

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Storm Protection Plan Cost Recovery
Clause

Docket No. 20220010-EI

Filed: October 7, 2022

**FLORIDA POWER & LIGHT COMPANY'S
PREHEARING STATEMENT**

Florida Power & Light Company (“FPL”),¹ by and through its undersigned counsel, hereby submits this Prehearing Statement pursuant to Order Nos. PSC-2022-0444-PCO-EI and PSC-2022-0111-PCO-EI, and states:

1. FPL WITNESSES

A. Direct Testimony

<u>Witness</u>	<u>Subject Matter - Direct</u>	<u>Issue #</u>
Michael Jarro	<ul style="list-style-type: none"> • Presents and supports FPL’s and former Gulf Power Company’s (“Gulf”) 2021 actual Storm Protection Plan (“SPP”) costs associated with the programs and projects included in FPL’s 2020-2029 SPP (“2020 SPP”), and explains the variances for the 2021 SPP costs approved in Docket No. 20210010-EI. • Presents and supports FPL’s 2022 actual/estimated SPP costs associated with the programs and projects included in FPL’s 2020 SPP, and explains the variances for the 2022 SPP costs approved in Docket No. 20210010-EI. • Describes FPL’s 2023-2032 SPP (“2023 SPP”) programs and explains how those activities and costs are consistent with the original (non-amended) 2023-2032 SPP filed in Docket No. 20220051-EI. (<i>See Supplemental Testimony for amended 2023 SPPCRC filing.</i>) 	1-4
Rena B. Deaton	<ul style="list-style-type: none"> • Presents and supports former Gulf’s and FPL’s 2021 final SPPCRC true-up amounts. • Presents and supports FPL’s 2022 actual/estimated SPPCRC true-up amount. • Presents and supports the original (non-amended) 2023 projected amounts and 2023 SPPCRC Factors to be applied to bills issued during the projected period of January 1, 2023 through December 31, 2023. (<i>See Supplemental Testimony for amended 2023 SPPCRC filing.</i>) 	1-10

¹ As used herein, the term FPL will refer to pre-consolidated FPL for the period prior to January 1, 2022, and consolidated FPL for the period on or after January 1, 2022

B. Supplemental Testimony²

<u>Witness</u>	<u>Subject Matter - Direct</u>	<u>Issue #</u>
Michael Jarro	<ul style="list-style-type: none"> • Presents and supports modifications to the 2023 SPP projects and costs necessary to reflect the 2023-2032 SPP approved in Docket No. 20220051-EI on October 4, 2022. 	3-4
Rena B. Deaton	<ul style="list-style-type: none"> • Presents and supports the modified 2023 projected amounts and 2023 SPPCRC Factors to be applied to bills issued during the projected period of January 1, 2023 through December 31, 2023, consistent with the 2023-2032 SPP approved in Docket No. 20220051-EI on October 4, 2022. 	3, 5, 7

C. Rebuttal Testimony

<u>Witness</u>	<u>Subject Matter - Rebuttal</u>	<u>Issue #</u>
Michael Jarro	<ul style="list-style-type: none"> • Explains that the Office of Public Counsel (“OPC”) witnesses do not challenge or make any recommended adjustments to any of the individual 2023 SPP projects or associated costs. • Responds to OPC’s assertion that the Florida Public Service Commission (“PSC” or the “Commission”) should apply a traditional cost-benefit analysis or cost-effectiveness test for projects or programs to be recovered in the SPPCRC. • Explains that OPC is trying to re-litigate whether the Transmission Access Enhancement Program should be included in the 2023 SPP.³ • Explains that OPC is trying to re-litigate the ten-year budget for the 2023 SPP, which is an issue addressed and fully resolved in Docket No. 20220051-EI. • Explains that OPC’s proposed adjustment the ten-year budget for the Distribution Lateral Hardening Program is inconsistent with Section 366.96, F.S., and ignores the fact that the program is ramping up from a pilot to a permanent SPP program. Explains that OPC’s proposal will significantly reduce the number of customers that will directly benefit from the program. 	3-4

² On October 4, 2022, the Commission approved FPL’s 2023 SPP in Docket No. 20220051-EI with the following two modification: (1) removed the Transmission Access Enhancement Program; and (2) removed the transmission looping initiative from the Transmission Hardening Program. Pursuant to Rule 25-6.031(2), F.A.C., if the Commission approves the SPP with modification, FPL is required to file an amended SPPCRC petition within 15 business days. Consistent therewith, on or before October 26, 2022, FPL will file supplemental testimony and amended exhibits to reflect the Commission-approved modifications to the 2023 SPP, which only impact the 2023 SPP amounts and proposed 2023 SPPCRC Factors.

³ This issue is now moot due to the Commission’s removal of the Transmission Access Enhancement Program from the 2023 SPP at the October 4, 2022 Agenda Conference in Docket No. 20220051-EI.

Liz Fuentes	<ul style="list-style-type: none"> • Responds to OPC’s position regarding the calculation of the revenue requirements for the 2023 SPPCRC Factors. • Explains that, except for cost of removal and retirements associated with existing assets resulting from SPP projects, there were no 2023 SPP costs forecasted or included in FPL’s current base rates. • Explains that FPL’s revenue requirement calculations reflected in its 2023 SPPCRC Projection filing are consistent with Commission practice and revenue requirements presented in other FPL cost recovery clauses. • Explains why the multiple recommendations by OPC witness Kollen to modify FPL’s revenue requirement calculations should be rejected. 	4, 5, 7
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2. EXHIBITS

<u>Witness</u>	<u>Proffered By</u>	<u>Exhibit #</u>	<u>Description</u>	<u>Issue #</u>
Michael Jarro	FPL	Revised MJ-1 ⁴	FPL Actual Storm Protection Plan Work Completed in 2021 (Project Level Detail)	1
Michael Jarro	FPL	MJ-2	Gulf Actual Storm Protection Plan Work Completed in 2021 (Project Level Detail)	1
Michael Jarro	FPL	MJ-3	List of Explanations of Drivers for Variances in Storm Protection Plan Programs and Projects	1, 2
Michael Jarro	FPL	MJ-4	FPL Actual/Estimated Storm Protection Plan Work to be Completed in 2022 (Project Level Detail)	2
Michael Jarro	FPL	Amended MJ-5 ⁵	Amended FPL Storm Protection Plan Work to be Completed in 2023 (Project Level Detail)	3, 4
Rena B. Deaton	FPL	RBD-1	Forms 1A through 8A for the FPL 2021 SPPCRC Final True-Up	1
Rena B. Deaton	FPL	RBD-2	Forms 1A through 8A for the Gulf 2021 SPPCRC Final True-Up	1

⁴ On May 6, 2022, FPL filed revised pages for Exhibit MJ-1 to reflect corrections to the completion, start dates, and applicable variances for certain Distribution Feeder Hardening Program projects that were inadvertently identified as completed in 2021 in the April 1, 2022 filing. *See* Document No. 02838-2022. On May 31, 2022, FPL filed a single complete copy of Revised Exhibit MJ-1 that includes the revised pages previously submitted on May 6, 2022. *See* Document No. 03238-2022.

⁵ *See* footnote 2. Pursuant to Rule 25-6.031(2), F.A.C., FPL will file an Amended Exhibit MJ-5 on or before October 26, 2022, to reflect the Commission-approved modifications to the 2023 SPP. The Amended Exhibit MJ-5 replaces the previously filed Revised Exhibit MJ-5 (Document No. 05389-2022) in its entirety.

Rena B. Deaton	FPL	RBD-3	Forms 1E through 8E for the FPL 2022 SPPCRC Actual/Estimated True-Up	2
Rena B. Deaton	FPL	Amended RBD-4 ⁶	Amended Forms 1P through 7P for FPL's Proposed 2023 SPPCRC Factors	3-7
Rena B. Deaton	FPL	RBD-5	Retail Separation Factors	6

In addition to the above pre-filed exhibits, FPL reserves the right to utilize any exhibit introduced by any other party. FPL additionally reserves the right to introduce any additional exhibit necessary for cross-examination or impeachment at the final hearing.

3. STATEMENT OF BASIC POSITION

FPL's final true-up of its 2021 SPP costs is consistent with the actual/estimated 2021 SPP costs approved by Commission Order No. PSC-2021-0324-FOF-EI in Docket No. 20210010-EI, consistent with FPL's 2020 SPP approved by Commission Order No. PSC-2020-0293-AS-EI in Docket No. 20200071-EI, applies the methodology and prescribed schedules contained in Commission Forms 1A through 8A, and meets the requirements of Section 366.96, F.S., and Rule 25-6.031(7)(a), F.A.C. No parties challenged or made any recommended adjustments to any of the SPP projects, costs, or revenue requirements included in FPL's 2021 SPPCRC final true-up. Therefore, the Commission should approve FPL's net final true-up over-recovery amount of \$2,245,935, including interest, for the period of January 2021 through December 2021.

Gulf's final true-up of its 2021 SPP costs is consistent with the actual/estimated 2021 SPP costs approved by Commission Order No. PSC-2021-0324-FOF-EI in Docket No. 20210010-EI, consistent with Gulf's 2020 SPP approved by Commission Order No. PSC-2020-0293-AS-EI in

⁶ See footnote 2. Pursuant to Rule 25-6.031(2), F.A.C., FPL will file an Amended Exhibit RBD-4 on or before October 26, 2022, to reflect the Commission-approved modifications to the 2023 SPP. The Amended Exhibit RBD-4 replaces the previously filed Revised Exhibit RBD-4 (Document No. 05390-2022) in its entirety.

Docket No. 20200070-EI, applies the methodology and prescribed schedules contained in Commission Forms 1A through 8A, and meets the requirements of Section 366.96, F.S., and Rule 25-6.031(7)(a), F.A.C. No parties challenged or made any recommended adjustments to any of the SPP projects, costs, or revenue requirements included in Gulf's 2021 SPPCRC final true-up. Therefore, the Commission should approve Gulf's net final true-up over-recovery amount of \$1,183,699, including interest, for the period of January 2021 through December 2021.

FPL's actual/estimated true-up of its 2022 SPP costs is consistent with the projected 2022 SPP costs approved by Commission Order No. PSC-2021-0324-FOF-EI in Docket No. 20210010-EI, consistent with FPL's 2020 SPP approved by Commission Order No. PSC-2020-0293-AS-EI in Docket No. 20200071-EI, applies the methodology and prescribed schedules contained in Commission Forms 1E through 8E, and meets the requirements of Section 366.96, F.S., and Rule 25-6.031(7)(b), F.A.C. No parties challenged or made any recommended adjustments to any of the SPP projects, costs, or revenue requirements included in FPL's 2022 SPPCRC actual/estimated true-up. Therefore, the Commission should approve FPL's actual/estimated true-up under-recovery amount of \$4,681,232, including interest, for the period of January 2022 through December 2022.

On October 4, 2022, the Commission approved FPL's 2023 SPP in Docket No. 20220051-EI with the following two modifications: (1) remove the Transmission Access Enhancement Program; and (2) remove the transmission looping initiative from the Transmission Hardening Program. Pursuant to Rule 25-6.031(2), F.A.C., FPL will file supplemental testimony and amended exhibits on or before October 26, 2022, to reflect these Commission-approved modifications to the 2023 SPP. FPL's amended projected 2023 SPP costs will be consistent with the FPL's 2023 SPP approved on October 4, 2022 in Docket No. 20220051-EI, will apply the

methodology and prescribed schedules contained in Commission Forms 1P through 7P, and will meet the requirements of Section 366.96, F.S., and Rule 25-6.031(2) and (7)(c), F.A.C.

No parties challenged or made any recommended adjustments to any of the individual 2023 SPP projects or associated costs. Rather, OPC proposes that the Commission apply a cost-effectiveness threshold to the programs and projects included in FPL's 2023 SPP and deny SPPCRC cost recovery that does not meet a benefit-to-cost ratio of 100% or more. However, Section 366.06, F.S. ("SPP Statute") and Rule 25-6.031, F.A.C. ("SPPCRC Rule") do not prescribe or require a traditional cost-benefit analysis or cost-effectiveness test for projects or programs to be recovered in the SPPCRC. OPC is clearly and improperly attempting to re-litigate the SPPCRC Rule approved by this Commission to add a requirement that does not exist.

Further, given that OPC only recommends adjustments to one of the programs included in the approved 2023 SPP, OPC essentially agrees that most of the 2023 SPP projects and costs should be approved for recovery through the SPPCRC without further cost-justification or meeting a cost-effectiveness. Thus, OPC has conceded that additional cost benefit and cost effectiveness tests are not required, and that FPL has provided sufficient information about each of the 2023 SPP projects and costs for the Commission to determine if they are reasonable, prudent, and should be approved for recovery through the SPPCRC. For these reasons, OPC's proposal to apply a new cost-benefit analysis or cost-effectiveness test for projects or programs to be recovered in the SPPCRC should be rejected.

OPC also proposes to reduce the ten-year budget for the Distribution Lateral Hardening Program by roughly 31 percent (from \$9,389,000 to \$6,000,000), which is the exact same

adjustment proposed by OPC and rejected by the Commission in Docket No. 20220051-EI. Therefore, OPC's argument is barred by the doctrines of *res judicata* and collateral estoppel.⁷

Further, much like it did in Docket No. 20220051-EI, OPC ignores that the ramp up in the number of laterals to be completed each year under the Distribution Lateral Hardening Program is due primarily to the inclusion of the former Gulf service area and the significant number of laterals remaining to be hardened, the strong local support and interest in the program, as well as the addition of the Management Region selection approach starting in 2025. The Distribution Lateral Hardening Program is the critical next step necessary to harden the system consistent with the policy and directive of Section 366.96, F.S., and is necessary to bring the direct and indirect benefits of storm hardening to the individual customers, including reduced restoration costs, reduced outage times, and aesthetics. OPC's proposal will significantly reduce the number of laterals to be completed each year and, in turn, delay when the benefits will be realized by the individual customers. For these reasons, OPC's proposed reduction to the ten-year budget for the Distribution Lateral Hardening Program should be rejected consistent with the decision in Docket No. 20220051-EI.⁸

⁷ The well-established principles of *res judicata* and collateral estoppel bar the re-litigation of the Commission's conclusions and findings regarding the programs and associated estimated budgets to be included in FPL's 2023 SPP. *Res judicata*, or claim preclusion, bars a later suit between the same parties upon the same cause of action; collateral estoppel, or issue preclusion, bars the re-litigation of an issue in cases where the parties are the same in the second suit as in the former, but the cause of action is different. *See In re: Application for original certificates to operate a water and wastewater utility in Duval and St. Johns Counties by Nocatee Utility Corporation*, Order No. PSC-01-1916-FOF-WS, Docket No. 990696-WS, 2001 Fla. PUC LEXIS 1146 (FPSC Sept. 24, 2001). *See also, In re: Applications for certificates by Turkey Creek Utilities*, Order No. PSC -96-0350-FOF-WS, Docket No. 921098-WS (FPSC Mar. 11, 1996) (finding that the defenses of collateral estoppel and *res judicata* applied were the Commission had already ruled upon the same question).

⁸ OPC recommends that the entire 2023 budget for Transmission Access Enhancement Program should be excluded from the proposed SPPCRC Factors. At the October 4, 2022 Agenda Conference, the Commission rejected the Transmission Access Enhancement Program to the 2023 SPP. On or before October 26, 2022, FPL will file supplemental testimony and amended exhibits to reflect, among other things, the removal of the Transmission Access Enhancement Program from the 2023 SPP. Accordingly, OPC's proposed adjustment Transmission Access Enhancement Program is now moot.

For these reasons, as further explained in FPL’s direct, supplemental, and rebuttal testimonies, the Commission should approve FPL’s amended 2023 SPPCRC Factors, which will be submitted on or before October 26, 2022, for the period of January 2023 through December 2023.

4. STATEMENT OF ISSUES AND POSITIONS

A. STAFF’S ISSUES

Issue No. 1: What are the final Storm Protection Plan Cost Recovery Clause jurisdictional cost recovery true-up amounts for the period January 2021 through December 2021?

FPL Position: FPL’s SPPCRC final true-up for the period January 2021 through December 2021, including interest, in an over-recovery of \$2,245,935. Former Gulf’s SPPCRC final true-up for the period January 2021 through December 2021, including interest, in an over-recovery of \$1,183,699. (*FPL witnesses Jarro and Deaton*)

Issue No. 2: What are the actual/estimated Storm Protection Plan Cost Recovery Clause jurisdictional cost recovery true-up amounts for the period January 2022 through December 2022?

FPL Position: FPL’s SPPCRC actual/estimated true-up for the period January 2022 through December 2022, including interest, in an under-recovery of \$4,681,232. (*FPL witnesses Jarro and Deaton*)

Issue No. 3: What are the projected Storm Protection Plan Cost Recovery Clause jurisdictional cost recovery amounts for the period January 2023 through December 2023?

FPL Position: The total jurisdictional 2023 SPPCRC revenue requirement for the period January 2023 through December 2023 will be updated in FPL's amended SPPCRC filing to be submitted on or before October 26, 2022. (*FPL witnesses Jarro and Deaton*)

Issue No. 4: What are the Storm Protection Plan Cost Recovery Clause total jurisdictional cost recovery amounts, including true-ups, to be included in establishing Storm Protection Plan Cost Recovery factors for the period January 2023 through December 2023?

FPL Position: The total jurisdictional 2023 SPPCRC revenue requirement for the period January 2023 through December 2023, including true-up amounts, will be updated in FPL's amended SPPCRC filing to be submitted on or before October 26, 2022. (*FPL witnesses Jarro, Deaton, and Fuentes*)

Issue No. 5: What depreciation rates should be used to develop the depreciation expense included in the total Storm Protection Plan Cost Recovery Clause amounts for the period January 2023 through December 2023?

FPL Position: The depreciation rates used to calculate the depreciation expense should be the Commission-approved depreciation rates that are in effect during the period the allowed capital investment is in service. For the period January 2023 through December 2023, FPL should reflect the final depreciation rates approved by Commission Order Nos. PSC-2021-0446-S-EI and PSC-2021-0446A-S-EI in Docket No. 20210015-EI. (*FPL witnesses Deaton and Fuentes*)

Issue No. 6: What are the appropriate jurisdictional separation factors for the projected period January 2023 through December 2023?

FPL Position: FPL's retail jurisdictional separation factors for the period January 2023 through December 2023 are:

- | | | |
|----|---|-----------|
| a. | Distribution Demand Jurisdictional Factor | 100.0000% |
| b. | Transmission Demand Jurisdictional Factor | 89.9282% |
| c. | General & Intangible Plan Jurisdictional Factor | 96.7270% |

(FPL witness Deaton)

Issue No. 7: What are the appropriate Storm Protection Plan Cost Recovery Clause factors for the period January 2023 through December 2023 for each rate group?

FPL Position: The SPPCRC Factors to be applied for the period January 2023 through December 2023 for each rate group will be updated in FPL's amended SPPCRC filing to be submitted on or before October 26, 2022. *(FPL witnesses Deaton and Fuentes)*

Issue No. 8: What should be the effective date of the new Storm Protection Plan Cost Recovery Clause factors for billing purposes?

FPL Position: The 2023 SPPCRC Factors should become effective for application to bills beginning the first billing cycle in January 2023 through the last billing cycle December 2023 and continuing until modified by subsequent order of this Commission. *(FPL witness Deaton)*

Issue No. 9: Should the Commission approve revised tariffs reflecting the new Storm Protection Plan Cost Recovery Clause factors determined to be appropriate in this proceeding?

FPL Position: Yes. FPL will submit to Staff for administrative approval revised tariffs reflecting the SPPCRC amounts and SPPCRC Factors approved in this proceeding. *(FPL witness Deaton)*

Issue No. 10: Should this docket be closed?

FPL Position: No. While a separate docket number is assigned each year for administrative convenience, this is a continuing docket and should remain open. (*FPL witness Deaton*)

5. STIPULATED ISSUES

FPL is not aware of any stipulated issues at this time. However, FPL remains willing and available to discuss settlement and/or stipulated facts and issues with the parties, including but not limited to stipulation of testimony and exhibits and waiver of cross-examination.

Further, FPL waives cross-examination of the OPC witnesses Kollen and Mara and Walmart witness Perry.

6. PENDING MOTIONS

As of the date of this filing, FPL is not aware of any motions that are remain pending.

7. PENDING REQUESTS FOR CONFIDENTIALITY

As of the date of this filing, FPL is not aware of any Requests for Confidential Classification that remain pending.

8. OBJECTIONS TO WITNESS QUALIFICATIONS AS AN EXPERT

FPL has no objections to the qualifications of any witness at this time.

9. REQUEST FOR SEQUESTRATION OF WITNESSES

None at this time.

10. **STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE**

There are no requirements of the Order Establishing Procedure with which FPL cannot comply.

Respectfully submitted this 7th day of October 2022,

By: s/Christopher T. Wright
Christopher T. Wright
Senior Attorney
Fla. Auth. House Counsel No. 1007055
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420
Phone: 561-691-7144
Fax: 561-691-7135
Email: christopher.wright@fpl.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Electronic Mail to the following parties of record this 7th day of October 2022:

<p>Bianca Lherisson Shaw Stiller Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399 blheriss@psc.state.fl.us sstiller@psc.state.fl.us <i>For Commission Staff</i></p>	<p>Office of Public Counsel c/o The Florida Legislature 111 West Madison Street, Room 812 Tallahassee, FL 32399-1400 gentry.richard@leg.state.fl.us christensen.patty@leg.state.fl.us morse.stephanie@leg.state.fl.us pirrello.anastacia@leg.state.fl.us rehwinkel.charles@leg.state.fl.us wessling.mary@leg.state.fl.us <i>For Office of Public Counsel</i></p>
<p>J. Jeffrey Wahlen Malcolm M. Means Virginia Ponder Ausley McMullen Post Office Box 391 Tallahassee, Florida 32302 jwahlen@ausley.com mmeans@ausley.com vponder@ausley.com</p> <p>Ms. Paula K. Brown Regulatory Affairs P. O. Box 111 Tampa FL 33601-0111 regdept@tecoenergy.com <i>For Tampa Electric Company</i></p>	<p>Beth Keating Gunster, Yoakley & Stewart, P.A. 215 South Monroe St., Suite 601 Tallahassee, FL 32301 BKeating@gunster.com</p> <p>Mr. Mike Cassel 208 Wildlight Ave. Yulee FL 32097 (904) 491-4361 mcassel@fpuc.com <i>For Florida Public Utilities Company</i></p>
<p>Peter J. Mattheis Michael K. Lavanga Joseph R. Briscar Stone Mattheis Xenopoulos & Brew, PC 1025 Thomas Jefferson Street, NW Suite 800 West Washington DC 20007 jrb@smxblaw.com mkl@smxblaw.com pjm@smxblaw.com</p> <p>Corey Allain 22 Nucor Drive</p>	<p>Dianne M. Triplett Deputy General Counsel Duke Energy Florida, LLC 299 First Avenue North St. Petersburg, FL 33701 Dianne.Triplett@Duke-Energy.com</p> <p>Matthew R. Bernier Robert L. Pickels Stephanie A. Cuello 106 E. College Avenue, Suite 800 Tallahassee FL 32301 FLRegulatoryLegal@duke-energy.com</p>

<p>Frostproof FL 33843 <u>corey.allain@nucor.com</u> <i>For NuCor Steel Florida, Inc.</i></p>	<p><u>matthew.bernier@duke-energy.com</u> <u>robert.pickels@duke-energy.com</u> <u>stephanie.cuello@duke-energy.com</u> <i>For Duke Energy Florida, LLC</i></p>
<p>Jon C. Moyle, Jr. Moyle Law Firm, P.A. 118 North Gadsden Street Tallahassee, Florida 32301 <u>jmoyle@moylelaw.com</u> <u>mqualls@moylelaw.com</u> <i>For Florida Industrial Power Users Group</i></p>	<p>James W. Brew Laura Wynn Baker Stone Mattheis Xenopoulos & Brew, PC 1025 Thomas Jefferson Street, NW Suite 800 West Washington, DC 20007-5201 <u>jbrew@smxblaw.com</u> <u>lwb@smxblaw.com</u> <i>For PCS Phosphate - White Springs</i></p>
<p>Stephanie U. Eaton SPILMAN THOMAS & BATTLE, PLLC 110 Oakwood Drive, Suite 500 Winston-Salem, NC 27103 <u>seaton@spilmanlaw.com</u></p> <p>Derrick Price Williamson Barry A. Naum SPILMAN THOMAS & BATTLE, PLLC 1100 Bent Creek Boulevard, Suite 101 Mechanicsburg, PA 17050 <u>dwilliamson@spilmanlaw.com</u> <u>bnaum@spilmanlaw.com</u> <i>For Walmart Inc.</i></p>	

s/ Christopher T. Wright
Christopher T. Wright
Fla. Auth. House Counsel No. 1017875
Florida Power & Light Company
700 Universe Boulevard (JB/LAW)
Juno Beach, Florida 33408

Attorney for Florida Power & Light Company