

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Storm Protection Plan Cost Recovery
Clause

Docket No. 20230010-EI

Filed: August 7, 2023

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

Florida Power & Light Company (“FPL”), by and through its undersigned counsel, hereby submits this Prehearing Statement pursuant to Order Nos. PSC-2023-0090-PCO-EI, PSC-2023-0105-PCO-EI, and PSC-2023-0178-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 2022 actual Storm Protection Plan (“SPP”) costs associated with the programs and projects included in the 2020-2029 SPPs (“2020 SPPs”), and explains the variances for the 2022 SPP costs approved in Docket No. 20220010-EI. <i>(Filed April 3, 2023)</i> • Presents and supports FPL’s 2023 actual/estimated SPP costs associated with the programs and projects included in FPL’s 2023-2032 SPP (“2023 SPP”), and explains the variances for the 2023 SPP costs approved in Docket No. 20220010-EI. <i>(Filed May 2, 2023)</i> • Describes FPL’s 2024 SPP programs and explains how those activities and costs are consistent with the 2023 SPP approved in Docket No. 20220051-EI. <i>(Filed May 2, 2023)</i> 	1-4
Richard L. Hume	<ul style="list-style-type: none"> • Presents and supports FPL’s 2022 final SPPCRC true-up amounts. <i>(Filed April 3, 2023)</i> • Presents and supports FPL’s 2023 actual/estimated SPPCRC true-up amount. <i>(Filed May 2, 2023)</i> • Presents and supports the 2024 projected amounts and 2024 SPPCRC Factors to be applied to bills issued during the projected period of January 1, 2024 through December 31, 2024. <i>(Filed May 2, 2023)</i> 	1-10

B. Rebuttal Testimony

None.¹

2. EXHIBITS

<u>Witness</u>	<u>Proffered By</u>	<u>Exhibit #</u>	<u>Description</u>	<u>Issue #</u>
Michael Jarro	FPL	MJ-1	FPL Actual Storm Protection Plan Work Completed in 2022 (Project Level Detail)	1
Michael Jarro	FPL	MJ-2	List of Explanations of Drivers for Variances in Storm Protection Plan Programs and Projects	1, 2
Michael Jarro	FPL	MJ-3	FPL Actual/Estimated Storm Protection Plan Work to be Completed in 2023 (Project Level Detail)	2
Michael Jarro	FPL	MJ-4	FPL Storm Protection Plan Work to be Completed in 2024 (Project Level Detail)	3, 4
Michael Jarro	FPL	RLH-3	Form 6P – Program Description and Progress Report	2-4
Richard L. Hume	FPL	RLH-1 (corrected by Errata filed on August 4, 2023)	Forms 1A through 8A for the FPL 2022 SPPCRC Final True-Up	1
Richard L. Hume	FPL	RLH-2	Forms 1E through 8E for the FPL 2023 SPPCRC Actual/Estimated True-Up	2
Richard L. Hume	FPL	RLH-3	Forms 1P through 5P and 7P for FPL’s Proposed 2024 SPPCRC Factors	3-7
Richard L. Hume	FPL	RLH-4	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.

¹ Although Staff served testimony supporting Staff’s audit of the SPPCRC costs, there is nothing in Staff’s testimony to rebut. No other parties served any discovery, testimony, or exhibits related to FPL’s SPPCRC projects, costs, and revenue requirements.

3. STATEMENT OF BASIC POSITION

FPL's final true-up of its 2022 SPP costs is consistent with the actual/estimated 2022 SPP costs approved by Commission Order No. PSC-2022-0418-FOF-EI in Docket No. 20220010-EI, consistent with the 2020 SPPs approved by Commission Order No. PSC-2020-0293-AS-EI in Docket Nos. 20200070-EI and 20200071-EI, applies the methodology and prescribed schedules contained in Commission Forms 1A through 8A, and meets the requirements of Section 366.96, Florida Statutes, and Rule 25-6.031(7)(a), Florida Administrative Code. No parties challenged or made any recommended adjustments to any of the SPP projects, costs, or revenue requirements included in FPL's 2022 SPPCRC final true-up. Therefore, the Commission should approve FPL's net final true-up under-recovery amount of \$5,171,245, including interest, for the period of January 2022 through December 2022.

FPL's actual/estimated true-up of its 2023 SPP costs is consistent with the projected 2023 SPP costs approved by Commission Order No. PSC-2022-0418-FOF-EI in Docket No. 20220010-EI, consistent with the 2023 SPP approved Commission Order No. PSC-2022-0389-FOF-EI in Docket No. 20220051-EI, applies the methodology and prescribed schedules contained in Commission Forms 1E through 8E, and meets the requirements of Section 366.96, Florida Statutes, and Rule 25-6.031(7)(b), Florida Administrative Code. No parties challenged or made any recommended adjustments to any of the SPP projects, costs, or revenue requirements included in FPL's 2023 SPPCRC actual/estimated true-up. Therefore, the Commission should approve FPL's actual/estimated true-up under-recovery amount of \$14,860,970, including interest, for the period of January 2023 through December 2023.

FPL's projected 2024 SPP costs are consistent with the 2023 SPP approved Commission Order No. PSC-2022-0389-FOF-EI in Docket No. 20220051-EI, apply the methodology and prescribed schedules contained in Commission Forms 1P through 7P, and meet the requirements

of Section 366.96, Florida Statutes, and Rule 25-6.031(2) and (7)(c), Florida Administrative Code. No parties challenged or made any recommended adjustments to any of the individual 2024 SPP projects or associated costs. Therefore, the Commission should approve FPL’s projected recovery amount of \$513,855,741 for the period of January 2024 through December 2024.

For these reasons, as further explained in FPL’s direct, supplemental, and rebuttal testimonies, the Commission should approve the total jurisdictional revenue requirement of \$533,887,956, including true-up amounts, for recovery through FPL’s 2024 SPPCRC Factors for the period of January 2024 through December 2024.

4. **STATEMENT OF ISSUES AND POSITIONS**

A. **STAFF’S ISSUES**

Issue No. 1: What amounts should the Commission approve as the Utilities’ final 2022 prudently incurred costs and final jurisdictional revenue requirement true-up amount for the Storm Protection Plan Cost Recovery Clause?

FPL Position: FPL’s final total SPPCRC cost incurred for 2022 is \$1,292,952,697, which includes a total operations and maintenance (“O&M”) expense of \$95,133,622 (Line 5 of Form 5A of Exhibit RLH-1, p. 5) and a total capital expenditure of \$1,197,819,075 (sum of Line 1a of Form 7A of Exhibit RLH-1, pp. 10-16). FPL’s SPPCRC final jurisdictional revenue requirement true-up for the period January 2022 through December 2022, including interest, is an under-recovery of \$5,171,245 (Line 10 of Form 1A of Exhibit RLH-1, p. 1). (*FPL witnesses Jarro and Hume*)

Issue No. 2: What amounts should the Commission approve as the Utilities’ reasonably estimated 2023 costs and estimated jurisdictional revenue requirement true-up amount for the Storm Protection Plan Cost Recovery Clause?

FPL Position: FPL’s total SPPCRC cost estimated for 2023 is \$1,307,293,308, which includes a total O&M expense of \$86,225,808 (Line 5 of Form 5E of Exhibit RLH-2, p. 5) and a total capital expenditure of \$1,221,067,500 (sum of Line 1a of Form 7E of Exhibit RLH-2, pp. 10-17). FPL’s SPPCRC actual/estimated jurisdictional revenue requirement true-up for the period January 2023 through December 2023, including interest, is an under-recovery of \$14,860,970 (Line 4 of Form 1E of Exhibit RLH-2, p. 1). (*FPL witnesses Jarro and Hume*)

Issue No. 3: What amounts should the Commission approve as the Utilities’ reasonably projected 2024 costs and projected jurisdictional revenue requirement amount for the Storm Protection Plan Cost Recovery Clause?

FPL Position: FPL’s total SPPCRC cost projected for 2024 is \$1,389,706,289, which includes a total O&M expense of \$86,974,576 (Line 5 of Form 2P of Exhibit RLH-3, p. 2) and a total capital expenditure of \$1,302,731,713 (sum of Line 1a of Form 3P of Exhibit RLH-3, pp. 6-13). FPL’s projected SPPCRC jurisdictional revenue requirement for the period January 2024 through December 2024 is \$513,855,741 (Line 1e of Form 1P of Exhibit RLH-3, p. 1). (*FPL witnesses Jarro and Hume*)

Issue No. 4: What are the Storm Protection Plan Cost Recovery Clause total jurisdictional revenue requirements, including true-ups, to be included in the Storm Protection Plan Cost Recovery factors for 2024?

FPL Position: The projected total SPPCRC jurisdictional revenue requirement for the period January 2024 through December 2024, including true-up amounts, is \$533,887,956 (Line 4 of Form 1P of Exhibit RLH-3, p. 3). (*FPL witnesses Jarro and Hume*)

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 2024?

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 2024 through December 2024, FPL’s depreciation rates are those approved by Commission Order Nos. PSC-2021-0446-S-EI and PSC-2021-0446A-S-EI in Docket No. 20210015-EI. (*FPL witness Hume*)

Issue No. 6: What are the appropriate jurisdictional separation factors for 2024?

FPL Position: As shown on page 1 of Exhibit RLH-4, FPL’s retail jurisdictional separation factors for the period January 2024 through December 2024 are:

DEMAND

Transmission	0.894143
Non-Stratified Production	0.960923
Intermediate Strata Production	0.954528
Peaking Strata Production	0.942663
Distribution	1.000000

ENERGY

Total Sales	0.943704
Non-Stratified Sales	0.958349
Intermediate Strata Sales	0.944751
Peaking Strata Sales	0.957272

GENERAL PLANT

Labor	0.970449
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(*FPL witness Hume*)

Issue No. 7:

What are the appropriate Storm Protection Plan Cost Recovery Clause factors for 2024 for each rate class?

FPL Position: As shown on Form 5P of Exhibit RLH-3, p. 15, the appropriate FPL 2024

SPPCRC factors for each rate class are as follows:

Rate Class	SPP Factor (\$/kW)	SPP Factor (\$/kWh)	RDC (\$/KW)	SDD (\$/KW)
RS1/RTR1		0.00557		
GS1/GST1		0.00499		
GSD1/GSDT1/HLFT1/GSD1-EV	1.02			
OS2		0.01527		
GSLD1/GSLDT1/CS1/CST1/HLFT2/GSLD1-EV	1.00			
GSLD2/GSLDT2/CS2/CST2/HLFT3	0.96			
GSLD3/GSLDT3/CS3/CST3	0.16			
SST1T			0.02	0.01
SST1D1/SST1D2/SST1D3			0.17	0.07
CILC D/CILC G	1.00			
CILC T	0.14			
MET	1.25			
OL1/SL1/SL1M/PL1/OSI/II		0.00394		
SL2/SL2M/GSCU1		0.00504		

(FPL witness Hume)

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 2024 SPPCRC Factors should become effective for application to bills beginning the first billing cycle in January 2024 through the last billing cycle December 2024 and continuing until modified by subsequent order of this Commission. *(FPL witness*

Hume)

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 Hume*)

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 Hume*)

B. CONTESTED ISSUES

Attached to Order Establishing Procedure (“OEP”) No. PSC-2023-0090-PCO-EI issued on February 15, 2023, was a list of proposed issues to be addressed in this proceeding, which are substantially similar to Staff’s Issues identified in subpart A above. On July 10, 2023, Staff issued Notice for an Informal Issue Identification Meeting (“Issue ID Meeting”) to be held on July 19, 2023, which included the list of proposed issues from the OEP. At the Issue ID Meeting, the investor-owned utilities raised discrete concerns with the wording included in certain proposed issues. Despite being given the opportunity, no other parties, including the Office of Public Counsel (“OPC”), raised any concerns or suggested changes with the proposed issues at the Issue ID Meeting, nor did any party raise or propose any new or additional to be considered.

Following the Issue ID Meeting, Staff circulated a revised list of issues and asked parties to advise if these issues were acceptable by July 25, 2023. Each of the investor-owned utilities timely advised Staff that their revised proposed issues were acceptable; no other parties provided

a timely response. On July 27, 2023, OPC circulated newly proposed issues that were specific to each investor-owned utility. For the reasons summarized below, OPC’s newly proposed issues specific to FPL are improper, inappropriate, entirely unnecessary, and should be rejected as issues in this proceeding.²

OPC Proposed
Issue No. 1A:

Has FPL demonstrated that the programs and projects contained in its current SPP plan and on which it is basing cost recovery, are prudent to undertake and prudent in amount?

FPL Position: FPL objects to OPC Proposed Issue No. 1A as legally improper and entirely unnecessary. Proposed Issue No. 1A clearly asks whether the programs and projects in the current SPP are prudent. The fundamental flaw with Proposed Issue No. 1A is that the SPP is not pending for review and approval in this docket – this is the docket to review and approve the SPPCRC. Indeed, in Section 366.96, Florida Statutes (“SPP Statute”), the Legislature mandated that the SPP and SPPCRC are separate and distinct proceedings before the Commission. The time and place to review and approve the SPP was in the SPP docket, which for FPL’s current 2023-2032 SPP occurred last year in Docket No. 20220051-EI. OPC Proposed Issue No. 1A is nothing more than a very thinly veiled and improper attempt by OPC to relitigate FPL’s 2023-2032 SPP.

FPL’s current 2023-2032 SPP was approved by Commission Order No. PSC-2022-0389-FOF-EI issued in Docket No. 20220051-EI on November 10, 2022 (“*SPP Order*”). In the *SPP Order*, the Commission concluded that Section 366.96(5), Florida Statutes, requires a public interest standard to be applied to the SPP, not the prudence standard

² FPL is herein addressing only OPC’s proposed issues that are specific to FPL; however, FPL acknowledges that the reasoning the FPL specific issues should be rejected in this docket may equally apply to OPC’s proposed issues for the other investor-owned utilities.

proposed by OPC Proposed Issue 1A. A party dissatisfied with an order can seek reconsideration, file an appeal, or choose to be bound by it; however, a party cannot initiate a collateral attack on that order through a separate proceeding or action.³ In this case, OPC elected to appeal the *SPP Order* and the issue of whether the Commission is required to apply a prudence standard in its review of SPPs. OPC cannot use this proceeding to supplement either the issues or the record pending before the Florida Supreme Court in that appeal. Rather, OPC's legal remedy is to wait for the Court's final disposition of the appeal, which decision will be binding on the parties and the Commission when it becomes final. Accordingly, OPC Proposed Issue 1A should be rejected as an improper collateral attack on the *SPP Order*.

Finally, to the extent that OPC Proposed Issue 1A is somehow construed to apply to the projects and costs to be recovered through the SPPCRC, which construction would be a significant stretch under the plain language of the issue as stated by OPC, the reasonableness and prudence of FPL's actual 2022, actual/estimated 2023, and projected 2024 SPP projects, costs, and revenue requirements are already addressed and fully subsumed in Staff's Issues No. 1-4. Therefore, apart from being legally improper, OPC Proposed Issue 1A is entirely unnecessary and should be rejected.

OPC Proposed
Issue No. 1B:

Has the Commission properly determined, pursuant to Section 366.06(1), Fla. Stat., that the projected expenditures proposed for cost recovery by FPL are prudent?

FPL Position: FPL objects to OPC Proposed Issue No. 1B as being inappropriate and entirely unnecessary. Proposed Issue No. 1B is framed as a review of the Commission's

³ See, e.g., *VBK Santoshi, LLC v. Chi. Title Ins. Co.*, No. 2D22-120, 2023 Fla. App. LEXIS 4724, at *12 (Dist. Ct. App. July 12, 2023) (citing *Brevard County v. Obloy*, 301 So. 3d 1114, 1117 (Fla. 5th DCA 2020)).

final determination in this matter, *i.e.*, as an appellate issue. Stated differently, Proposed Issue No. 1B is an after-the-fact issue for potential appellate court review, not an issue appropriate for inclusion in this SPPCRC proceeding before the Commission. For this reason alone, OPC Proposed Issue No. 1B must be rejected.

Furthermore, the Legislature directed the Commission to propose rules to implement and administer Section 366.96. *See* Section 366.96(11), Fla. Stat. In compliance with this mandate, the Commission adopted Rule 25-6.031, Florida Administrative Code, which describes what is to be included and reviewed as part of the SPPCRC proceeding. Consistent with the requirements of Section 366.96(7), Commission Rule 25-6.031(3) provides:

An annual hearing to address petitions for recovery of Storm Protection Plan costs will be limited to determining the reasonableness of projected Storm Protection Plan costs, the prudence of actual Storm Protection Plan costs incurred by the utility, and to establish Storm Protection Plan cost recovery factors consistent with the requirements of this rule.

See also Section 366.96(2)(c), Fla. Stat. (defining “[t]ransmission and distribution storm protection plan costs” as “the reasonable and prudent costs to implement an approved transmission and distribution storm protection plan”). Notably, the reasonableness and prudence of FPL’s actual 2022, actual/estimated 2023, and projected 2024 SPP projects, costs, and revenue requirements are already addressed and fully subsumed in Staff’s Issues No. 1-4. Accordingly, OPC Proposed Issue IB is entirely unnecessary and should be rejected.

5. STIPULATED ISSUES

On August 3, 2023, Staff and FPL agreed to stipulate to the admission of the testimony and exhibit of Staff witness Donna D. Brown, and FPL agreed to waive cross-examination of Ms.

Brown. FPL is not currently aware of any other stipulations. 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. Given that there has been no testimony or exhibits submitted in opposition to FPL's proposed true-up amounts and SPPCRC Factors, FPL submits that appropriately tailored stipulations could avoid the unnecessary waste of time and resources for all parties, Staff, and the Commission and, under these circumstances, would be a prudent use of the costs and funds ultimately paid by customers and taxpayers.

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.

9. **REQUEST FOR SEQUESTRATION OF WITNESSES**

None.

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 August 2023,

By: s/Christopher T. Wright _____
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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 August 2023:

<p>Shaw Stiller Daniel Dose Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399 ddose@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 christensen.patty@leg.state.fl.us rehwinkel.charles@leg.state.fl.us wessling.mary@leg.state.fl.us Janjic.Danijela@leg.state.fl.us <i>For Office of Public Counsel</i></p>
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s/ Christopher T. Wright
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