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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20220010-EI

In re: Storm protection plan cost
recovery clause.

_____ /

PROCEEDINGS: PREHEARING CONFERENCE

COMMISSIONERS
PARTICIPATING: COMMISSIONER MIKE LA ROSA

DATE: Wednesday, November 2, 2022

TIME: Commenced: 9:30 a.m.
Concluded: 11:49 a.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: DEBRA R. KRICK
Court Reporter

PREMIER REPORTING
112 W. 5TH AVENUE
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(850) 894-0828

1 APPEARANCES:

2 J. JEFFREY WAHLEN, MALCOLM N. MEANS and
3 VIRGINIA PONDER, ESQUIRES, Ausley Law Firm, Post Office
4 Box 391, Tallahassee, Florida 32302; appearing on behalf
5 of Tampa Electric Company (TECO).

6 BETH KEATING, ESQUIRE, Gunster Law Firm, 215
7 South Monroe Street, Suite 601, Tallahassee, Florida
8 32301; appearing on behalf of Florida Public Utilities
9 Company (FPUC).

10 CHRISTOPHER T. WRIGHT, ESQUIRE, 700 Universe
11 Boulevard, Juno Beach, Florida 33408-0420; appearing on
12 behalf of Florida Power & Light Company (FPL).

13 MATTHEW R. BERNIER and STEPHANIE A. CUELLO,
14 ESQUIRES, 106 East College Avenue, Suite 800,
15 Tallahassee, Florida 32301; appearing on behalf of Duke
16 Energy Florida, LLC (DEF).

17 RICHARD GENTRY, PUBLIC COUNSEL; CHARLES J.
18 REHWINKEL, DEPUTY PUBLIC COUNSEL; MARY A. WESSLING,
19 PATRICIA A. CHRISTENSEN and STEPHANIE A. MORSE,
20 ESQUIRES, OFFICE OF PUBLIC COUNSEL, c/o The Florida
21 Legislature, 111 West Madison Street, Room 812,
22 Tallahassee, Florida 32399-1400; appearing on behalf of
23 the Citizens of the State of Florida (OPC).

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25

1 APPEARANCES CONTINUED:

2 JON C. MOYLE, JR. and KAREN A. PUTNAL,
3 ESQUIRES, Moyle Law Firm, 118 North Gadsden Street,
4 Tallahassee, FL 32301; appearing on behalf of Florida
5 Industrial Users Group (FIPUG).

6 JAMES W. BREW and LAURA W. BAKER, Stone Law
7 Firm, 1025 Thomas Jefferson Street NW, Suite 800 West
8 Washington, DC 20007; appearing on behalf of Florida
9 White Springs Agricultural Chemicals, Inc., d/b/a PCS
10 Phosphate - White Springs (PCS).

11 PETER J. MATTHEIS, MICHAEL K. LAVANGA and
12 JOSEPH R. BRISCAR, ESQUIRES, 1025 Thomas Jefferson
13 Street, NW, Eighth Floor, West Tower, Washington, D.C.
14 20007; appearing on behalf of Nucor Steel Florida, Inc.,
15 (NUCOR).

16 STEPHANIE U. EATON, ESQUIRE, 110 Oakwood
17 Drive, Suite 500, Winston-Salem, North Carolina 27103,
18 and DERRICK PRICE WILLIAMSON and BARY A. NAUM, ESQUIRES,
19 1100 Bent Creek Boulevard, Suite 101, Mechanicsburg,
20 Pennsylvania 17050, appearing on behalf of Walmart Inc.
21 (Walmart).

22 SHAW STILLER, ESQUIRE, FPSC General Counsel's
23 Office, 2540 Shumard Oak Boulevard, Tallahassee, Florida
24 32399-0850, appearing on behalf of the Florida Public
25 Service Commission (Staff).

1 APPEARANCES CONTINUED:

2 KEITH C. HETRICK, GENERAL COUNSEL; MARY ANNE
3 HELTON, DEPUTY GENERAL COUNSEL, Florida Public Service
4 Commission, 2540 Shumard Oak Boulevard, Tallahassee,
5 Florida 32399-0850, Advisor to the Florida Public
6 Service Commission.

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1 P R O C E E D I N G S

2 COMMISSIONER LA ROSA: Seeing nothing else in
3 the 07 docket, I think we can move on to the 10
4 docket.

5 Mr. Stiller, that's you. It looks like you
6 are in the batter's box ready to go, so I will kick
7 it off to you for -- to address us before the
8 prehearing, the draft prehearing order.

9 MR. STILLER: Good morning, Commissioner La
10 Rosa.

11 Staff is unaware of preliminary matters that
12 need to be addressed at this time.

13 COMMISSIONER LA ROSA: Okay. Excellent.

14 Does any of the parties have any other
15 preliminary matters? OPC, you are recognized.

16 MS. WESSLING: Just briefly.

17 We have already submitted some proposed
18 changes to staff yesterday afternoon, and I can
19 either go through them individually or not, but the
20 very first one does appear on the first page. We
21 are just addressing the notices of appearance on
22 that page, which is -- I just wanted to point that
23 out before we got into the actual sections.

24 COMMISSIONER LA ROSA: Staff.

25 MR. STILLER: Commissioner, yes. We received

1 a number of editorial suggestions from the Office
2 of Public Counsel and Duke Energy in the last two
3 days. None of them are in the nature of
4 substantive changes, with the exception, perhaps,
5 of the deletion of counsel for OPC. And those are
6 going to be incorporated into the prehearing order
7 without going through them individual word change
8 by word change unless it is the preference of you,
9 Mr. Commissioner, or any of the parties. They are
10 editorial changes and have been supplied to all the
11 parties.

12 COMMISSIONER LA ROSA: It's not, unless one of
13 the parties would like to hear them. It does not
14 seem so, and certainly that will be circulated.

15 MS. KEATING: Commissioner.

16 COMMISSIONER LA ROSA: Yes.

17 MS. KEATING: Sorry.

18 COMMISSIONER LA ROSA: No, you are recognized.

19 MS. KEATING: For FPUC, I just wanted to make
20 the parties aware, and make you aware, that FPUC
21 has been in some discussions with Commission staff
22 about some minor adjustments to Issues 2, 3 and 4
23 that ultimately have a very minor impact on the
24 factors in No. 7, and we are fully prepared to
25 provide those to all those -- all the parties

1 before the close of business today.

2 COMMISSIONER LA ROSA: Okay. Excellent.

3 Staff agrees.

4 Okay, seeing no other preliminary matters, I
5 believe, let's move on to each section, starting
6 with the Case Background, Section 1. Seeing
7 nothing.

8 Section II, Conduct in Proceedings.

9 Section III, Jurisdiction.

10 Section IV, Procedures in Handling
11 Confidential Information.

12 Section V, Prefiled Testimony and Exhibits and
13 Witnesses. Staff, do you have anything there?

14 MR. STILLER: Staff would suggest that for any
15 witness who is not excused that the summary of
16 their testimony be limited to three minutes.

17 COMMISSIONER LA ROSA: That sounds fair. Any
18 objections? FPL.

19 MR. CHRISTOPHER WRIGHT: Commissioner, this is
20 Chris Wright for Florida Power & Light. No
21 objection, but to try to expedite this proceeding,
22 FPL is willing to waive the opening summaries of
23 its witnesses.

24 COMMISSIONER LA ROSA: Thank you. Noted.

25 Let's move on to the Order of Witnesses in

1 Section VI.

2 MR. MEANS: Commissioner, one small change for
3 Tampa Electric.

4 COMMISSIONER LA ROSA: You are recognized,
5 yeah, go ahead.

6 MR. MEANS: Thank you.

7 We would to ask though Witness Sloan Lewis be
8 removed from the witness list. Witness Richard
9 Latta is substituted for her, and then we could
10 list Issues 1 through 10 for Witness Latta.

11 COMMISSIONER LA ROSA: Okay. Are there any
12 objections to that, parties?

13 MR. MEANS: Thank you.

14 COMMISSIONER LA ROSA: No problem.

15 MR. BERNIER: Mr. Commissioner, I just wanted
16 to make a note for the record that it is Section
17 VI, and then later Section IX, where we made
18 corrections that were provided to staff, and I
19 believe to the parties. And if not, I will make
20 sure that they were, but for the record.

21 COMMISSIONER LA ROSA: Okay.

22 MR. BERNIER: Thank you.

23 COMMISSIONER LA ROSA: Sounds right.

24 Okay. Anything else?

25 All right. Can we talk about the order of

1 witnesses?

2 MR. STILLER: Yes, Mr. Commissioner. If
3 stipulation of issues and witness testimony can be
4 reached, staff will confirm with each Commissioner
5 will such witnesses can be excused. If no
6 Commissioner has a question of a stipulated
7 witness, the witness may be excused from the
8 hearing and his or her testimony and exhibits
9 entered into the record at the hearing as though
10 read.

11 Staff would further note that the OEP requires
12 that each party take a position at the prehearing
13 conference unless good -- I am sorry, I was
14 skipping your section, Mr. Commissioner.

15 COMMISSIONER LA ROSA: No problem.

16 Let's jump, then, to the basic positions. Do
17 the parties have any changes to your basic
18 positions? Seeing none. As, you know, disclosed
19 before, please if that changes, please have that
20 into us before the end of the close tomorrow -- end
21 of business close tomorrow.

22 Issues and Positions.

23 MR. STILLER: Yes, Commissioner. The OEP
24 requires that each party take a position at the
25 prehearing conference unless good cause can be

1 shown why they cannot do so. If a party's position
2 in the draft prehearing order is listed as no
3 position at this time, that party must change it
4 today or show good cause why it can't take a
5 position. And on that, I would note that OPC has
6 changed in the submitted drafts their position to
7 no position. Absent a showing of good cause, the
8 prehearing order will reflect no position for that
9 party on that issue. If the parties have not taken
10 a position, or wish to change a position, staff
11 suggests that they be allowed to do so by the close
12 of business tomorrow. And the current issues and
13 positions are set forth in the prehearing order.

14 COMMISSIONER LA ROSA: Okay. Let's --
15 everyone okay with that?

16 MS. EATON: We have a change. We noticed that
17 on page 21 of the draft prehearing order, Walmart
18 -- it says Walmart takes no position at this time.
19 Actually, in our prehearing brief on Issue No. 7,
20 Walmart did have a position. So we would like that
21 reflected in the prehearing order on that
22 particular issue.

23 I will also note, and we will get to this when
24 we talk about stipulations, that Walmart has spoken
25 with FPUC regarding Issue No. 7, and that

1 stipulation will hopefully resolve the issue that
2 we've raised, but we did raise an issue on -- in
3 our prehearing brief.

4 COMMISSIONER LA ROSA: We can make that note,
5 staff?

6 MR. STILLER: We will make that change and
7 circulate that back around to the parties.

8 COMMISSIONER LA ROSA: Okay. Anything else
9 from the parties? Seeing none, let's move on to
10 the exhibit list.

11 MR. STILLER: Staff has prepared a
12 comprehensive exhibit list that includes all
13 prefiled exhibits, and also includes the exhibits
14 staff wishes to include in the record. Staff is
15 aware -- unaware of any objections to the CEL from
16 any of the parties.

17 COMMISSIONER LA ROSA: Is that accurate? It
18 seems to be with no objections.

19 Proposed stipulations.

20 MR. STILLER: Yes, Commissioner. As was just
21 noted by counsel, there is one proposed stipulation
22 between FPUC and Walmart as to Issue 7.

23 COMMISSIONER LA ROSA: Okay. Excellent.

24 You are recognized.

25 MS. EATON: Sure. Again, Stephanie Eaton for

1 Walmart.

2 In relation to the stipulation between FPUC
3 and Walmart, we would request that our witness Lisa
4 Perry be excused from the hearing, and her
5 testimony read into the record, and her Exhibit
6 LVP-1 entered into the record as if read. We have
7 spoken with counsel for FPL. I believe they were
8 in agreement, but if the other utilities and
9 parties are amenable to that, we would -- we would
10 make that request now in light of the stipulation.

11 COMMISSIONER LA ROSA: Okay. Any questions or
12 thoughts on that from the parties? Okay.
13 Excellent. Thank you. Noted.

14 MS. EATON: Thank you.

15 COMMISSIONER LA ROSA: Pending motions.

16 MR. STILLER: There are none.

17 COMMISSIONER LA ROSA: Pending confidentiality
18 motions.

19 MR. STILLER: There are six pending
20 confidentiality motions that staff will endeavor to
21 address before the hearing.

22 COMMISSIONER LA ROSA: Okay. Excellent.
23 Post-hearing procedures.

24 MR. STILLER: If there is no bench decision in
25 this docket, staff recommends that briefs be no

1 longer than 40 pages, and due to be filed not later
2 than November 29th.

3 COMMISSIONER LA ROSA: Okay. Rulings.

4 MR. STILLER: Staff recommends that the
5 Prehearing Officer make a ruling that opening
6 statements, if any, should not exceed five minutes
7 per party, and that witness summaries be limited to
8 three minutes per witness.

9 COMMISSIONER LA ROSA: Parties in agreement?
10 FPL.

11 MR. CHRISTOPHER WRIGHT: Commissioner La Rosa,
12 obviously, we've already agreed to waive opening
13 summary -- or I am sorry, summaries of our
14 witnesses, but to -- we would offer, in the spirit
15 of trying to expedite the hearings coming up, if
16 other parties are agreeable to waive opening
17 statements. We are largely repeating what we've
18 seen just recently in the SPP docket. If other
19 parties are willing to waive opening statements,
20 FPL, likewise, would be willing to do so.

21 COMMISSIONER LA ROSA: Do we have any takers?
22 OPC.

23 MR. REHWINKEL: We are -- we will -- we are
24 not prepared today to do that, but we are willing
25 to consider that we would like -- I checked

1 yesterday, I haven't checked today, to see if the
2 orders -- we want to see the orders in the SPP
3 docket, and I don't know when they are due out.

4 MS. HELTON: They are still in progress. I am
5 not sure that they will get issued this week, but
6 hopefully the first of next week.

7 MR. REHWINKEL: Okay. So just to put folks on
8 notice, we want to see those orders, and those
9 orders could be a domino effect on our willingness
10 to stipulate not only oral argument, but witnesses,
11 but we just have to see them to understand what our
12 overall SPP approach will be.

13 So I just wanted to put folks on notice. When
14 we see those, we would like to talk to the parties
15 and the staff about where we are going, and see if
16 we can streamline the process. So we are open to
17 it.

18 COMMISSIONER LA ROSA: Okay. Great. Sounds
19 like it's ongoing.

20 Let's move on to other matters. Are there any
21 other matters that need to be discussed in this
22 prehearing?

23 MR. STILLER: Staff is aware of none.

24 COMMISSIONER LA ROSA: Parties?

25 MS. WESSLING: The only other thing I would

1 mention is, like in one of the previous dockets,
2 Mr. Rehwinkel mentioned the possibility of doing
3 closing arguments after given a little bit of time
4 to prepare in lieu briefing. That's just another
5 thing we wanted to put out there. Again, it
6 doesn't need to be decided today by, you know,
7 anyone. I just wanted to put that option out there
8 for consideration.

9 COMMISSIONER LA ROSA: Sure. No, we
10 appreciate that, and certainly will take it into
11 consideration, so thank you.

12 Okay. Seeing no other matters. I think that
13 can adjourn our 10 docket.

14 (Proceedings concluded.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, DEBRA KRICK, Court Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 15th day of November, 2022.



DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #HH31926
EXPIRES AUGUST 13, 2024