

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery clause
with generating performance incentive factor.

Docket No.: 20230001-EI

Filed: July 17, 2023

**FLORIDA POWER & LIGHT COMPANY'S RESPONSE TO THE STAFF OF
THE FLORIDA PUBLIC SERVICE COMMISSION'S MOTION TO DEFER ISSUES**

Florida Power & Light Company ("FPL") submits this Response to the Staff of the Florida Public Service Commission's ("Staff") Motion To Defer Issues. FPL agrees in part and objects in part to Staff's request to defer for hearing until the first quarter of 2024 Issues 2G through 2J¹ identified in Order No. PSC-2023-0066-PCO-EI, issued February 3, 2023 (the nuclear replacement power cost issues or "RPC Issues"). In support of FPL's position, it states:

The 2022 Hearing Cycle

1. As noted in Staff's Motion, the RPC Issues presented in the Fuel and Purchased Power Cost Recovery Clause docket were deferred from the 2022 hearing cycle to 2023.
2. During the 2022 hearing cycle, FPL filed the direct testimony of Dean Curtland regarding unplanned outages that occurred at its Turkey Point and St. Lucie nuclear plants in 2020, 2021 and 2022. FPL responded to associated discovery requests,² and subsequently, on September 14, 2022, the Office of Public Counsel ("OPC") filed direct testimony challenging two of the outages. OPC's testimony did not address any other outage described in FPL's testimony. No

¹ *Issue 2G*: What is the proper methodology for FPL to calculate replacement power costs associated with an unplanned outage?; *Issue 2H*: Were FPL's actions, or failures to act, that resulted in unplanned outages that occurred during 2020 prudent? If not, what adjustments should be made?; *Issue 2I*: Were FPL's actions, or failures to act, that resulted in unplanned outages that occurred during 2021 prudent? If not, what adjustments should be made?; *Issue 2J*: Were FPL's actions, or failures to act, that resulted in unplanned outages that occurred during 2022 prudent? If not, what adjustments should be made?

² FPL also received and responded to discovery requests pertaining to some outages that occurred in 2020 and 2021 during the 2021 hearing cycle (Docket 20220001-EI).

other party filed testimony addressing any outage at issue. On September 27, 2022, FPL filed rebuttal testimony regarding the two outages addressed by OPC.

3. OPC's testimony also raised issues that went beyond replacement power costs. On September 27, 2022, FPL moved to strike those portions of OPC's testimony. OPC filed its opposition on October 3, 2022.

4. A Prehearing Order No. PSC-2022-0390-PHO-EI was issued on November 14, 2022, ruling as follows with respect to litigating the RPC Issues and the Motion To Strike:

As discovery has progressed it has become apparent to Commission staff and the parties that more time is needed to determine the best type of proceeding in which to litigate these issues. Therefore, the parties have agreed that these issues will be deferred and taken up at an appropriate type of proceeding as chosen by the Prehearing Officer or full Commission. . . . Rulings on the associated motions will also be deferred until that time.

(pp. 59-60).

The 2023 Hearing Cycle

5. On February 3, 2023, the Prehearing Officer entered an Order Establishing Procedure ("OEP"), Order No. 2023-0066-PCO-EI, which provides that the RPC Issues would be taken up in the 2023 Fuel and Purchased Power Cost Recovery Clause docket.³ The OEP also established due dates for associated testimony.

6. On June 9, 2023, in compliance with the OEP, FPL filed the direct testimony of Dean Curtland and Joel Gebbie addressing each of the 2020, 2021 and 2022 outages that FPL had addressed in the 2022 docket. The due date for OPC and any other intervenor to file testimony on the RPC Issues would be August 11, 2023.

³ See pages 14-15.

7. Having received FPL's testimony on June 9, there is no reason to entirely eliminate the requirement to respond to it if any intervenor believes any challenge remains pending. To date, OPC is the only intervenor that has issued discovery.⁴⁴ To the extent that OPC, or any other intervenor, reasonably requires an enlargement of time to file its direct testimony, FPL will work cooperatively on scheduling. Modifying the timetable can be accomplished without completely striking the remaining testimony deadlines.

8. Deferring all testimony deadlines to 2024 raises two concerns. *First*, restarting testimony deadlines in 2024, with a hearing to conclude by March 31, 2024, may lead to an unduly compressed schedule. Indeed, the need for more time was the reason the RPC issues were moved to 2023; schedule compression at the start of 2024 may lead to yet another deferral upon receipt of testimony next year.

9. *Second*, deferring intervenor testimony deadlines significantly reduces the opportunity to be fully informed about intervenor positions early enough to streamline the proceeding on the RPC Issues. Arming all parties with information through the receipt of testimony during this year will position them to engage in productive discussions and potentially narrow issues in a meaningful manner. A compressed testimony schedule, by contrast, could hinder that prospect because parties would be focused on preparing for hearing within a short period, with less time available to devote to identifying areas of agreement or compromise.

10. For these reasons, FPL believes it is more appropriate to leave in place due dates for intervenor testimony and FPL's rebuttal to intervenor testimony, with the expectation that parties will work cooperatively to resolve reasonable requests for enlargements of time.

⁴⁴ Staff also issued a set of discovery regarding the RPC issues on June 23, 2023.

WHEREFORE, for the reasons described in this Response, FPL requests that the Commission grant the portion of Staff’s Motion To Defer Issues requesting that “the [RPC] [I]ssues be deferred from this hearing cycle and that a hearing be held prior to March 31, 2024, to litigate this issues.” FPL requests that the Commission deny Staff’s request to eliminate the requirements that OPC/Intervenors file testimony on these issues on August 11, 2023 and that FPL file rebuttal on these issues on September 28, 2023. FPL further requests that such ruling not preclude the parties’ ability to request modification of testimony due dates as reasonably required.

Respectfully submitted this 17th day of July 2023.

Respectfully submitted,

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CERTIFICATE OF SERVICE
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I **HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by electronic service on this 17th day of July 2023 to the following:

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