

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Storm protection plan cost recovery  
clause.

DOCKET NO. 20220010-EI  
ORDER NO. PSC-2022-0392-PHO-EI  
ISSUED: November 14, 2022

PREHEARING ORDER

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on November 2, 2022, in Tallahassee, Florida, before Commissioner Michael La Rosa, as Prehearing Officer.

APPEARANCES:

J. JEFFREY WAHLEN, ESQUIRE, MALCOLM N. MEANS, ESQUIRE, and VIRGINIA PONDER, ESQUIRE, Ausley Law Firm, Post Office Box 391, Tallahassee, Florida 32302  
On behalf of Tampa Electric Company (TECO).

BETH KEATING, ESQUIRE, Gunster Law Firm, 215 South Monroe Street, Suite 601, Tallahassee, Florida 32301  
On behalf of Florida Public Utilities Company (FPUC).

CHRISTOPHER T. WRIGHT, ESQUIRE, 700 Universe Blvd., Juno Beach, Florida 33408-0420  
On behalf of Florida Power & Light Company (FPL).

MATTHEW R. BERNIER, ESQUIRE, and STEPHANIE A. CUELLO, ESQUIRE, 106 East College Avenue, Suite 800, Tallahassee, Florida 32301  
On behalf of Duke Energy Florida, LLC (DEF).

RICHARD GENTRY, ESQUIRE, CHARLES REHWINKEL, ESQUIRE, MARY A. WESSLING, ESQUIRE, and PATRICIA A. CHRISTENSEN, ESQUIRE, Office of Public Counsel, c/o The Florida Legislature, 111 W. Madison Street, Room 812, Tallahassee, Florida 32399  
On behalf of Office of Public Counsel (OPC).

JON C. MOYLE, JR., ESQUIRE, and KAREN PUTNAL, ESQUIRE, Moyle Law Firm, 118 North Gadsden Street, Tallahassee, Florida 32301  
On behalf of Florida Industrial Power Users Group (FIPUG).

PETER J. MATTHEIS, ESQUIRE, MICHAEL K. LAVANGA, ESQUIRE, and JOSEPH R. BRISCAR, ESQUIRE, Stone Mattheis Xenopoulos & Brew, PC, 1025 Thomas Jefferson Street, NW, Suite 800 West, Washington, DC 20007  
On behalf of Nucor Steel Florida, Inc. (Nucor).

JAMES W. BREW, ESQUIRE, and LAURA WYNN BAKER, ESQUIRE, Stone Mattheis Xenopoulos & Brew, PC, 1025 Thomas Jefferson Street, NW, Eighth Floor, West Tower, Washington, DC 20007  
On behalf of PCS Phosphate – White Springs (PCS).

STEPHANIE U. EATON, ESQUIRE, Spilman Thomas & Battle, PLLC, 110 Oakwood Drive, Suite 500, Winston-Salem, North Carolina 27103  
DERRICK PRICE WILLIAMSON, ESQUIRE, and BARRY A. NAUM, ESQUIRE, Spilman Thomas & Battle, PLLC, 1100 Bent Creek Blvd., Suite 101, Mechanicsburg, Pennsylvania 17050  
On behalf of Walmart, Inc. (Walmart).

SHAW STILLER, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850  
On behalf of the Florida Public Service Commission (Staff).

MARY ANNE HELTON, ESQUIRE, Deputy General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850  
Advisor to the Florida Public Service Commission.

KEITH C. HETRICK, ESQUIRE, General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850  
Florida Public Service Commission General Counsel

## **I. CASE BACKGROUND**

The 2019 Florida Legislature enacted Section 366.96, Florida Statutes (F.S.), entitled “Storm protection plan cost recovery.” Section 366.96(3), F.S., established a new requirement that each public utility file a transmission and distribution storm protection plan (SPP) covering the immediate 10-year planning period, and explaining 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. Pursuant to Sections 366.96(5) and 366.96(6), F.S., the Florida Public Service Commission (Commission) is required at least every three years to determine whether it is in the public interest to approve, approve with modification, or deny each utility’s SPP.

The initial SPPs under Section 366.96, F.S., were filed by FPL/Gulf Power Company, TECO, and DEF in 2020. All of the utilities reached settlement agreements with various intervenors regarding the SPPs prior to final hearing. These settlement agreements were approved by the Commission on August 28, 2020.<sup>1</sup>

On March 9, 2022, pursuant to Sections 366.96(5) and 366.96(6), F.S., and consistent with the terms of the above-referenced settlement agreements,<sup>2</sup> FPL, TECO, and DEF filed their first updated SPPs for Commission review.<sup>3</sup> On that same date, FPUC submitted its initial SPP<sup>4</sup> for Commission review. Those four dockets were consolidated for purposes of hearing only and proceeded to final hearing August 2, 2022. On November 10, 2022, the Commission entered four final orders approving, with modifications, the updated SPPs.

In addition to reviewing SPPs at least every three years, the Commission must conduct an annual proceeding pursuant to Section 366.96(7), F.S., to determine a 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 (SPPCRC). The annual SPPCRC proceeding is a rolling three-year review that includes a true-up of costs for the prior year, the calculation of actual/estimated costs for the year of the filing, and projected factors for the following year.

This 2022 annual SPPCRC docket was opened January 3, 2022, by Order No. PSC-2022-0010-PCO-EI. Tampa Electric Company, Duke Energy Florida, Florida Industrial Power Users Group, Florida Power & Light, PCS Phosphate – White Springs, Nucor Steel Florida, Inc., Office of Public Counsel, Florida Public Utilities Company, and Walmart each filed a Notice of Intent to Retain Party Status. No additional parties filed for intervention.

On April 1, 2022, FPL and DEF filed their petitions for approval of SPPCRC true-up for January through December 2021. On that same date, TECO filed direct testimony and exhibits in the SPPCRC docket, including “Schedules Supporting Storm Protection Cost Recovery Factor, Actual for the period January 2021- December 2021.”

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<sup>1</sup> Order No. PSC-2020-0293-AS-EI, issued August 28, 2020, in Docket Nos. 20200067-EI, *In re: Review of 2020-2029 Storm Protection Plan pursuant to Rule 25-6.030, F.A.C., Tampa Electric Company*; 20200069-EI, *In re: Review of 2020-2029 Storm Protection Plan pursuant to Rule 25-6.030, F.A.C., Duke Energy Florida, LLC*; 20200070-EI, *In re: Review of 2020-2029 Storm Protection Plan pursuant to Rule 25-6.030, F.A.C., Gulf Power Company*; 20200071-EI, *In re: Review of 2020-2029 Storm Protection Plan pursuant to Rule 25-6.030, F.A.C., Florida Power & Light Company*; and 20200092-EI, *In re: Storm Protection Plan cost recovery clause*.

<sup>2</sup> The settlement agreements required these utilities to file updates plans in 2022, consistent with the requirement in section 396.96(6), F.S., that the Commission conduct its review “[a]t least every 3 years.”

<sup>3</sup> Docket Nos. 20220051-EI (FPL), 20220050-EI (DEF) & 20220048-EI (TECO).

<sup>4</sup> On March 17, 2020, FPUC requested that it be allowed to defer the filing of its initial SPP for a period of one year, from April 10, 2020, to April 10, 2021. By Order No. PSC-2020-0097-PCO-EI, issued on April 6, 2020, the Prehearing Officer granted FPUC's request to file its initial SPP in 2021, and further instructed FPUC to submit its updated SPP in 2023. FPUC requested and was allowed by Order PSC-2021-0026-CO-EI entered January 10, 2021, to defer the filing of its initial SPP from April 12, 2021, to April 2022, so that it could remain in alignment with the overall plan update schedule for the other utilities. See Docket No. 20200228-EI, *In re: Request to modify filing dates set forth in Order PSC-2020-0097-PCO-EI for storm protection plan and first plan update, by Florida Public Utilities Company*.

On May 2, 2022, FPL and DEF filed their petitions for approval of 2022 actual/estimated true-up and projected 2023 SPPCRC factors. On that same date, TECO filed a petition for approval of storm protection cost recovery factors for the period 1/23 through 12/23. TECO filed a revised petition on August 9, 2022, which replaced the May filing in its entirety. On May 4, 2022, FPUC filed a petition for approval of storm protection plan costs recovery factors. FPUC filed a revised petition on August 18, 2022, which replaced the original filing in its entirety.

On October 14, 2022, TECO and FPL each filed an amended petition and supplemental testimony addressing the modifications to their updated SPPs made by the Commission in the Orders entered November 10, 2022.<sup>5</sup> The Commission Orders did not include modifications that required DEF and FPUC to further amend or supplement their petitions in this docket.

This matter has been scheduled for an administrative hearing November 17-18, 2022.

## **II. CONDUCT OF PROCEEDINGS**

Pursuant to Rule 28-106.211, F.A.C., this Prehearing Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

## **III. JURISDICTION**

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapter 366, F.S. This hearing will be governed by Chapters 120 and 366, F.S., and Chapters 25-6, 25-22, and 28-106, F.A.C., as well as any other applicable provisions of law.

## **IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION**

Information for which proprietary confidential business information status is requested pursuant to Section 366.093, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Section 119.07(1), F.S., pending a formal ruling on such request by the Commission or pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Section 366.093, F.S. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

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<sup>5</sup> “If the Commission approves the utility’s Storm Protection Plan with modifications, the utility shall, within 15 business days, file an amended cost recovery petition and supporting testimony reflecting the modifications.” Rule 25-6.031(2). F.A.C.

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, F.S., to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, F.S., at the hearing shall adhere to the following:

- (1) When confidential information is used in the hearing that has not been filed as prefiled testimony or prefiled exhibits, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents and with the confidential information highlighted. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- (2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Office of Commission Clerk's confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C., if continued confidentiality of the information is to be maintained.

#### **V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES**

Testimony of all witnesses to be sponsored by the parties (and Staff) has been prefiled and will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to timely and appropriate objections. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to three minutes.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer. After all parties and Staff have had the opportunity to cross-examine the witness, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

The parties shall avoid duplicative or repetitious cross-examination. Further, friendly cross-examination will not be allowed. Cross-examination shall be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Any party conducting what appears to be a friendly cross-examination of a witness should be prepared to indicate why that witness's direct testimony is adverse to its interests.

## VI. ORDER OF WITNESSES

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Mark R. Roche	TECO	1-10
David L. Plusquellic	TECO	1-10
Michelle D. Napier <sup>6</sup>	FPUC	1-9
Mark Cutshaw <sup>7</sup>	FPUC	3
Michael Jarro	FPL	1-4
Rena B. Deaton	FPL	1-10
Christopher A. Menendez	DEF	1-9
Brian M. Lloyd	DEF	1-3
Robert E. Brong	DEF	1-3
Ron Adams	DEF	1-3
Lane Kollen	OPC	All Issues
Kevin Mara	OPC	All Issues
Lisa V. Perry	Walmart	7

<sup>6</sup> Revised August 18, 2022

<sup>7</sup> Revised August 18, 2022; Errata Filed September 7, 2022

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Rebuttal</u>		
David L. Plusquellic	TECO	1-10
Richard Latta	TECO	1-10
Robert C. Waruszewski	FPUC	2-4, and 7
Michael Jarro	FPL	3-4
Liz Fuentes	FPL	4, 5, and 7
Brian Lloyd	DEF	1-3
Christopher Menendez	DEF	1-9

## VII. BASIC POSITIONS

**TECO:** The Commission should determine that Tampa Electric has properly calculated its Storm Protection Plan cost recovery true-up and projections and the Storm Protection Plan cost recovery factors set forth in the testimony and exhibits of witness Mark R. Roche during the period January 2023 through December 2023. The Commission should find that Tampa Electric's actual 2021 Storm Protection Plan costs were prudently incurred.

The Commission is currently scheduled to conduct a hearing regarding the Storm Protection Cost Recovery Clause on November 17, 2022, to review and approve the proposed cost recovery factors to be used for the January 2023 through December 2023 period. On October 4, 2022, the Commission voted to approve the company's 2022-2031 Storm Protection Plan in Docket No. 20220048-EI with one modification – elimination of the company's existing Transmission Access Enhancement Program as of December 31, 2022. This amended prehearing statement takes into account this modification for the proposed January 2023 through December 2023 period cost recovery factors.

**FPUC:** The factors proposed by the Company have been developed through projections and calculations made in accordance with Rule 25-6.031, F.A.C., and the associated depreciation expense has been calculated in accordance with the rates approved in the Company's last approved depreciation study. The factors are based upon those aspects of FPUC's Storm Protection Plan approved on October 4, 2022, by the Commission and scheduled for implementation in the period May

2022 through December 2023. As such, the Company asks that it be allowed to implement its proposed SPPCRC Factors for the January – December, 2023 period.

**FPL:** 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 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 filed supplemental testimony and exhibits on October 14, 2022, to reflect these Commission-approved modifications to the 2023 SPP. FPL's amended projected 2023 SPP costs are consistent with the FPL's 2023 SPP approved on October 4, 2022 in Docket No. 20220051-EI, 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.<sup>8</sup>

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<sup>8</sup> 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).

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.<sup>9</sup>

For these reasons, as further explained in FPL's direct, supplemental, and rebuttal testimonies, the Commission should approve FPL's amended 2023 SPPCRC Factors for the period of January 2023 through December 2023.

**DEF:** Not applicable. DEF's positions on specific issues are listed below.

**OPC:** The OPC's basic position in this case is that the Commission's determinations regarding the Storm Protection Plans (SPP) and the associated cost recovery factors that have been filed must be consistent with the provisions and the public policy contained in Section 366.96, Florida Statutes, Rule 25-6.030 and Rule 25-6.031, F.A.C. The OPC supports the goal of the legislature in encouraging cost-effective measures to enhance the resiliency and reliability of investor-owned electric utilities' (IOUs) existing infrastructure for the benefits of customers and the state as a whole.

The utilities have the burden of proof to justify and support the recovery of costs and their proposal(s) seeking the Commission's adoption of policy statements (whether new or changed) or other affirmative relief sought, regardless of whether the Intervenor provide evidence to the contrary. Regardless of whether the Commission has previously approved a program as meeting the Commission's requirements, the utilities must still meet their burden of demonstrating that the

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<sup>9</sup> 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 October 14, 2022, FPL filed 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.

costs submitted for final recovery meet the statutory test(s) and are reasonable in amount and prudently incurred.

The utilities have not demonstrated that the costs, factors and rates included in the filings are cost effective, reasonable and prudent in all instances.

**FIPUG:** Only reasonable and prudent costs legally authorized and reviewed for prudence should be recovered through the fuel clause. FIPUG maintains that the respective utilities must satisfy their burden of proof for any and all monies or other relief sought in this proceeding.

The current economic times, characterized by high inflation, increased interest rates, and projections and indicia of an economic recession, make this a challenging time to raise customers' electric rates. For planning purposes, FIPUG members and other electric utility customers should be provided a full and complete understanding, as soon as possible, how the under-recovery of natural gas fuel costs for calendar year 2022 will be handled in 2023 and the extent of those under-recovered sums.

**NUCOR:** Nucor's basic position is that Duke Energy Florida, LLC ("DEF") bears the burden of proof to justify the costs it seeks to recover through the SPPCRC and any other relief DEF requests in this proceeding.

**PCS:** DEF has filed for recovery of costs of its Storm Protection Plan ("SPP"), which was approved with modifications ordered by the Commission at its Agenda Conference held on October 4, 2022. DEF's proposed revenue requirement for 2023 is \$142.8 million, which is a 36% increase over its 2022 revenue requirement of \$105.3 million.<sup>10</sup> PCS generally supports the positions taken by the Office of Public Counsel ("OPC") both in this docket and in the companion SPP matter (Docket No. 20220050-EI). In light of the need for DEF to make an amended filing to incorporate the SPP changes ordered by the Commission, PCS reserves its rights to revise its positions in this matter as necessary upon review of the DEF compliance filing.

**WALMART:** The Commission should carefully consider the Utilities' respective SPP cost allocation proposals and rate design for this separate charge to their respective customers pursuant to the SPPCRC. *See* § 366.96(7), F.S. As to the specific Issues raised in this Docket, Walmart addresses Issue No. 7 related to cost allocation and rate design. No other party has proposed an alternative allocation, rate design, or other modifications to the Utilities' proposed methodologies.

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<sup>10</sup> *See* Order No. PSC-2021-0324-FOF-EI at 4 (Aug. 26, 2021).

**A. Proposals by DEF, FPL and TECO**

As for cost allocation, DEF proposes to allocate the demand component based on each rate classes' contribution to monthly system peaks adjusted for certain losses and allocate the energy component based on each classes' contribution to total kWh sales adjusted for certain losses. *See* Direct Testimony of Christopher A. Menendez (filed May 2, 2022), p. 6, line 20 to p. 7, line 4. FPL proposes to allocate SPP costs consistent with FPL's last rate case by allocating transmission costs to all rate classes based on the 12 monthly Coincident Peak, and "distribution costs are allocated only to the distribution-level rate classes based on a negotiated methodology." Direct Testimony of Renae B. Deaton (filed May 2, 2022), p. 10, lines 7-15. TECO is proposing to allocate SPP costs consistent with its cost of service study prepared for Docket No. 20130040-EI and as applied for its current base rates. *See* Revised Testimony and Exhibit of Mark R. Roche (filed Aug. 9, 2022), p. 23, line 18 to p. 24, line 2. Walmart is in agreement with the proposed cost allocations as set forth by the DEF, FPL, and TECO. Direct Testimony of Lisa V. Perry, p. 11, lines 9-18.

As to rate design, the DEF, FPL, and TECO, are proposing to recover SPP costs from their demand-metered customers through a demand charge, or \$/kW charge, in each Utility's SPPCRC. Walmart does not oppose DEF's, FPL's, or TECO's proposed methodology for allocating SPP costs and recovering those costs from their demand-metered customers through the demand charge, on a \$/kW basis. *See generally* Direct Testimony of Lisa V. Perry.

**B. Proposal by FPUC**

In its Direct Testimony, FPUC proposes to allocate SPP-related transmission and distribution costs to its rate classes by (1) determining each class's percentage of total base rate revenues, (2) multiplying each class's percentage of total base rate revenues by the \$1.47 million revenue requirement, and (3) divide each class's portion of the revenue requirement by the 2023 estimated usage, or kWh billing determinants, for that class to calculate the per kWh charge that will be billed to customers. Revised Direct Testimony of Michelle D. Napier (filed Aug. 18, 2022), p. 3, lines 5-16 and SPPCRC Form 1P, p. 1 (revised Aug. 12, 2022). Walmart has concerns regarding FPUC's cost allocation proposal as it "is not cost-based by failing to appropriately reflect the demand-related nature of the underlying SPP transmission and distribution costs included for recovery through the SPPCRC." Direct Testimony of Lisa V. Perry, p. 13, lines 4-6.

In its Direct Testimony, FPUC further proposes to recover demand-related costs through an energy charge. This is also of concern to Walmart. FPUC's proposed rate design will create interclass subsidies within demand-metered customer classes and violates cost causation principles. Additionally, FPUC's shift of demand-related costs from per kW demand charges to per kWh energy charges

results in a shift in demand cost responsibility from lower load factor customers to higher load factor customers. Direct Testimony of Lisa V. Perry, p. 14, lines 6-21.

In its Rebuttal Testimony, FPUC agrees that "[i]t is true that FPUC's proposed allocation is a simplified approach that could potentially result in higher load factor customers paying a greater portion of SPP-related costs than lower load factor customers." Rebuttal Testimony of Robert C. Waruszewski, p. 13, lines 4-6. Further, FPUC "recognize[d] Walmart's concern and would be amendable to a revision of its cost allocation methodology in this regard." Rebuttal Testimony of Robert C. Waruszewski, p. 13, lines 6-9. While FPUC's revision of its cost allocation methodology may not be feasible by the time of the Hearing in this Docket, Walmart appreciates FPUC's position in its Rebuttal Testimony and will work with FPUC to address the cost allocation methodology issue and anticipates entering into a Stipulation by the time of the Prehearing Conference.

**STAFF:** Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions stated herein.

### **VIII. ISSUES AND POSITIONS**

**ISSUE 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?**

**TECO:** The final Storm Protection Plan Cost Recovery Clause jurisdictional cost recovery true-up amount for the period January 2021 through December 2021 is an over-recovery of \$4,939,848 including interest. (Roche, Plusquellic)

**FPUC:** None.

**FPL:** 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. (Jarro and Deaton)

**DEF:** Over-recovery of \$2,492,172. (Menendez, Lloyd, Brong, Adams)

**OPC:** The OPC is not in agreement that the Companies have demonstrated that they have met their burden to demonstrate that costs that have been incurred are reasonable and prudent. A significant percentage of the costs on a customer's bill is based on clause recovery in this docket and others. The Commission has not

held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. The OPC does not agree, given these circumstances, that the costs proposed for final true-up can necessarily be deemed prudent. (Kollen and/or Mara)

**FIPUG:** Adopt position of OPC.

**NUCOR:** Regarding DEF, agree with OPC. For all other utilities, Nucor takes no position.

**PCS:** Agree with OPC.

**WALMART:** No position.

**STAFF:** Staff has no position at this time.

**ISSUE 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?**

**TECO:** The actual/estimated Storm Protection Plan Cost Recovery Clause jurisdictional cost recover true-up amounts for the period January through December 2022 is an over-recovery of \$5,264,627 including interest. (Roche, Plusquellic)

**FPUC:** FPUC projects total expenditures of \$2,493,780, with a revenue requirement of \$333,155, which is net of \$650,336 already recovered through base rates. (Napier, Waruszewski)

**FPL:** 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. (Jarro, Deaton)

**DEF:** Over-recovery of \$5,124,373. (Menendez, Lloyd, Brong, Adams)

**OPC:** The OPC is not in agreement that the Companies have demonstrated that they have met their burden to demonstrate that costs that are being incurred are reasonable and prudent. A significant percentage of the costs on a customer's bill is based on clause recovery in this docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. The OPC does not agree, given these circumstances, that the costs proposed for final true-up can necessarily be deemed prudent. (Kollen and/or Mara)

**FIPUG:** Adopt position of OPC.

**NUCOR:** Regarding DEF, agree with OPC. For all other utilities, Nucor takes no position.

**PCS:** Agree with OPC.

**WALMART:** No position.

**STAFF:** Staff has no position at this time.

**ISSUE 3: What are the projected Storm Protection Plan Cost Recovery Clause jurisdictional cost recovery amounts for the period January 2023 through December 2023?**

**TECO:** The projected Storm Protection Plan Cost Recovery Clause jurisdictional cost recovery amount is \$64,422,723 for the period January 2023 through December 2023. (Roche, Plusquellic)

**FPUC:** FPUC projects total expenditures of \$8,257,657, with a revenue requirement of \$1,137,415, which is net of \$975,504 already recovered through base rates. (Napier, Cutshaw, Waruszewski)

**FPL:** The total jurisdictional 2023 SPPCRC revenue requirement for the period January 2023 through December 2023 is \$366,315,710. (Jarro, Deaton)

**DEF:** \$148,089,537. (Menendez, Lloyd, Brong, Adams)

**OPC:** The OPC is not in agreement that the Companies have demonstrated that they have met their burden to demonstrate that costs are projected are reasonable and prudent in amount or otherwise. A significant percentage of the costs on a customer's bill is based on clause recovery in this docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. The OPC does not agree, given these circumstances, that the costs projected for 2023 can necessarily be deemed prudent. There can be no presumption of reasonableness of prudence for the utility plans since the Commission has not issued a final order containing a determination that the level of spending contained in the Storm Protection Plans is prudent in amount or otherwise. (Kollen and/or Mara)

**FIPUG:** Adopt position of OPC.

**NUCOR:** Regarding DEF, agree with OPC. For all other utilities, Nucor takes no position.

**PCS:** Agree with OPC.

**WALMART:** No position.

**STAFF:** Staff has no position at this time.

**ISSUE 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?**

**TECO:** 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 is \$54,218,248. (Roche, Plusquellic)

**FPUC:** The total amount upon which FPUC's proposed factors are calculated is \$1,470,570, which when adjusted for taxes is \$1,471,629. (Napier, Waruszewski)

**FPL:** The total jurisdictional 2023 SPPCRC revenue requirement for the period January 2023 through December 2023, including true-up amounts, is \$367,567,308. (Jarro, Deaton, and Fuentes)

**DEF:** \$140,472,993. (Menendez)

**OPC:** The OPC is not in agreement that the Companies have demonstrated that they have met their burden to demonstrate that costs are reasonable and prudent. A significant percentage of the costs on a customer's bill is based on clause recovery in this docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. The OPC does not agree, given these circumstances, that the projected costs proposed for recovery can necessarily be deemed prudent. (Kollen and/or Mara)

**FIPUG:** Adopt position of OPC.

**NUCOR:** Regarding DEF, agree with OPC. For all other utilities, Nucor takes no position.

**PCS:** Agree with OPC.

**WALMART:** No position.

**STAFF:** Staff has no position at this time.



**ISSUE 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?**

**TECO:** The depreciation rates from Tampa Electric's most current Depreciation Study, approved by Order No. PSC-2021-0423-S-EI issued November 10, 2021, within Docket No. 20210034-EI. (Roche, Plusquellic)

**FPUC:** The appropriate depreciation rates are those approved as part of the Commission's approval of the Settlement Agreement, Order No. PSC-2020-0347-AS-EI, issued October 8, 2020, in Docket Nos. 20190155, 20190156, and 20190174-EI. (Napier)

**FPL:** 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. (Deaton, Fuentes)

**DEF:** DEF should use the depreciation rates that were approved in Final Order PSC-2021-0202A-AS-EI. (Menendez)

**OPC:** The OPC is not in agreement that the Companies have demonstrated that they have met their burden to demonstrate that the depreciation rates are appropriate. A significant percentage of the costs on a customer's bill is based on clause recovery in this docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. The OPC does not agree, given these circumstances, that the depreciation rates and resulting costs proposed for final true-up can necessarily be deemed prudent. (Kollen and/or Mara)

**FIPUG:** Adopt position of OPC.

**NUCOR:** Regarding DEF, agree with OPC. For all other utilities, Nucor takes no position.

**PCS:** Agree with OPC.

**WALMART:** No position.

**STAFF:** Staff has no position at this time.

**ISSUE 6: What are the appropriate jurisdictional separation factors for the projected period January 2023 through December 2023?**

**TECO:** The appropriate jurisdictional separation factors are as follows:

FPSC Jurisdictional Factor: 93.2509%  
FERC Jurisdictional Factor: 6.7491%  
(Roche, Plusquellic)

**FPUC:** There is no jurisdictional separation applicable to FPUC.

**FPL:** 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%

(Deaton)

**DEF:** DEF should apply the appropriate jurisdictional separation factors that were approved in Final Order PSC-2021-0202A-AS-EI:

Distribution: 1.0000000  
Transmission: 0.7204117  
Labor: 0.9677918 (Menendez)

**OPC:** The OPC is not in agreement that the Companies have demonstrated that they have met their burden to demonstrate that separation factors are reasonable and prudent. A significant percentage of the costs on a customer's bill is based on clause recovery in this docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. The OPC does not agree, given these circumstances, that the factors proposed for final true-up can necessarily be deemed prudent. (Kollen and/or Mara)

**FIPUG:** Adopt position of OPC.

**NUCOR:** Regarding DEF, agree with OPC. For all other utilities, Nucor takes no position.

**PCS:** Agree with OPC.

**WALMART:** No position.

**STAFF:** Staff has no position at this time.

**ISSUE 7:** What are the appropriate Storm Protection Plan Cost Recovery Clause factors for the period January 2023 through December 2023 for each rate group?

**TECO:** The January 2023 through December 2023 cost recovery clause factors utilizing the appropriate recognition of Federal Energy Regulatory Commission transmission jurisdictional separation, revenue tax factors and the rate design and cost allocation as put forth in Docket No. 20210034-EI are as follows:

<b><u>Rate Schedule</u></b>	<b><u>Cost Recovery Factors (cents per kWh)</u></b>
RS	0.373
GS and CS	0.400
GSD Optional – Secondary	0.147
GSD Optional – Primary	0.145
GSD Optional – Subtransmission	0.144
LS-1, LS-2	1.466

<b><u>Rate Schedule</u></b>	<b><u>Cost Recovery Factors (dollars per kW)</u></b>
GSD – Secondary	0.62
GSD – Primary	0.61
GSD – Subtransmission	0.60
SBD – Secondary	0.62
SBD – Primary	0.61
SBD – Subtransmission	0.60
GSLD - Primary	0.50
GSLD - Subtransmission	0.05
(Roche, Plusquellic)	

**FPUC:**

Rate Schedule	SPP FACTORS PER KWH
Residential	\$0.002504
General Service	\$0.002934
General Service Demand	\$0.0013
General Service Large Demand	\$0.00153
Industrial/Standby	\$0.00172
Lighting Service	\$0.01499

(Napier, Waruszewski)

**FPL:**

Rate Class	SPP Factor (\$/kW)	SPP Factor (\$/kWh)	RDC (\$/KW)	SDD (\$/KW)
RS1/RTR1		0.00382		
GS1/GST1		0.00346		
GSD1/GSDT1/HLFT1/GSD1-EV	0.70			
OS2		0.00815		
GSLD1/GSLDT1/CS1/CST1/HLFT2/GSLD1-EV	0.73			
GSLD2/GSLDT2/CS2/CST2/HLFT3	0.66			
GSLD3/GSLDT3/CS3/CST3	0.10			
SST1T			0.01	0.01
SST1D1/SST1D2/SST1D3			0.12	0.05
CILC D/CILC G	0.68			
CILC T	0.11			
MET	0.74			
OL1/SL1/SL1M/PL1/OS/II		0.00288		
SL2/SL2M/GSCU1		0.00316		

(Deaton, Fuentes)

<b>DEF:</b>	<u>Customer Class</u>	<u>SPPCRC Factor</u>
	Residential	0.414 cents/kWh
	General Service Non-Demand	0.401 cents/kWh
	@ Primary Voltage	0.397 cents/kWh
	@ Transmission Voltage	0.393 cents/kWh
	General Service 100% Load Factor	0.188 cents/kWh
	General Service Demand	1.05 \$/kW
	@ Primary Voltage	1.01 \$/kW
	@ Transmission Voltage	0.19 \$/kW
	Curtailable	0.98 \$/kW
	@ Primary Voltage	0.97 \$/kW
	@ Transmission Voltage	0.96 \$/kW
	Interruptible	0.80 \$/kW
	@ Primary Voltage	0.59 \$/kW
	@ Transmission Voltage	0.14 \$/kW
	Standby Monthly	0.094 \$/kW
	@ Primary Voltage	0.093 \$/kW
	@ Transmission Voltage	0.092 \$/kW
	Standby Daily	0.045 \$/kW
	@ Primary Voltage	0.045 \$/kW
	@ Transmission Voltage	0.044 \$/kW
	Lighting	0.306 cents/kWh
		(Menendez)

**OPC:** No position; however, the factors should be based on costs deemed reasonable and prudent after a hearing.

**FIPUG:** Adopt position of OPC.

**NUCOR:** Regarding DEF, agree with OPC. For all other utilities, Nucor takes no position.

**PCS:** Agree with OPC.

**WALMART:** Walmart does not oppose the proposed cost allocation and rate design for DEF, FPL and TECO, but does oppose the proposed by FPUC in its Direct Testimony. Walmart’s Direct Testimony addresses its proposed cost allocation and rate design for FPUC.

**STAFF:** Staff has no position at this time.

**ISSUE 8: What should be the effective date of the new Storm Protection Plan Cost Recovery Clause factors for billing purposes?**

**TECO:** The effective date of the new Storm Protection Plan Cost Recovery Clause factors should be January 1, 2023. (Roche, Plusquellic)

**FPUC:** The effective date for FPUC's cost recovery factors should be the first billing cycle for January 1, 2023, which could include some consumption from the prior month. Thereafter, customers should be billed the approved factors for a full 12 months, unless the factors are otherwise modified by the Commission. (Napier)

**FPL:** 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. (Deaton)

**DEF:** The factors shall be effective beginning with the specified Storm Protection Plan Cost Recovery Clause cycle and thereafter for the period January 2023 through December 2023. Billing cycles may start before January 1, 2023 and the last cycle may be read after December 31, 2023, so that each customer is billed for twelve months, regardless of when the adjustment factor became effective. These charges shall continue in effect until modified by subsequent order of this Commission. (Menendez)

**OPC:** No position.

**FIPUG:** Adopt position of OPC.

**NUCOR:** Regarding DEF, agree with OPC. For all other utilities, Nucor takes no position.

**PCS:** Agree with OPC.

**WALMART:** No position.

**STAFF:** Staff has no position at this time.

**ISSUE 9: Should the Commission approve revised tariffs reflecting the new Storm Protection Plan Cost Recovery Clause factors determined to be appropriate in this proceeding?**

**TECO:** Yes, the Commission should approve revised tariffs reflecting the new Storm Protection Plan Cost Recovery Clause factors determined to be appropriate in this proceeding. (Roche, Plusquellic)

**FPUC:** Yes. The Commission should approve revised tariffs reflecting the SPPCRC factors determined to be appropriate in this proceeding. The Commission should direct staff to verify that the revised tariffs are consistent with the Commission's decision. (Napier)

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

**DEF:** Yes. The Commission should approve DEF's revised tariffs reflecting the Storm Protection Plan Cost Recovery Clause factors determined to be appropriate in this proceeding. The Commission should direct Staff to verify that the revised tariffs are consistent with the Commission's decision. The Commission should grant Staff Administrative authority to approve revised tariffs reflecting the new Storm Protection Plan Cost Recovery Clause factors determined to be appropriate in this proceeding. (Menendez)

**OPC:** No position; however, the factors contained in the tariff(s) should be based on costs deemed reasonable and prudent after a hearing.

**FIPUG:** Adopt position of OPC.

**NUCOR:** Regarding DEF, agree with OPC. For all other utilities, Nucor takes no position.

**PCS:** Agree with OPC.

**WALMART:** No position.

**STAFF:** Staff has no position at this time.

**ISSUE 10: Should this docket be closed?**

**TECO:** Yes, Docket No. 20220010-EI should be closed once the Commission's decisions on all the issues in the docket have become final and the Commission has concluded that the docket has otherwise met the requirements for closure. (Roche, Plusquellic)

**FPUC:** This is a continuing docket and should remain open.

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

**DEF:** Yes.

**OPC:** No position.

**FIPUG:** Adopt position of OPC.

**NUCOR:** No position.

**PCS:** Agree with OPC.

**WALMART:** No position.

**STAFF:** Staff has no position at this time.

### IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
<u>Direct</u>			
Mark R. Roche	TECO	MRR-1 Schedule A-1	Schedules supporting cost recovery amount, actual January 2021–December 2021
Mark R. Roche	TECO	MRR-2 Schedule E-1 & E-2	Schedules supporting cost recovery amount, projected January 2022- December 2022
Mark R. Roche	TECO	MRR-2 Schedule P-1	Schedules supporting costs recovery amount, projected for the period January 2023–December 2023
Mark R. Roche	TECO	MRR-3 Schedule P-1	Schedules supporting costs recovery amount, projected for the period January 2023–December 2023
David L. Plusquellic	TECO	DLP-1	Storm Protection Plan Accomplishments
David L. Plusquellic	TECO	DLP-2	Project List and Summary of Costs
Michelle D. Napier	FPUC	MDN-1	SPPCRC Schedules E and P



<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Michael Jarro	FPL	MJ-1 <sup>11</sup> Revised	FPL Actual Storm Protection Plan Work Completed in 2021 (Project Level Detail)
Michael Jarro	FPL	MJ-2	Gulf Actual Storm Protection Plan Work Completed in 2021 (Project Level Detail)
Michael Jarro	FPL	MJ-3	List of Explanations of Drivers for Variances in Storm Protection Plan Programs and Projects
Michael Jarro	FPL	MJ-4	FPL Actual/Estimated Storm Protection Plan Work to be Completed in 2022 (Project Level Detail)
Michael Jarro	FPL	MJ-5 <sup>12</sup> Amended	Amended FPL Storm Protection Plan Work to be Completed in 2023 (Project Level Detail)
Rena B. Deaton	FPL	RBD-1	Forms 1A through 8A for the FPL 2021 SPPCRC Final True-Up
Rena B. Deaton	FPL	RBD-2	Forms 1A through 8A for the Gulf 2021 SPPCRC Final True-Up
Rena B. Deaton	FPL	RBD-3	Forms 1E through 8E for the FPL 2022 SPPCRC Actual/Estimated True-Up

<sup>11</sup> 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.

<sup>12</sup> Pursuant to Rule 25-6.031(2), F.A.C., FPL filed an Amended Exhibit MJ-5 on October 14, 2022, to reflect the modifications to the 2023-2032 SPP approved in Docket No. 20220051-EI. The Amended Exhibit MJ-5 replaces the previously filed Revised Exhibit MJ-5 (Document No. 05389-2022) in its entirety.

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Renae B. Deaton	FPL	RBD-4 <sup>13</sup> Amended	Amended Forms 1P through 7P for FPL's Proposed 2023 SPPCRC Factors
Renae B. Deaton	FPL	RBD-5	Retail Separation Factors
Renae B. Deaton	FPL	RBD-6	Comparison of 2023 Projections with Amended 2023 Projections
Christopher A. Menendez	DEF	CAM-1 Amended	True-up costs associated with the SPPCRC activities for the period January 2021 through December 2021
Brian M. Lloyd			Distribution-related costs associated with DEF's Storm Protection Plan ("SPP") proposed for recovery through the Storm Protection Plan Cost Recovery Clause ("SPPCRC") for 2021
Robert E. Brong			Transmission related costs associated with DEF's Storm Protection Plan ("SPP") proposed for recovery through the Storm Protection Plan Cost Recovery Clause ("SPPCRC") for 2021
Ron Adams			Transmission related Vegetation Management projected costs for 2021

<sup>13</sup> Pursuant to Rule 25-6.031(2), F.A.C., FPL filed an Amended Exhibit RBD-4 on October 14, 2022, to reflect the modifications to the 2023-2032 SPP approved in Docket No. 20220051-EI. The Amended Exhibit RBD-4 replaces the previously filed Revised Exhibit RBD-4 (Document No. 05390-2022) in its entirety.

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Christopher A. Menendez	DEF	CAM-2 Amended	Actual/estimated true-up for the period January 2022 through December 2022
Brian M. Lloyd			Distribution-related costs associated with DEF's Storm Protection Plan ("SPP") proposed for recovery through the Storm Protection Plan Cost Recovery Clause ("SPPCRC") for 2022
Ron A. Adams			Transmission related Vegetation Management projected costs for 2022
Robert E. Brong			Transmission related costs associated with DEF's Storm Protection Plan ("SPP") proposed for recovery through the Storm Protection Plan Cost Recovery Clause ("SPPCRC") for 2022

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Christopher A. Menendez	DEF	CAM-3 Amended	Projected costs for the SPPCRC for the period January 2023 through December 2023, and DEF's storm protection plan cost recovery factors for the period January 2023 through December 2023
Brian M. Lloyd			Distribution-related costs associated with DEF's Storm Protection Plan ("SPP") proposed for recovery through the Storm Protection Plan Cost Recovery Clause ("SPPCRC") for 2023
Ron A. Adams			Transmission related Vegetation Management projected costs for 2023
Robert E. Brong			Transmission related costs associated with DEF's Storm Protection Plan ("SPP") proposed for recovery through the Storm Protection Plan Cost Recovery Clause ("SPPCRC") for 2023
Lane Kollen	OPC	LK-1	Lane Kollen Curriculum Vitae
Lane Kollen	OPC	LK-2	20220048-EI Lane Kollen Testimony
Lane Kollen	OPC	LK-3	20220049-EI Lane Kollen Testimony
Lane Kollen	OPC	LK-4	20220050-EI Lane Kollen Amended Testimony
Lane Kollen	OPC	LK-5	20220051-EI Lane Kollen Testimony

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Lane Kollen	OPC	LK-6	FPUC's Response to Interrogatory 19A, OPC's Third Set of Interrogatories (20220049-EI)
Lane Kollen	OPC	LK-7	FPUC's Response to Interrogatory 20 A, OPC's Third Set of Interrogatories (20220049-EI)
Kevin Mara	OPC	KJM-1	Kevin J. Mara Curriculum Vitae
Kevin Mara	OPC	KJM-2	20220048-EI Kevin J. Mara Testimony
Kevin Mara	OPC	KJM-3	20220050-EI Kevin J. Mara Testimony
Kevin Mara	OPC	KJM-4	20220051-EI Kevin J. Mara Testimony
Kevin Mara	OPC	KJM-5	20220049-EI Kevin J. Mara Testimony (Redacted)
Kevin Mara	OPC	KJM-6	2022 and 2023 True-Up Costs
Kevin Mara	OPC	KJM-7	20220049-EI Kevin J. Mara Testimony (Confidential)
Lisa V. Perry	Walmart	LVP-1	Witness Qualifications Statement
<u>Rebuttal</u>			
David L. Plusquellic	TECO	DLP-3	Images of Transmission Access Enhancement Projects
Christopher Menendez	DEP	CAM-4	Calculation of OPC's Proposed Distribution Program Capital Investment Reductions

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

**X. PROPOSED STIPULATIONS**

There is one proposed stipulation at this time.

Walmart and FPUC have reached the following Stipulation to address the parties' differences on Issue No. 7:

**Issue 7: What are the appropriate Storm Protection Plan Cost Recovery Clause factors for the period January 2023 through December 2023 for each rate group?**

FPUC and Walmart (the "Parties") agree to work towards a potential modification to FPUC's cost allocation in this proceeding consistent with the testimonies of Witnesses Waruszewski and Perry. For purposes of this 2022 proceeding, the Parties agree that, given the current schedule, it may be necessary to implement the SPPCRC Cost Recovery Factors as set forth in Michelle Napier's Revised Exhibit MDN-1 and that those factors are otherwise appropriate for implementation with the first billing cycle for January 1, 2023. The Parties will nonetheless endeavor to reach an agreement as to a revised cost allocation methodology prior to the hearing in this proceeding, in which case, if approved by the Commission, the Parties' intent would be that the revised allocation methodology would be reflected in FPUC's true up filing in 2023, and thereafter, used to calculate subsequent SPPCRC factors for FPUC beginning with the factors developed for 2024 and continuing beyond. The Parties likewise agree that the testimony of the witnesses for both Walmart and FPUC can be entered into the record and that neither would be subject to cross by the other Party. In the event that the Parties are unable to reach an agreement as to an appropriate revised allocation methodology, Walmart would not be precluded from raising the issue in the 2023 SPPCRC proceeding.

**XI. PENDING MOTIONS**

There are no pending motions at this time.

**XII. PENDING CONFIDENTIALITY MATTERS**

The following confidentiality matters are pending at this time:

1. DEF request for confidential classification of information and documents provided in response to staff's 1st set of interrogatories (Nos. 1-5) and 1st request for PODs (No. 1) [DN 02947-2022].
2. FPL request for confidential classification of information provided in response to OPC's 1st set of interrogatories (Nos. 27 and 44) and 1st request for PODs (No. 1) [DN 02962-2022].

3. DEF request for confidential classification of certain information contained in its Response to Staff's 1<sup>st</sup> request for PODS (No. 1) [DN 02943-2022].

4. TECO request for confidential classification of information provided in response to OPC's 2<sup>nd</sup> Set of Interrogatories (Nos. 34-37) and 2<sup>nd</sup> Request for PODs (Nos. 2-3) [Document No. 04855-2022].

5. DEF Request for confidential classification of staff's audit papers, *Audit Control No. 2021-314-1-2* [DN 05742-2022].

6. FPUC (Keating) - Request for confidential classification of portions of OPC Witness Mara's Exhibit KJM-7 [DN 05984-2022 & DN 06300-2022].

### **XIII. POST-HEARING PROCEDURES**

If no bench decision is made, each party shall file a post-hearing statement of issues and positions. A summary of each position, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of this Prehearing Order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, F.A.C., a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages and shall be filed at the same time.

### **XIV. RULINGS**

Opening statements, if any, shall not exceed five minutes per party.

Witness summaries, if any, shall not exceed three minute per witness.

It is therefore,

ORDERED by Commissioner Mike La Rosa, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Mike La Rosa, as Prehearing Officer, this 14th day of November, 2022.



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Mike La Rosa  
Commissioner and Prehearing Officer  
Florida Public Service Commission  
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

SPS

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.