

FPL argued that while all of its SPP programs are system-wide initiatives, annual activities and projects are prioritized and selected based on factors that include: last vegetation maintenance date; historic service reliability performance during extreme weather conditions; and efficient use of resources. Beginning in 2025, FPL proposed to add a new Management Region selection approach to its Distribution Lateral Hardening Program to target areas of highest risk of hurricane impacts, highest concentration of customers, and areas that would require significant travel times for out-of-state crews during extreme weather restoration events. FPL stated that no parties opposed or challenged its proposed prioritization and selection methodologies. (FPL BR 22-23)

JOINT PARTIES

The Joint Parties reiterated and incorporated their arguments regarding the proposed Substation Storm Surge/Flood Mitigation and Transmission Access Enhancement programs. (Joint Parties BR 10)

SACE

SACE did not take a position on this issue. (SACE BR 3)

WALMART

Walmart adopted the position of OPC on this issue. (Walmart BR 4)

ANALYSIS

Section 366.96(4)(a), F.S., states that when reviewing a utility's transmission and distribution storm protection plan, the Commission shall consider 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. Rule 25-6.030(3)(e)d, F.A.C., requires a description of the criteria used to select and prioritize proposed SPP projects to be provided.

In Section III of its SPP, FPL provided a description of its overall service area and transmission and distribution facilities. (EXH 2, P 12-13) FPL's SPP programs are system-wide initiatives; however, the annual activities are prioritized based on last inspection dates, last vegetation management dates, reliability performance, and efficient resource utilization. For each of its SPP programs, FPL included the specific criteria and factors used to select and prioritize projects. This information was included in Section IV as part of the SPP program descriptions. (EXH 2, P 13) For example, as part of its project level detail, FPL indicated if the feeder, lateral, or transmission structure to be hardened experienced outages during Hurricanes Irma, Matthew, and Michael, then these factors were considered for the prioritization selection of its projects. (EXH 2, Appendix E)

OPC acknowledged that FPL's SPP has several proposed projects that prioritize areas of lower reliability performance, such as the Distribution Feeder Hardening Program, Distribution Lateral Hardening Program, and Transmission Hardening Program. (Joint Parties BR 10) However, OPC argued the Substation Storm Surge/Flood Mitigation Program and the Transmission Access Enhancement Program do not qualify as permissible SPP program or projects and/or are not economically justifiable. (Joint Parties BR 10) In support of this position, OPC witnesses Mara and Kollen testified that these two programs do not comply with the SPP Rule and would result in an excessive burden on rate payers. (TR 645-646; TR 846) However, this issue addresses the extent to which FPL's SPP prioritizes areas of lower reliability performance. Therefore, OPC's arguments regarding the Company's Substation Storm Surge/Flood Mitigation Program and Transmission Enhancement Access Program are discussed in Issues 4D and 9, respectively. OPC did not specifically dispute the extent to which FPL's SPP prioritized areas of lower reliability performance.

Staff recommends FPL's SPP prioritizes areas of lower reliability performance. FPL described the method and criteria it used to select and prioritize the proposed SPP projects. As identified above, OPC did not dispute that FPL's proposed projects prioritized areas of lower reliability. Instead, OPC disagreed with inclusion of several of FPL's programs and projects due to cost or qualification as a SPP program which is addressed in other issues. Thus, staff recommends that FPL demonstrated its prioritization of SPP projects in areas of lower reliability performance.

CONCLUSION

FPL's SPP appears to prioritize areas of lower reliability performance.

Issue 4D: To what extent is FPL'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?

Recommendation: With the exceptions discussed in Issues 6D, 9, and 10D, FPL's SPP appears feasible, reasonable, and practical within the Company's service territory. (P. Buys)

Position of the Parties

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

JOINT PARTIES: A large number of programs that FPL has proposed as SPP programs in flood zones are more appropriately addressed in a base rate case, since it has not been demonstrated that these programs or projects will harden the system from extreme storm events. Additionally, many programs do not reduce BOTH restoration costs and outage times.

SACE: No position.

WALMART: Walmart adopts the position of OPC.

PARTIES' ARGUMENTS

FPL

In its brief, FPL stated that it has not identified any areas where its SPP programs would not be feasible, reasonable, or practical. (FPL BR 23)

FPL argued that OPC's recommendations regarding the Substation Storm Surge/Flood Mitigation Program are inconsistent. FPL further argued that OPC witness Mara recommended that only substations with alternate feeds or no history of flooding should be excluded for this Program. However, witness Mara does not identify any specific substation that would be excluded by his proposal, nor does he explain the elimination of the entire budget for this program. This is the same SPP program in FPL's 2020 SPP, and was projected to be completed by 2022. However, due to field conditions and permitting delays, FPL was unable to complete the Program. FPL is only proposing to continue the Program to address the remaining four substations originally identified in its 2020 SPP. FPL argued that it is not adding new or additional substations to the Substation Storm Surge/Flood Mitigation Program. In addition, all four of the remaining substations to be completed under this Program have experienced floods or storm surge in the past. FPL pointed out that no Intervenor's disputed 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 surge and/or floods. FPL argued that the Intervenor's recommended adjustments overlook that the mitigation measures of this Program will not only reduce outages but will reduce restoration costs. (FPL BR 25-26)

JOINT PARTIES

In their joint brief, OPC and FIPUG reiterated and incorporated by reference their arguments made in Issue 2D. In addition, the Joint Parties stated they focused their evaluation and resulting objections on the lack of strict compliance with the SPP Rule and Statute. They argued that their efforts to identify excessive spending centered on projects that did not meet the Two-Prong test of reducing outage times and reducing restoration costs and those projects that were not cost-effective. The Joint Parties stated that “feasible, reasonable, or practical” is a test of the physical viability of the plan components and is not a statutory test for whether the plan is in the public interest nor does it exclude the consideration of prudence. In addition, the Joint Parties argued that the Commission should reduce the budgets for the Distribution Lateral Hardening Program and the Substation Surge/Flood Mitigation Program, and deny the Transmission Access Enhancement Program as recommended by witness Mara. (Joint Parties BR 10-11)

SACE

SACE did not take a position on this issue. (SACE BR 3)

WALMART

Walmart adopted the position of OPC on this issue. (Walmart BR 4)

ANALYSIS

Section 366.96(4)(b), F.S., states that when reviewing a utility’s transmission and distribution storm protection plan, the Commission shall consider 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. Rule 25-6.030(3)(c), F.A.C., requires a utility to provide a description of the utility’s service area, 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. Integral to this description, the utility must include a general map, the number of customers served within each area, and its reasoning for prioritizing certain areas for enhanced performance and for designating other areas of the system as not feasible, reasonable, or practical.

As a part of its SPP, FPL provided a map of its service territory, which included the number of customers served within each area. (EXH 2, Appendix B) FPL also provided descriptions of its service territory in Section III of its SPP. (EXH 2, P 12-13) FPL has not identified any areas of its service area where its SPP programs would not be feasible, reasonable, or practical. This includes the former Gulf service areas. (EXH 2, P 13)

In their brief, the Joint Parties argued that FPL’s SPP programs that target issues in flood zones are more appropriately addressed in a base rate case since it has not been demonstrated that these programs or projects will harden the system. (Joint Parties BR 10) OPC raised issues concerning FPL’s Transmission Access Enhancement Program, which are addressed in Issue 9.

Witness Mara testified that the Substation Storm Surge/Flood Mitigation program does not reduce outage times and should be excluded from FPL’s SPP because raising a substation does not reduce outage times. In addition, he testified that if a transformer had to be de-energized for

flooding, the load from that substation could be switched to an adjacent substation that is not flooded. Witness Mara recommends excluding any substation where there are alternate feeds to allow the substation to be de-energized due to flooding and excluding any substation that has not had a history of flooding. (TR 649-650)

FPL witness Jarro testified that FPL has not added new or additional substations to the Substation Surge/Flood Mitigation program. These were the original substations listed in its 2020 SPP. The Program was originally scheduled to be completed by 2022. However, there were permitting delays and field conditions that delayed the projects. Witness Jarro testified that de-energizing one substation due to flooding does not mean the adjacent substation can support the load from the other substation. He further testified that witness Mara's recommendation is not practical because the four remaining substations have a history of flooding. Witness Jarro opined that the Substation Program will reduce outages and restoration costs associated with the need to repair the flooded substation. (TR 1127-1128)

Staff recommends FPL has met the requirements of Rule 25-6.030(3)(c), F.A.C., by providing a map of its service area, the number of customers served within each area, and the methodology of prioritizing projects within its programs. Staff disagrees with witness Mara regarding the Substation Storm Surge/Flood Mitigation program because FPL is raising the equipment above the projected flood level and constructing flood protection walls. Witness Jarro testified that the four remaining substations require this mitigation, and that FPL has not added new or additional substations from what was included in FPL's 2020 SPP. (TR 1127) In view of the information presented in FPL's SPP and witness testimony, specifically on the Substation Storm Surge/Flood Mitigation program, staff believes FPL's SPP is reasonable in certain areas of the Company's service territory, including, but not limited to, flood zones and rural areas.

CONCLUSION

With the exceptions discussed in Issues 6D, 9, and 10D, FPL's SPP appears feasible, reasonable, and practical within the Company's service territory.

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

Recommendation: The estimated costs of FPL's SPP programs are shown in Table 5D-1. The estimated benefits, characterized by the reduction in CMH and outage times, are discussed in Issue 2D. (P. Buys)

Position of the Parties

FPL: 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*)

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

SACE: FPL did not provide the necessary cost and dollar benefit data to the Commission required by Rule 25-6.030, F.A.C. As such, one cannot determine, or compare, the estimated costs and dollar benefits of the Storm Protection Plan programs and projects. Therefore, the FPL Storm Protection Plan, as filed, cannot be approved.

WALMART: Walmart adopts the position of OPC.

PARTIES' ARGUMENTS

FPL

FPL argued that based on the results of actual historical events, each of its 2023 SPP programs will continue to provide increased infrastructure resiliency, reduced outage times, and reduced restoration costs when the system is impacted by an extreme weather event, as further explained in Issue 2D. FPL stated that the Intervenor argued that the terms "estimated benefits" and "estimate of the resulting reduction in outage times and restoration costs" in the SPP Statute and Rule required a projection of quantified and monetized benefits for the 10-year SPP period. FPL disagreed as discussed in Issue 1D. (FPL BR 23-24)

FPL explained that the estimated costs for each of the SPP programs are included in its SPP. FPL evaluated the total customer rate impacts for the overall budget as a whole, which is the same process FPL utilized in developing its O&M and capital expenditures budgets. FPL pointed out that the only costs challenged by the Intervenor are for the Substation Storm Surge/Flood Mitigation Program and the Distribution Lateral Hardening Program. (FPL BR 24) In its brief, FPL refuted the Intervenor's recommended adjustments for these two specific SPP Programs, as well as any staff adjustments to the Distribution Feeder/Lateral Hardening Programs.

JOINT PARTIES

The Joint Parties argued that FPL not only failed to estimate benefits of its proposed programs going forward, but also testified that it is not appropriate to conduct an estimate of benefits as FPL did. The Joint Parties opined that this is contrary to the SPP Rule's requirements. The Joint Parties restated and incorporated their arguments made in Issue 1D. (Joint Parties BR 11)

The Joint Parties further argued that the Legislature intended to create and require the use of a mechanism designed to serve the public interest, which includes consideration of customers' rates. They argued that it would be disingenuous for the utilities to avoid any evaluation of the reasonableness of the proposed programs, or cost and benefit comparisons, as required by the SPP Rule, by allowing utilities to unilaterally decide if, when, and how they should produce benefit estimates in terms which can be compared to the cost estimates or rate impacts, meaning dollars. The Joint Parties argued that FPL failed to provide meaningful or quantifiable information regarding the expected costs and benefits of its SPP programs. In addition, the Joint Parties opined that the record shows the costs far outweigh the benefits. (Joint Parties BR 11-12)

SACE

SACE argued that FPL's SPP did not meet the requirements of Rule 25-6.030(3)(d)1., F.A.C., because the Company did not provide any estimate of the resulting reduction in outage times or restoration costs due to extreme weather conditions. In addition, SACE argued that FPL did not provide a consistent and measurable metric for a comparison of cost and benefits of its proposed programs and merely provided amorphous narratives as the benefits of the programs. (SACE BR 6)

SACE stated that the scope of the cost of the plan being determined in this docket will be shouldered by Florida customers. SACE further argued that the matter before the Commission is not whether storm hardening is in the public interest, because that is not disputed, but rather, whether FPL complied with all the provisions of the Commission's rule. SACE argued that answer is no, and that this answer places the Commission in a difficult position of not having facts in the record to support a public interest determination. (SACE BR 10)

WALMART

Walmart adopted the position of OPC on this issue. (Walmart BR 5)

ANALYSIS

Section 366.96(4)(c), F.S., states that when reviewing a utility's transmission and distribution storm protection plan, the Commission shall consider the estimated costs and benefits to the utility and its customers of making the improvements proposed in the plan. Rule 25-6.030(3)(d)4., F.A.C., requires a utility to provide a comparison of the estimated program costs, including capital and operating expenses, and the benefits, as identified and discussed in Issue 2D.

For each SPP program, FPL listed the estimated capital costs and operating expenses, which are summarized in Table 5D-1. The Company compared these costs with the estimated benefits that could be achieved from the completion of its programs. The benefits included the reduction in outage times, as discussed in Issue 2D. (EXH 2, P 13-59, Appendix C)

**Table 5D-1
 FPL's 2023-2025 SPP Program Costs**

Program	2023 (millions)	2024 (millions)	2025 (millions)
Distribution Inspection	\$62.7	\$64.3	\$65.9
Transmission Inspection	\$75.9	\$62.9	\$60.4
Distribution Feeder Hardening	\$689.0	\$687.0	\$544.3
Distribution Lateral Hardening	\$523.1	\$628.6	\$758.4
Transmission Hardening	\$55.6	\$54.5	\$54.5
Distribution Vegetation Management	\$73.0	\$72.8	\$71.9
Transmission Vegetation Management	\$11.8	\$12.5	\$12.6
Substation Storm Surge/ Flood Mitigation	\$8.0	\$8.0	-
Transmission Access Enhancement	\$0.8	\$2.8	\$15.8
Total	\$1,499.9	\$1,593.4	\$1,583.8

Source: EXH 2, Appendix C

In their brief, the Joint Parties argued that FPL failed to: quantify the dollar benefits of any of the SPP programs, use comparisons of benefits to costs to identify beneficial programs and projects, select and rank those projects, or determine the magnitude of those projects. (Joint Parties BR 11) As argued in Issues 1D and 2D, OPC witness Mara asserted that without an estimate of the cost reduction for outages, it is impossible to make a judgement on prudence, and the monetized values of the reductions during extreme weather events are necessary and should be provided. (TR 642-643) OPC witness Kollen testified that specific decision criteria should be applied to proposed SPP programs and should include justification in the form of a benefit/cost analysis in addition to the qualitative assessments of whether the programs and projects will reduce restoration costs and outage times. (TR 835) In addition, witness Kollen testified that FPL could use its Storm Damage Model to quantify the costs to give a dollar benefit amount. (TR 845)

FPL witness Jarro testified that storm hardening is not a simple cost-effective proposition. He further argued that OPC's belief that 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. (TR 1111) Witness Jarro refuted that there is nothing in either the SPP Statute or SPP Rule that prescribes that the benefits of SPP programs must be quantified or monetized. Rather, the SPP rule expressly provides that the SPP must include a "description" of benefits of the SPP programs. (TR 1116) Witness Jarro argued that FPL's Storm Damage Model could not be used to monetize restoration costs and outage times because FPL will not know which specific projects will be completed each year or where they will be located for the entire ten year period of the SPP. He explained that the scope and location of the storm hardening projects used in the Storm Damage Model for each year of the SPP will have a significant impact on the results of the analysis. (TR 1118) Witness Jarro argued that forward-looking estimates would contain inaccurate data as to hurricane tracking, impacts to FPL's infrastructure, and potential system improvement. (TR 74-76)

Staff believes that FPL provided the necessary information to meet the requirements of the SPP Rule. As discussed in Issue 2D, FPL estimated the reduction in outage times and restoration costs that would result from the implementation its proposed SPP programs. The Company also listed in its plan the program costs, including capital and operating expenses. Therefore, the estimated costs and benefits to FPL and its customers as a result of the proposed programs were presented by the Company in its SPP.

CONCLUSION

The estimated costs of FPL's SPP programs are shown in Table 5D-1. The estimated benefits, characterized by the reduction in construction man-hours and outage times, are discussed in Issue 2D.

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

Recommendation: The estimated annual rate impact, as provided by FPL, is projected to increase approximately 65 percent the first three years of its Storm Protection Plan. In order to mitigate the rate impact to FPL's customers, staff recommends FPL's Distribution Lateral Hardening Program continue at the 2022 annual spending levels, approximately \$368.2 million per year, starting in 2023. (P. Buys)

Position of the Parties

FPL:

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 percent to 15 percent, and does not distinguish which costs would be recovered in the SPPCRC and base rates. (*FPL witness Jarro*)

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

SACE: No position.

WALMART: Walmart takes no position, as Walmart has not conducted this analysis.

PARTIES' ARGUMENTS

FPL

In its brief, FPL stated that it provided an estimated rate impact per Rule 25-6.030(3)(h), F.A.C., based upon its estimated annual revenue requirements, which was required by Rule 25-6.030(3)(g), F.A.C. FPL stated that the estimated revenue requirements and rate impacts for the SPP could vary by as much as 10 to 15 percent and included the total program costs, no matter if the costs are in base rates or recovered through the SPPCRC. FPL cautioned that the estimated revenue requirements and rate impacts are not intended to be used to set rates, but are part of what the Commission can consider in order to determine whether it is in the public interest to approve, approve with modification, or deny FPL's 2023 SPP. (FPL BR 33-34)

In addition, no Intervenor opposed the Distribution Lateral Hardening Program or otherwise suggested that it will not reduce restoration costs and customer outage times associated with extreme weather events. FPL pointed out that OPC witness Mara suggested that FPL needs to do more so lateral hardening and undergrounding, and their associated benefits, are spread to more customers and communities. Despite this, the Intervenor recommended that the annual budget

for this Program be capped at \$606 million per year, which will result in a total ten-year budget reduction of approximately \$3.4 billion. FPL argued that the Intervenor overlook the fact that this Program was deployed as a limited pilot and FPL is seeking to deploy this Program as a full-scale permanent SPP program. FPL argued that ramping up the Program will provide the benefits of undergrounding and hardening laterals throughout its system, including the former Gulf service area. Further, FPL argued that the Distribution Lateral Hardening Program is a critical step necessary to harden its transmission and distribution system, since FPL has nearly finished its transmission hardening and feeder hardening programs. This Program will bring the benefits for storm hardening to the individual customers, including both reduced outage times and aesthetics. (FPL BR 27-29)

FPL argued that reducing the number of projects per year for the Distribution Feeder Hardening Program and Distribution Lateral Hardening Program, as staff explored during discovery, would delay the SPP benefits to a significant number of customers with only very little incremental impact on rates. FPL opined that the ramp up in the number of laterals to be completed each year under the Distribution Lateral Hardening Program is due to the inclusion of the former Gulf service area, the significant number of laterals that remain to be hardened throughout FPL's service area, the strong local support and interest in the program, and the addition of the unopposed Management Region selection approach. FPL further argued that reducing the number of projects, per staff's example, would add ten years to complete the Program and would impact 1.0 million customers by exposing them to extended outages after extreme weather events. (FPL BR 30-32)

JOINT PARTIES

In their joint brief, OPC and FIPUG stated that FPL rejected the concept of cost-effectiveness or any sort of analysis of costs versus benefits and did not include either of these concepts in its SPP. Moreover, the Joint Parties argued that there is a lack of evidence in the record of the cost-effectiveness of the programs in dispute so their reasonableness cannot be assessed for the purpose of inclusion in FPL's SPP. The Joint Parties believe the estimated rate impact was not calculated properly due to the fact that the programs in dispute were included in the rate impact calculation. As such, The Joint Parties argued that certain programs should have been excluded from FPL's SPP; and therefore, excluded from the estimated rate impacts (Joint Parties BR 12-13)

SACE

SACE did not take a position on this issue. (SACE BR 3)

WALMART

Walmart did not take a position on this issue as it has not conducted an analysis. (Walmart BR 5)

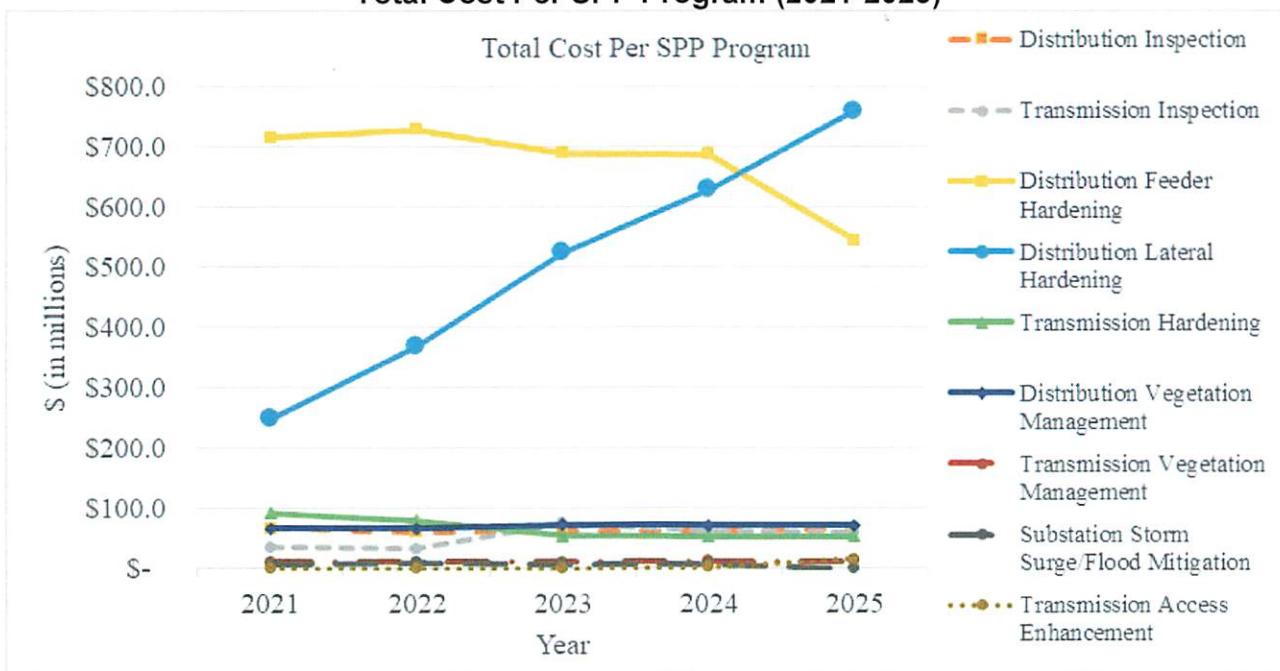
ANALYSIS

Section 366.96(4)(d), F.S., states that when reviewing a utility's transmission and distribution storm protection plan, the Commission shall consider the estimated annual rate impact resulting from implementation of the plan during the first three years addressed in the plan. Rule 25-6.030(3)(h), F.A.C., requires the utilities to provide an estimate of the rate impact for each of the first three years of its SPP for the utility's typical residential, commercial, and industrial

customers. In addition, Rule 25-6.030(3)(i), F.A.C., requires the utilities to provide a description of any implementation alternatives that could mitigate the resulting rate impact. This issue will address the annual rate impacts for the first three years of the Company’s SPP and deployment alternatives that would mitigate rate impacts to customers.

Figure 6D-1 is a graph of FPL’s actual (2021), and estimated (2022-2025), SPP program costs. As shown on the graph, FPL’s Distribution Lateral Hardening Program is moving forward at an accelerated pace while its other programs are relatively constant.

**Figure 6D-1
 Total Cost Per SPP Program (2021-2025)**



Sources: EXH2, EXH55

Pursuant to Rule 25-6.030(3)(h), F.A.C., FPL provided the rate impact information for each customer type, which is shown in Table 6D-1. The residential rate impact increases 40 percent from 2023 to 2024 and up to 65 percent by 2025.

**Table 6D-1
 SPP Estimated Rate Impact (2023-2025)**

Customer Class	2023	2024	2025
Residential (RS-1) (\$/kWh)	\$0.00431	\$0.00604	\$0.0071
Commercial (GSD-1) (\$/kW)	\$0.73	\$1.03	\$1.33
Industrial (GSLDT-3) (\$/kW)	\$0.10	\$0.14	\$0.174

Source: EXH 2, P 62

OPC witness Mara compared FPL's capital costs from the current 2020-2029 SPP to its proposed 2023-2032 SPP capital costs and determined there was a projected increase of \$3.5 billion in spending over the 10-year plan. (TR 643) Comparing the costs on a per customer basis, witness Mara calculated the ratio of capital spending to the number of customers had increased 34 percent. (TR 644) Witness Mara proposed a reduction of capital spending by \$3.6 billion over the 10-year period. Below is a summary of his adjustments: (TR 645)

- Substation Storm Surge/Flood Mitigation Program - \$16 million reduction because this program does not comply with the SPP Rule.
- Transmission Access Enhancement Program - \$116 million reduction from the \$116 million total program capital cost because this program does not comply with the SPP Rule.
- Distribution Lateral Hardening Program - \$3,389 million reduction from the \$9,391 million total program cost to limit rate impact to customers.

(TR 645)

FPL's Substation Storm Surge/Flood Mitigation Program is addressed in Issue 4D and FPL's new Transmission Access Enhancement Program is addressed in Issue 9. OPC's rate mitigation recommendation for the Distribution Lateral Hardening Program is discussed below.

Witness Mara recommended a reduction in capital spending for the Distribution Lateral Hardening Program because FPL failed to demonstrate any cost reductions from outages or rate relief to customers due to this program. To support his proposed reduction in capital spending for this program, witness Mara testified that the costs of this program account for 67 percent of the total SPP budget. (TR 663) He argued that this program is a significant investment for a small portion of FPL's system and should be scaled back, since the benefit value of this program is unknown. (TR 664-666) In addition, witness Mara calculated that the investment of this program per customer would range from \$8,158 to \$16,379. (TR 664) As a result, witness Mara recommended the program should be separated into two projects, one for overhead laterals and one for undergrounding laterals to help with tracking costs and reviewing projects. He also recommended a capital budget reduction of approximately \$3.4 billion. The budget would remain the same for 2023 and 2024, and spending would be capped for 2025 through 2032 at \$606 million per year, to relieve some of the rate impacts on customers. (TR 665-666) However, his calculation is based on the total program cost for the 10-year period. Staff recommends that making any adjustments based on a 10-year budget is not practical, given that the Commission must review a utility's SPP at least every three years as well as conduct annual cost-recovery proceedings.

In rebuttal testimony, FPL witness Jarro argued that the majority of FPL's existing SPP programs have been in place since 2007 and storm hardening is not a simple cost-effective proposition as argued by OPC. (TR 1108; TR 1111) In addition, he testified that OPC's testimony on this point is contradictory. They argued SPP programs should be cost-justified before they can be approved, but then recommended that the Commission reject only one of the nine programs in FPL's 2023 SPP. Witness Jarro further explained that stated differently, OPC does not dispute that it would be reasonable for the Commission to allow FPL to implement the

eight programs included in FPL's 2023 SPP without further cost-justification. (TR 1111; TR 1117-1118)

In response to OPC's position, witness Jarro testified that a reduction to the budget would reduce the number of laterals to be completed each year and delay when customers will receive the direct benefits of the program. (TR 1129) Witness Jarro explained that the Lateral Program was a pilot and FPL is ramping up the program in order to provide the benefits of underground lateral hardening throughout its system. (TR 1134) In rebuttal, he further argued that although all customers indirectly benefit from overhead hardening and undergrounding laterals, through reduction in restoration costs, the direct benefits for customers include both reduced outage times and aesthetics. (TR 1135) He also testified that there does not need to be separate overhead and underground lateral SPP programs. Witness Jarro disagreed with OPC's recommendation to separate this program out into two components, since the underground and overhead components of the program are symbiotic and the work will be part of the same overall lateral project. Witness Jarro explained that each lateral on the feeder to be hardened will be evaluated to determine if overhead hardening or undergrounding would be beneficial depending on field conditions and limitations at that time. (TR 1129-1130)

Utility facilities are designed and built to serve customers 24/7 and the basic standards of construction and maintenance account for normal weather conditions including some contingencies such as maintenance requirements, vehicle strikes, lightning, etc. As such, the primary purpose of storm hardening is to mitigate outages due to extreme weather which would subsequently reduce restoration time and costs to all ratepayers. Any resulting improvements to day-to-day reliability are secondary to the goal of storm hardening and would only benefit the customers directly impacted by the project or activity. Since lateral hardening projects are smaller in scale and more focused geographically, the likelihood of the project producing benefits for the general body of ratepayers is limited. Realizing that storm hardening costs may or may not produce actual financial benefits during a given time, the Commission has encouraged utilities to focus on projects that would impact the largest numbers of customers, such as transmission projects, and has relied upon the resulting estimated rate impact to customers as a guide to determine the reasonable level of storm hardening.

Prior to the enactment of Section 366.96, F.S., storm hardening expenditures were recovered from utility customers through base rates. When these prior storm hardening plans were approved, the Commission stated repeatedly that approval of the plan was not approval for cost recovery purposes and that the utility should consider rate impacts as it proactively implemented its plan. (See Order PSC-2019-0301-PAA) These cautionary directives are consistent with the fact that the level of storm hardening is a discretionary activity which requires close attention to the resulting rate impacts. However, Section 366.96(7), F.S., states, "[a]fter a utility's transmission and distribution storm protection plan has been approved, proceeding with actions to implement the plan shall not constitute or be evidence of imprudence." Therefore, Commission approval of a storm protection plan is now also an approval of the level of storm protection activity. Such approval also has a direct and more frequent impact on rates due to the annual cost recovery mechanism. Unlike other costs, such as fuel costs, the level of storm hardening and the associated costs are discretionary. There are no mandates as to the activity level of an SPP program which is within FPL's control. In addition, Rule 25-6.030(3)(i), F.A.C.,

requires the utilities to provide a description of any alternatives that could mitigate the rate impact for each of the first three years of the SPP. FPL reported that it has not identified any reasonable implementation alternatives that could mitigate the resulting rate impact. (EXH 2, P62) However, FPL's Distribution Lateral Hardening Program will directly affect a much smaller number of customers when compared to other types of programs, such as transmission projects, and accounts for the majority of the projected increase in SPP costs. Therefore, staff agrees with OPC that reducing the rate impact on customers is appropriate at this time. For these reasons, staff recommends that FPL's Distribution Lateral Hardening Program continue at the level spent on this program in 2022, approximately \$368.2 million per year, in order to mitigate the rate impact to customers.¹² Staff is not disputing that the Distribution Lateral Hardening program is in the public interest; rather, staff is recommending FPL slow down the program's activity and annual spending.

CONCLUSION

The estimated annual rate impact, as provided by FPL, is projected to increase approximately 65 percent the first three years of its Storm Protection Plan. In order to mitigate the rate impact to FPL's customers, staff recommends FPL's Distribution Lateral Hardening Program continue at the 2022 annual spending levels, approximately \$368.2 million per year.

¹² The actual value will be determined as part of the SPPCRC proceeding.

Docket No. 20220051-EI
Date: September 26, 2022

Issues 7 & 8

Issues 7 & 8: Withdrawn.

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

Recommendation: FPL's new Transmission Access Enhancement Program should be denied and excluded from its 2023 SPP. (P. Buys)

Position of the Parties

FPL: 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*)

JOINT PARTIES: The Commission should not approve FPL's Transmission Access Enhancement Program ("TEAP").

SACE: No position.

WALMART: Walmart takes no position, as Walmart has not conducted this analysis.

PARTIES' ARGUMENTS

FPL

In its brief, FPL stated that its new Transmission Access Enhancement Program was modeled after a similar program approved by the Commission in a settlement that OPC was party to. FPL further stated that in parts of its service area, some transmission facilities are located in low-lying areas, areas prone to severe flooding, or areas with saturated soils. These areas become inaccessible for repair and restoration following an extreme weather event. Specialized equipment can be used to access these areas after an extreme weather event; however, sometimes the equipment has limited availability during storm events and is typically available at a higher cost than traditional equipment. FPL stated that the purpose of the new Transmission Access Enhancement Program is to target and address such areas so FPL and its contractors can quickly restore transmission outages. (FPL BR 34-35)

FPL argued that the Intervenors ignore the scope and purpose of the new program by arguing that maintenance of bridges, roads, and culverts to access transmission facilities are ordinary base rate activities. FPL argued that it is not proposing to simply maintain roads, bridges, and culverts to access transmission facilities for day-to-day maintenance and vegetation management activities. Rather, the purpose of the new program is to ensure that FPL has access to its transmission access facilities following an extreme weather event. (FPL BR 35)

In addition, FPL rebuts the Intervenors' allegations that it did not demonstrate that the Transmission Access Enhancement Program would reduce restoration costs and outage times and argued that the Intervenors misinterpreted Rule 25-6.030, F.A.C., as requiring SPP benefits to be projected, quantified, and monetized. FPL opined that a transmission-related outage can

result in an outage affecting tens of thousands to hundreds of thousands of customers. FPL assured that the Transmission Access Enhancement Program will allow FPL and its contractors access to the transmission facilities in order to address and restore the transmission outages, which will shorten the associated restoration costs and restoration times. FPL believes the Transmission Access Enhancement Program is consistent with the definition of a “storm protection project” from Rule 25-6.030(2)(b), F.A.C., which is defined as “a specific activity within a storm protection program designed for 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.” (FPL BR 35-36)

JOINT PARTIES

In their joint brief, OPC and FIPUG stated that the record shows that the Transmission Access Enhancement Program is not necessary for FPL to harden its transmission system against extreme weather events. The Joint Parties pointed out that FPL has already replaced 99 percent of its transmission structures and the existing roads and bridges were sufficient to achieve the work needed. In addition, the Joint Parties stated that FPL’s transmission system is designed with adequate redundancy and complies with NERC standards regarding redundancy. (Joint Parties BR 13)

The Joint Parties argued that maintaining or replacing a company’s infrastructure, including bridges and transmission right-of-ways, is part of FPL’s basic responsibilities in the normal course of business. They further opined that such maintenance does not harden the system or reduce outages. The Joint Parties argued that recovery for basic maintenance should be addressed in a rate case and should not be allowed to be recovered through SPP recovery. In addition, they argued that FPL’s description of benefits for the Transmission Access Enhancement Program is vague and does not satisfy the SPP Rule. The Joint Parties believe the benefits description is inadequate to justify taking hundreds of millions of dollars from ratepayers who are already dealing with inflation pressures and pandemic-related economic challenges. (Joint Parties BR 13-14)

SACE

SACE did not take a position on this issue. (SACE BR 3)

WALMART

Walmart did not take a position on the issue as it has not conducted an analysis. (Walmart BR 5)

ANALYSIS

FPL’s Transmission Access Enhancement Program is a new program included in the Utility’s 2023 SPP. This program focuses on enhancing access roads, bridges, and culverts at targeted transmission facilities to ensure FPL and its contractors have reasonable access for repair and restoration activities after an extreme weather event. (TR 54-57; TR 69; EXH 2, P 58) FPL witness Jarro testified that there are transmission facilities located in low-lying areas that are not readily accessible due to severe flooding or saturated soil during extreme weather events. (TR 56) FPL argued that the program will reduce the need for specialized equipment and will also reduce restoration time and costs associated with extreme weather conditions for specific hard to

access transmission facilities and equipment. (TR 56; EXH 2, P 59) The enhancement projects are scheduled to begin in 2023 in Clay, Flagler, Brevard, Palm Beach, Broward, Homestead, and Columbia Counties. (EXH 60, BSP 129-132; EXH 2, Appendix E, P 20) The total estimated program costs are \$117.4 million for 2023-2032. The estimated annual average program cost is \$6.5 million per year for the first three years.

The Joint Parties opposed FPL's Transmission Access Enhancement Program and argued that it should be denied. (TR 660) OPC witness Mara testified that:

- The activities within this Program are to maintain infrastructure with the status quo rather than enhance it. (TR 640)
- Enhancements to an electric utility system, such as the replacement of a bridge, do not meet the criteria set forth in Rule 25-6.030, F.A.C., because outages would not be reduced. (TR 660)
- As an alternative, purchasing and maintaining specialized equipment to access difficult terrain including track vehicles, large tire vehicles, and floating equipment may be more cost-effective than expending \$115.8 million in capital cost for maintenance of roads and bridges. (TR 659)

Witness Mara testified that adding a culvert or bridge can increase access; however, if the right-of-way is flooded, it would not matter if there is a bridge or culvert and this capital investment would not result in enhanced access. Additionally, witness Mara argued that the utility has a responsibility to maintain its infrastructure; and therefore, replacing a bridge that needs to be replaced is a normal course of business, and does not qualify as a storm protection project. To support his argument, witness Mara explains that 99 percent of FPL's transmission structures, in the former FPL service area, are now hardened with steel or concrete poles. Therefore, it is unclear as to why FPL did not previously see a need to maintain its access roads in the ordinary course of business to gain access to these poles while hardening. He also argued that any reduction in outage times or restoration costs should be measured against a well-maintained infrastructure. Witness Mara understands that specialized equipment has limited availability during storm events; however, purchasing the vehicles instead of renting or building bridges may be more cost-effective. (TR 658-659)

In his rebuttal testimony, FPL witness Jarro refuted OPC's claims and testified:

- This Program is to ensure access to specific transmission facilities in low-lying areas following an extreme weather event, not to simply maintain FPL's infrastructure as an ordinary base rate activity. (TR 1136)
- The Program will reduce the need and associated costs for specialized equipment and will help expedite restoration activities and thereby reduce customer outage times. The witness notes that a transmission-related outage can affect tens of thousands of customers and may cause a cascading event that could result in loss of service for hundreds of thousands of customers. (TR 1137)

- OPC witness Mara acknowledged that these low-lying areas may not be accessible following an extreme weather event without specialized equipment and vehicles. In addition, specialized equipment and vehicles may have limited availability during and immediately following storm events. (TR 1137)

Witness Jarro also argued that the intent of the Program's enhancements is not for accessibility for day-to-day maintenance during drier times of the year; but rather, for access when it is flooding or the soil is saturated due to extreme weather. He also testified that witness Mara appears to overlook that the Commission's SPP Rule defines a storm protection project to include enhancement of transmission and distribution areas and not just the transmission and distribution facilities themselves. (TR 1136-1138)

Witness Jarro opined that even if the specialized equipment was readily available for purchase, FPL would need a large fleet of specialized equipment because of the size of FPL's service area and miles of transmission lines. Further, purchasing a large fleet of specialty vehicles would require ongoing specialized maintenance and specialized contractors that are trained and familiar with operating and maintaining the specialized equipment. (TR 1138-1139) When asked about the cost for large tire vehicles to perform restoration work, FPL responded that it has not been able to identify the vehicles to perform the jobs; however, FPL did provide the cost of renting certain types of vehicles that would be capable for performing the job. The hourly rates, which include the cost of trailer for transport, range from \$140 to \$200 per hour. FPL also indicated that it did not perform any studies or analysis comparing the costs and/or benefits of building bridges and access roads rather than purchasing additional equipment necessary to access these areas. (EXH 60, BSP 129-132)

Rule 25-6.030 (2)(c), F.A.C., defines transmission and distribution facilities as "all utility owned poles and fixtures, towers and fixtures, overhead conductors and devices, substations and related facilities, land and land rights, roads and trails, underground conduits, and underground conductors." Based on the FERC system of accounts, staff views this definition as inclusive of all components of a transmission or distribution project, not that each component is independently eligible for storm protection cost recovery. For example, a road may need to be repaired or relocated as part of a hardening project that converts wood poles to concrete poles. The total costs of the project, including the cost of road repair, would be included in the transmission plant reporting category and eligible for storm protection cost recovery. Therefore, staff agrees with OPC witness Mara that improvements to roads and bridges should be undertaken as part of the overall hardening project for a given transmission line segment. In addition, staff agrees with OPC that maintaining access roads for the transmission facilities should be a regular activity and not a storm protection activity. As discussed above, FPL did not provide actual data supporting its position that obtaining or renting specialized equipment is difficult or more costly than its proposed program. Even though FPL explained in discovery that some of its transmission systems were constructed without access roads, the Company should still maintain access for activities, such as vegetation management and inspections, prior to hurricane season. (EXH 60, BSP 131) As such, staff recommends FPL's Transmission Access Enhancement Program be denied and excluded from its 2023 SPP.

CONCLUSION

FPL's new Transmission Access Enhancement Program should be denied and excluded from its 2023 SPP.

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

Recommendation: Staff recommends FPL's SPP meets the requirements of Rule 25-6.030, F.A.C., as discussed in Issue 1D. Staff recommends that FPL's SPP, with the following modifications, is in the public interest and should be approved: (1) continue the level of spending for the Distribution Lateral Hardening Program at the 2022 level; (2) remove the new Transmission Access Enhancement Program; and, (3) remove the transmission looping initiative from the Transmission Hardening Program. FPL should file an amended SPP within 30 days of issuance of the final order for administrative approval by Commission staff. (P. Buys)

Position of the Parties

FPL: 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*)

JOINT PARTIES: It is not in the public interest to approve FPL's Storm Protection Plan without making the modifications recommended by the Office of Public Counsel. The Commission should make the adjustments reflected in the table below from page 13 of the Direct Testimony of Kevin J. Mara.

SACE: FPL did not provide the necessary information required by Rule 25-6.030, F.A.C., for the Commission to render a public interest determination. Due to the Company's non-compliance with certain provisions of Rule 25-6.030, F.A.C., the FPL Storm Protection Plan, as filed, cannot be approved to be in the public interest. See the argument below.

WALMART: Walmart believes the public interest would benefit if the Commission directs each utility to continue to collaborate with interested stakeholders during the interim period before their next required updated SPPs to develop ways in which customer-sited generation may be utilized as part of the SPP in order to strengthen the T&D systems and provide customers with lower restoration costs, shorter outage periods, and more reliable electric service overall.

PARTIES' ARGUMENTS

FPL

FPL stated that its 2023 SPP is in the public interest and should be approved for all the reasons more fully explained in Issues 1D through 9 of its brief. (FPL BR 37)

JOINT PARTIES

OPC and FIPUG recommended modification to FPL's SPP, which are listed below in Table 10D-1. The Joint Parties further recommended that in determining the costs to be recovered through the SPPCRC, Construction Work In Progress (CWIP) should be excluded from both the return on rate base and depreciation expenses, and instead allow a deferred return on CWIP until it is converted to plant in service or prudently abandoned. However, as an alternative, the Joint

Parties recommended a return on CWIP could be deferred either as an allowance for funds used during construction (AFUDC) or as a miscellaneous deferred debit. (Joint Parties BR 15)

The Joint Parties argued that the determination of whether a project meets the public interest standard requires the presentation of facts and analysis. The Joint Parties opined that the public interest is served by decisions that consider affordability and reasonableness. (Joint Parties BR 15-16) Further, they stated that the SPP Statute requires estimates of customer rate impacts and the SPP Rule requires a comparison of expected costs and benefits. In addition, the Joint Parties argued that whether the comparison required in the SPP Rule is made by a cost/benefits analysis or some other determinant of cost-effectiveness, there must be rational guidelines in the application of the SPP Statute. (Joint Parties BR 16)

The Joint Parties further argued that the costs customers must pay will quickly spiral out of control if there are no rational guidelines. The Joint Parties recommended that the Commission should exercise caution as recovery from the SPPCRC will add another cost onto the customer's bill, over and above base rates. They stated that customer bills are already subject to increasing natural gas prices and base rate increases, not to mention the general economic pressures due to increasing costs of everything, including food and household necessities. The Joint Parties argued that consideration of the public interest must take into account not only the need for storm hardening, but also the level at which it is cost-effective and affordable for ratepayers. They state that based on the information provided by FPL, the costs of FPL's SPP outweigh the benefits and the SPP should be modified as recommended to satisfy the public interest standard and qualify for approval. (Joint Parties BR 16-17)

SACE

SACE argued that FPL's SPP did not meet the requirements of Rule 25-6.030(3)(d)1., F.A.C., because the Company did not provide any estimate of the resulting reduction in outage times or restoration costs due to extreme weather conditions. In addition, SACE argued that FPL did not provide a consistent and measurable metric for a comparison of cost and benefits of its proposed programs. SACE stated that FPL merely provided amorphous narratives as the benefits of the programs and did not provide an estimate of the resulting reduction in outage times or an estimate of restoration costs for any of its proposed programs. (SACE BR 6)

SACE stated that the scope of the cost of the plan being determined in this docket will be shouldered by Florida customers. SACE further argues that the matter before the Commission is not whether storm hardening is in the public interest, because that is not disputed, but rather whether FPL complied with all the provisions of the Commission's rule. SACE argued that answer is no and that this answer places the Commission in a difficult position of not having facts in the record to support a public interest determination. (SACE BR 10)

WALMART

Walmart argued it would be in the public interest if FPL will continue to collaborate with Walmart and other interested stakeholders to develop ways in which customer-sited generation may be utilized to strengthen FPL's system. (Walmart BR 2)

ANALYSIS

Section 366.96(5), F.S., requires the Commission to determine, no later than 180 days after a utility files its plan, “whether it is in the public interest to approve, approve with modification, or deny the plan.” Unlike the Storm Hardening Plans, Section 366.96(7), F.S., states that once a storm protection plan is approved, a utility’s “actions to implement the plan shall not constitute or be evidence of imprudence.” As discussed in Issue 1D, staff recommends that FPL’s filing satisfies the requirements of Rule 25-6.030, F.A.C., and provides the Commission with adequate information in order to satisfy its statutory requirements.

As described by FPL witness Jarro, the Company’s proposed SPP covers the period of 2023-2032, and uses the same analysis methodology and programs that were included in its previous SPP for the period of 2020-2029. FPL’s proposed SPP originally included 11 programs. However, on July 11, 2022, FPL filed a notice withdrawing its proposed Distribution and Transmission Winterization Programs. As such, its revised proposed SPP included nine programs rather than eleven. Of these nine programs, eight programs are a continuation from FPL’s previous SPP and there is one proposed new program, Transmission Access Enhancement. (TR 53-54) FPL’s SPP included the following nine programs:

- Distribution Inspection
- Transmission Inspection
- Distribution Feeder Hardening
- Distribution Lateral Hardening
- Transmission Hardening
- Distribution Vegetation Management
- Transmission Vegetation Management
- Substation Storm Surge/Flood Mitigation
- Transmission Access Enhancement

As discussed in prior issues, OPC witness Mara recommended modifications to three of FPL’s SPP programs; Distribution Lateral Hardening, Substation Storm Storm/Flood Mitigation, and the Transmission Access Enhancement. Witness Mara’s recommendations are summarized in Table 10D-1. Staff previously addressed OPC’s specific recommended adjustments in the following issues: Issue 4D (Substation Storm Surge/Flood Mitigation), Issue 6D (Distribution Lateral Hardening), and Issue 9 (Transmission Access Enhancement). FIPUG and SACE took the same position and agreed with OPC. Walmart provided no witness testimony, but argued in its brief that it would be in the public interest if FPL continued to collaborate with Walmart and other interested stakeholders to develop ways in which customer-sited generation may be utilized to strengthen FPL’s system. (Walmart BR 2) Although staff agrees with continuing the collaboration between utilities and interested stakeholders, the SPP Statute does not contemplate customer-sited generation. Section 366.96(2)(b), F.S., defines a transmission and distribution storm protection plan as “a plan for the overhead hardening and increased resilience of electric transmission and distribution facilities, undergrounding of electric distribution facilities, and

vegetation management.” Thus, on-site generation does not meet the definition as laid out in the statute.

**Table 10D-1
 OPC Witness Mara’s Recommended Program Adjustments**

Program	Total 2023-2032 SPP (millions)	Proposed Reductions (millions)	Net 2023-2032 SPP (millions)	Reason for Reduction
Distribution Inspection	\$629	-	\$629	
Transmission Inspection	\$657	-	\$657	
Distribution Feeder Hardening	\$2,437	-	\$2,437	
Distribution Lateral Hardening	\$9,389	(\$3,389)	\$6,000	Limit impact to customers
Transmission Hardening	\$499	-	\$499	
Distribution Vegetation Management	\$28	-	\$28	
Transmission Vegetation Management	-	-	-	
Substation Storm Surge/Flood Mitigation	\$16	(\$16)	-	Does not comply with SPP Rule
Transmission Access Enhancement	\$116	(\$116)	-	Does not comply with SPP Rule

Source: (TR 645)

Utility storm protection or hardening is a discretionary activity that goes above and beyond the basic standard of service to strengthen a utility’s existing infrastructure to withstand the potential for extreme weather. As part of FPL’s Transmission Hardening Program, FPL seeks to continue an initiative from Gulf’s 2020 SPP. This initiative would add additional transmission lines into radially fed substations and additional transformers in single bank transmission substations. (EX 2, P 37) Looping substations is a common utility practice to ensure reliable service and staff does not believe the initiative meets the objective of storm protection or hardening. Rule 25-6.030(1)(a), F.A.C., defines a storm protection program as a collection of projects that “enhance the utility’s existing infrastructure.” (Emphasis added) The looping initiative involves the construction of new redundant infrastructure, rather than the enhancement or hardening of existing facilities. While staff agrees that such activity may enhance a utility’s transmission system, it does not strengthen existing transmission facilities. Therefore, staff recommends that a new redundant infrastructure project, such as looping substations, should not be characterized as storm protection pursuant to Rule 25-6.030, F.A.C.

In summary, as discussed in Issue 6D, staff recommends that FPL’s Distribution Lateral Hardening Program be continued at its 2022 spending level, and that the Company’s new Transmission Access Enhancement Program as well as the transmission looping initiative within the Transmission Hardening Program, be excluded from the SPP. With these three modifications, staff recommends that FPL’s SPP is in the public interest. FPL should file an amended SPP within 30 days of issuance of the final order for administrative approval by Commission staff.

CONCLUSION

Staff recommends FPL's SPP meets the requirements of Rule 25-6.030, F.A.C., as discussed in Issue 1D. Staff recommends that FPL's SPP, with the following modifications, is in the public interest and should be approved: (1) continue the level of spending for the Distribution Lateral Hardening Program at the 2022 level; (2) remove the new Transmission Access Enhancement Program; and (3) remove the transmission looping initiative from the Transmission Hardening Program. FPL should file an amended SPP within 30 days of issuance of the final order for administrative approval by Commission staff.

Issue 11D: Should this docket be closed?

Recommendation: No. As discussed in Issue 10D, FPL should file an amended SPP within 30 days of the final order for administrative approval by Commission staff. Therefore, the docket shall remain open for staff's verification that the amended SPP has been filed and complies with the Commission's order. Once these actions are complete, this docket should be closed administratively. (Trierweiler, Imig)

Position of the Parties

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

JOINT PARTIES: No. Joint Parties raised a legal issue regarding the Order striking Mr. Kollen's testimony. The legal issue requires resolution before the docket is closed. In connection with the legal issue, both parties have made evidentiary proffers which must be considered if Joint Parties prevail on the legal issue.

SACE: No Position

WALMART: Yes.

PARTIES' ARGUMENTS

FPL

No post-hearing argument was provided in its brief.

JOINT PARTIES

No post-hearing argument was provided in its brief.

SACE

No post-hearing position or argument was provided in its brief.

WALMART

No post-hearing argument was provided in its brief.

CONCLUSION

As discussed in Issue 10D, FPL should file an amended SPP within 30 days of the final order for administrative approval by Commission staff. Therefore, the docket shall remain open for staff's verification that the amended SPP has been filed and complies with the Commission's order. Once these actions are complete, this docket should be closed administratively.

Florida Power & Light Company Proposed 2023-2032 Storm Protection Plan Programs

Distribution Inspection

Inspections are conducted on an eight-year pole inspection cycle using methods such as visual and sound and bore. Replacement poles are based on the National Electrical Safety Code's Grade B construction standard.

Transmission Inspection

The program includes visual inspection each year of FPL's transmission structures and substations. Climbing and bucket truck inspections on wood structures are on a six-year cycle and steel and concrete structures are on a ten-year cycle.

Distribution Feeder Hardening

Feeders are hardened as a result of FPL's Priority Feeder Initiative which is a reliability program that targets feeders experiencing the highest number of interruptions and/or customers interrupted. This includes FPL's initiative of design and construction practices to meet the NESC extreme wind loading (EWL) criteria.

Distribution Lateral Hardening

FPL originally started this Program as a pilot program in 2018 and has continued the Program as part of its SPP. This Program targets certain overhead laterals, which were impacted by recent storms and have a history of vegetation-related outages and other reliability issues, for conversion from overhead to underground. FPL has also established and incorporated protocols for determining when a lateral may be overhead hardened as opposed to being placed underground.

Transmission Hardening

This Program replaces all wood transmission structures with steel or concrete structures. This Program also removes critical single points of failure from the transmission and/or substation systems and adds additional transmission lines into radially fed substations and additional transformers in single bank transmission substations to improve resiliency during extreme weather conditions.

Distribution Vegetation Management

This Program includes a three-year trim cycle for feeders, mid-year targeted trim maintenance cycle for certain feeders, six-year trim cycle for laterals, and continued customer education through FPL's Right Tree, Right Place initiative.

Transmission Vegetation Management

This Program includes inspecting the rights-of-way of transmission infrastructure, documenting vegetation inspection results and findings, and prescribing and executing a work plan. The North American Electric Reliability Corporation's (NERC) vegetation management standards/requirements serve as the basis for FPL's transmission vegetation management program, which requires annual inspection requirements, executing 100 percent of a utility's annual vegetation work plan, and prevent any encroachment into established minimum vegetation clearance distances.

Substation Storm Surge/Flood Mitigation

Damage to substations that are susceptible to storm surge and flooding during extreme weather events can be eliminated by raising the equipment at certain substations above flood level and constructing flood protection walls around other substations. FPL has identified certain substations located in areas throughout its service area that are susceptible to storm surge or flooding during extreme weather events.

Transmission Access Enhancement

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. The Program will focus on developing access roads, bridges, and culverts at targeted transmission facilities to ensure they are accessible after an extreme weather event.

366.96 Storm protection plan cost recovery.—

- (1) The Legislature finds that:
 - (a) During extreme weather conditions, high winds can cause vegetation and debris to blow into and damage electrical transmission and distribution facilities, resulting in power outages.
 - (b) A majority of the power outages that occur during extreme weather conditions in the state are caused by vegetation blown by the wind.
 - (c) It is in the state’s interest to strengthen electric utility infrastructure to withstand extreme weather conditions by promoting the overhead hardening of electrical transmission and distribution facilities, the undergrounding of certain electrical distribution lines, and vegetation management.
 - (d) Protecting and strengthening transmission and distribution electric utility infrastructure from extreme weather conditions can effectively reduce restoration costs and outage times to customers and improve overall service reliability for customers.
 - (e) It is in the state’s interest for each utility to mitigate restoration costs and outage times to utility customers when developing transmission and distribution storm protection plans.
 - (f) All customers benefit from the reduced costs of storm restoration.
- (2) As used in this section, the term:
 - (a) “Public utility” or “utility” has the same meaning as set forth in s. 366.02(8), except that it does not include a gas utility.
 - (b) “Transmission and distribution storm protection plan” or “plan” means a plan for the overhead hardening and increased resilience of electric transmission and distribution facilities, undergrounding of electric distribution facilities, and vegetation management.
 - (c) “Transmission and distribution storm protection plan costs” means the reasonable and prudent costs to implement an approved transmission and distribution storm protection plan.
 - (d) “Vegetation management” means the actions a public utility takes to prevent or curtail vegetation from interfering with public utility infrastructure. The term includes, but is not limited to, the mowing of vegetation, application of herbicides, tree trimming, and removal of trees or brush near and around electric transmission and distribution facilities.
- (3) Each public utility shall file, pursuant to commission rule, a transmission and distribution storm protection plan that covers the immediate 10-year planning period. Each plan must explain the systematic approach the utility will follow to achieve the objectives of reducing restoration costs and outage times associated with extreme weather events and enhancing reliability. The commission shall adopt rules to specify the elements that must be included in a utility’s filing for review of transmission and distribution storm protection plans.
- (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.

(6) At least every 3 years after approval of a utility's transmission and distribution storm protection plan, the utility must file for commission review an updated transmission and distribution storm protection plan that addresses each element specified by commission rule. The commission shall approve, modify, or deny each updated plan pursuant to the criteria used to review the initial plan.

(7) After a utility's transmission and distribution storm protection plan has been approved, proceeding with actions to implement the plan shall not constitute or be evidence of imprudence. The commission shall conduct an annual proceeding to determine the utility's prudently incurred transmission and distribution storm protection plan costs and allow the utility to recover such costs through a charge separate and apart from its base rates, to be referred to as the storm protection plan cost recovery clause. If the commission determines that costs were prudently incurred, those costs will not be subject to disallowance or further prudence review except for fraud, perjury, or intentional withholding of key information by the public utility.

(8) The annual transmission and distribution storm protection plan costs may not include costs recovered through the public utility's base rates and must be allocated to customer classes pursuant to the rate design most recently approved by the commission.

(9) If a capital expenditure is recoverable as a transmission and distribution storm protection plan cost, the public utility may recover the annual depreciation on the cost, calculated at the public utility's current approved depreciation rates, and a return on the undepreciated balance of the costs calculated at the public utility's weighted average cost of capital using the last approved return on equity.

(10) Beginning December 1 of the year after the first full year of implementation of a transmission and distribution storm protection plan and annually thereafter, the commission shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report on the status of utilities' storm protection activities. The report shall include, but is not limited to, identification of all storm protection activities completed or planned for completion, the actual costs and rate impacts associated with completed activities as compared to the estimated costs and rate impacts for those activities, and the estimated costs and rate impacts associated with activities planned for completion.

(11) The commission shall adopt rules to implement and administer this section and shall propose a rule for adoption as soon as practicable after the effective date of this act, but not later than October 31, 2019.

History.—s. 1, ch. 2019-158; s. 30, ch. 2022-4.

25-6.030 Storm Protection Plan.

(1) Application and Scope. Each utility as defined in Section 366.96(2)(a), F.S., must file a petition with the Commission for approval of a Transmission and Distribution Storm Protection Plan (Storm Protection Plan) that covers the utility's immediate 10-year planning period. Each utility must file, for Commission approval, an updated Storm Protection Plan at least every 3 years.

(2) For the purpose of this rule, the following definitions apply:

(a) "Storm protection program" – a category, type, or group of related storm protection projects that are undertaken to enhance the utility's existing infrastructure for the purpose of reducing restoration costs and reducing outage times associated with extreme weather conditions therefore improving overall service reliability.

(b) "Storm protection project" – a specific activity within a storm protection program designed for the enhancement of an identified portion or area of existing electric transmission or distribution facilities for the purpose of reducing restoration costs and reducing outage times associated with extreme weather conditions therefore improving overall service reliability.

(c) "Transmission and distribution facilities" – all utility owned poles and fixtures, towers and fixtures, overhead conductors and devices, substations and related facilities, land and land rights, roads and trails, underground conduits, and underground conductors.

(3) Contents of the Storm Protection Plan. For each Storm Protection Plan, the following information must be provided:

(a) A description of how implementation of the proposed Storm Protection Plan will strengthen electric utility infrastructure to withstand extreme weather conditions by promoting the overhead hardening of electrical transmission and distribution facilities, the undergrounding of certain electrical distribution lines, and vegetation management.

(b) A description of how implementation of the proposed Storm Protection Plan will reduce restoration costs and outage times associated with extreme weather conditions therefore improving overall service reliability.

(c) A description of the utility's service area, 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. Such description must include a general map, number of customers served within each area, and the utility's reasoning for prioritizing certain areas for enhanced performance and for designating other areas of the system as not feasible, reasonable, or practical.

(d) A description of each proposed storm protection program that includes:

1. 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 conditions;

2. If applicable, the actual or estimated start and completion dates of the program;

3. A cost estimate including capital and operating expenses;

4. A comparison of the costs identified in subparagraph (3)(d)3. and the benefits identified in subparagraph (3)(d)1.; and

5. A description of the criteria used to select and prioritize proposed storm protection programs.

(e) For the first three years in a utility's Storm Protection Plan, the utility must provide the following information:

1. For the first year of the plan, a description of each proposed storm protection project that includes:

- a. The actual or estimated construction start and completion dates;
- b. A description of the affected existing facilities, including number and type(s) of customers served, historic service reliability performance during extreme weather conditions, and how this data was used to prioritize the proposed storm protection project;
- c. A cost estimate including capital and operating expenses; and
- d. A description of the criteria used to select and prioritize proposed storm protection projects.

2. For the second and third years of the plan, project related information in sufficient detail, such as estimated number and costs of projects under every specific program, to allow the development of preliminary estimates of rate impacts as required by paragraph (3)(h) of this rule.

(f) For each of the first three years in a utility's Storm Protection Plan, the utility must provide a description of its proposed vegetation management activities including:

1. The projected frequency (trim cycle);
 2. The projected miles of affected transmission and distribution overhead facilities;
 3. The estimated annual labor and equipment costs for both utility and contractor personnel;
- and
4. A description of how the vegetation management activity will reduce outage times and restoration costs due to extreme weather conditions.

(g) An estimate of the annual jurisdictional revenue requirements for each year of the Storm Protection Plan.

(h) An estimate of rate impacts for each of the first three years of the Storm Protection Plan for the utility's typical residential, commercial, and industrial customers.

(i) A description of any implementation alternatives that could mitigate the resulting rate impact for each of the first three years of the proposed Storm Protection Plan.

(j) Any other factors the utility requests the Commission to consider.

(4) By June 1, each utility must submit to the Commission Clerk an annual status report on the utility's Storm Protection Plan programs and projects. The annual status report shall include:

(a) Identification of all Storm Protection Plan programs and projects completed in the prior calendar year or planned for completion;

(b) Actual costs and rate impacts associated with completed activities under the Storm Protection Plan as compared to the estimated costs and rate impacts for those activities; and

(c) Estimated costs and rate impacts associated with programs planned for completion during the next calendar year.

Rulemaking Authority 366.96 FS. Law Implemented 366.96 FS. History—New 2-18-20.