

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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In re: Storm Protection Plan Cost Recovery  
Clause

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Docket No. 20230010-EI

Dated: August 7, 2023

**DUKE ENERGY FLORIDA, LLC'S  
PREHEARING STATEMENT**

Pursuant to the Order Establishing Procedure, Order No. PSC-2023-0090-PCO-EI, First Order Revising Order Establishing Procedure, Order No. PSC-2023-0105-PCO-EI, and Order Modifying Order Establishing Procedure, Order No. PSC-2023-0178-PCO-EI (collectively, the "OEP"), Duke Energy Florida, LLC ("DEF") hereby submits its Prehearing Statement for the Storm Protection Plan Cost Recovery Clause docket.

1. **Known Witnesses** - DEF intends to offer the testimony of:

	<b>Direct</b>	
<b>Witness</b>	<b>Subject Matter</b>	<b>Issues#</b>
Christopher A. Menendez	True-up costs associated with the SPPCRC activities for the period January 2022 through December 2022. Actual/Estimated true-up for the period January 2023 through December 2023, projected costs for the SPPCRC for the period January 2024 through December 2024, and DEF's Storm Protection Plan cost recovery factors for the period January 2024 through December 2024.	1-9
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").	1-3
Robert E. Brong	Transmission-related costs associated with DEF's Storm Protection Plan ("SPP") proposed for recovery through the Storm	1-3

Protection Plan Cost Recovery Clause  
 (“SPPCRC”).

2. **Known Exhibits** - DEF intends to offer the following exhibits:

Witness	Proffered By	Exhibit #	Description
Christopher A. Menendez	DEF	(CAM-1)	True-up costs associated with the SPPCRC activities for the period January 2022 through December 2022.
Christopher A. Menendez	DEF	(CAM-2)	Actual/estimated true-up for the period January 2023 through December 2023.
Christopher A. Menendez	DEF	(CAM-3)	Projected costs for the SPPCRC for the period January 2024 through December 2024, and DEF’s storm protection plan cost recovery factors for the period January 2024 through December 2024.
Brian M. Lloyd	DEF	(CAM-1)	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.
Brian M. Lloyd	DEF	(CAM-2)	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.
Brian M. Lloyd	DEF	(CAM-3)	Distribution-related costs associated with DEF’s Storm Protection Plan (“SPP”) proposed for recovery through the Storm Protection Plan Cost Recovery Clause (“SPPCRC”) for 2024.
Robert E. Brong	DEF	(CAM-1)	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.
Robert E. Brong	DEF	(CAM-2)	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.
Robert E. Brong	DEF	(CAM-3)	Transmission-related costs associated with DEF’s Storm Protection Plan (“SPP”) proposed for recovery through the Storm Protection Plan Cost Recovery Clause (“SPPCRC”) for 2024.

DEF reserves the right to identify additional exhibits for the purpose of cross-examination or rebuttal.

3. **Statement of Basic Position** - Not applicable. DEF’s positions on specific issues are listed below.
4. **Statement of Facts**

**GENERIC STORM PROTECTION PLAN COST RECOVERY ISSUES**

**ISSUE 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?

**DEF:** Investments of \$416,956,141 (System). Over-recovery of \$10,715,993. (Menendez, Lloyd, Brong)

**ISSUE 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?

**DEF:** Investments of \$669,882,033 (System). Over-recovery of \$17,788,390. (Menendez, Lloyd, Brong)

**ISSUE 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?

**DEF:** Investments of \$783,792,564 (System). Revenue requirement \$201,370,792. (Menendez, Lloyd, Brong)

**ISSUE 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?

**DEF:** \$172,866,409. (Menendez)

**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 2024?

**DEF:** DEF should use the depreciation rates that were approved in Final Order No. PSC-2021-0202A-AS-EI. (Menendez)

**ISSUE 6:** What are the appropriate jurisdictional separation factors for 2024?

**DEF:** DEF should apply the appropriate jurisdictional separation factors that were approved in Final Order No. PSC-2021-0202A-AS-EI:

Distribution: 1.0000000  
Transmission: 0.7204200  
Labor: 0.9677918 (Menendez)

**ISSUE 7:** What are the appropriate Storm Protection Plan Cost Recovery Clause factors for 2024 for each rate class?

<b>DEF:</b>	<b>Customer Class</b>	<b>SPPCRC Factor</b>
	Residential	0.510 cents/kWh
	General Service Non-Demand	0.494 cents/kWh
	@ Primary Voltage	0.489 cents/kWh
	@ Transmission Voltage	0.484 cents/kWh
	General Service 100% Load Factor	0.231 cents/kWh
	General Service Demand	1.34 \$/kW
	@ Primary Voltage	1.31 \$/kW
	@ Transmission Voltage	0.25 \$/kW
	Curtable	2.11 \$/kW
	@ Primary Voltage	2.09 \$/kW
	@ Transmission Voltage	2.07 \$/kW

Interruptible	1.02 \$/kW
@ Primary Voltage	0.83 \$/kW
@ Transmission Voltage	0.19 \$/kW
Standby Monthly	0.119 \$/kW
@ Primary Voltage	0.118 \$/kW
@ Transmission Voltage	0.117 \$/kW
Standby Daily	0.057 \$/kW
@ Primary Voltage	0.056 \$/kW
@ Transmission Voltage	0.056 \$/kW
Lighting	0.373 cents/kWh
	(Menendez)

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

**DEF:** The factors shall be effective beginning with the specified Storm Protection Plan Cost Recovery Clause cycle and thereafter for the period January 2024 through December 2024. Billing cycles may start before January 1, 2024, and the last cycle may be read after December 31, 2024, 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)

**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?

**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)

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

**DEF:** No, this is an on-going docket and should remain open until a subsequent year’s docket is established.

## COMPANY SPECIFIC STORM PROTECTION PLAN COST RECOVERY ISSUES

### Duke Energy Florida, LLC

No company-specific issues for Duke Energy Florida, LLC have been identified at this time.

## **Florida Power & Light, Co.**

No company-specific issues for Florida Power and Light Company have been identified at this time.

## **Tampa Electric Company**

No company-specific issues for Tampa Electric Company have been identified at this time.

## **CONTESTED ISSUES**

### **DEF**

#### **OPC Proposed Issue 2A:**

**Has DEF 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?**

#### **DEF's Response:**

This issue is inappropriate in this docket. The programs included in DEF's 2023-2032 SPP were approved by this Commission in Docket No. 20220050-EI. *See* Order No. PSC-2022-0388-FOF-EI ("SPP Order"). That Order, along with the orders approving the other utilities' SPPs and the Order concluding the 2022 SPPCRC docket (Order No. PSC-2022-0418-FOF-EI) are the subjects of OPC's appeal before the Florida Supreme Court. *See* Case No. SC22-1733. OPC has not sought a stay of any order associated with the consolidated appeal. Notwithstanding that direct, on-going challenge to the SPP and SPPCRC orders, OPC now seeks to interject this issue into the present docket in an improper effort to collaterally attack the substance of the SPP Order. For this reason alone, this issue should be rejected.

Moreover, even if this was the proper docket to consider the propriety of the programs' inclusion in the SPP (which it is not), OPC is once again retreading arguments raised and rejected in the SPP dockets – specifically whether section 366.96, Florida Statutes ("SPP Statute") or Rule 25-6.030, F.A.C. ("SPP Rule") require the Commission to determine proposed SPP programs are "prudent" before they can be included in an SPP. The Commission rejected that argument by correctly noting "Subsection 366.96(5), F.S., states that we shall determine, no later than 180 days after a utility files its plan, 'whether it is in the public interest to approve, approve with modification, or deny the plan.' Unlike the Storm Hardening Plans, Subsection 366.96(7), F.S., states that once a storm protection plan is approved, a utility's 'actions to implement the plan shall not constitute or be evidence of imprudence.'" SPP Order, at p. 17.

Finally, OPC's proposed issue includes a request for the Commission to determine if "the programs and projects contained in its current SPP plan and on which it is basing cost

recovery, are . . . prudent in amount.” This again appears to be an effort to improperly relitigate the scope of the approved SPP. This docket was established pursuant to section 366.96(7), which provides “The commission shall conduct an annual proceeding to determine the 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.” Pursuant to the SPPCRC Rule, this hearing “*will be limited to*” determining the reasonableness of projected SPP costs, the prudence of actually incurred SPP costs, and setting the appropriate recovery factor. *See* Rule 25-6.031(3), F.A.C. (emphasis supplied).

Thus, the question before the Commission in this docket is not whether DEF’s SPP costs were “prudent in amount” but whether those incurred costs were “prudently incurred.” This is a question of DEF’s implementation of the SPP, not the scope of the SPP. The reasonableness of future costs and prudence of incurred costs will be determined by the Commission’s resolution of Staff’s Issues 1-3.

**OPC Proposed Issue 2B:**

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

**DEF’s Response:**

This issue is likewise improper and unnecessary. It is unnecessary because the reasonableness of projected costs and prudence of incurred (actual) costs will be determined in Staff’s Issues 1-3. Moreover, this issue inappropriately implies that the Commission could first determine what it considers to be the proper costs in Issues 1-3, and then determine whether it “properly determined” those costs in a later issue.

In addition to being unnecessary, the issue is also improper as framed. First, it seeks to attach a prudence requirement to projected (future) costs, but the Commission’s Rule is clear that projected costs are reviewed for reasonableness; the prudence review attaches after actual costs are known. *See* Rule 25-6.031(3), F.A.C. (“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.”) (emphasis added). Second, this proposed issue is improper as drafted because it cites to the statute providing the Commission’s general rate setting authority (section 366.06(1), Florida Statutes) rather than the specifically enacted statute creating and governing this proceeding (section 366.96(7), Florida Statutes). OPC has not indicated why it believes citation to 366.06(1) is more appropriate than citation to 366.96(7).

5. **Stipulated Issues** - None at this time.
6. **Pending Motions** - None at this time.

7. **Requests for Confidentiality** -  
DEF has the following pending requests for confidential classification:
  - August 29, 2022 - DEF's Request for Confidential Classification regarding its Staff's Audit Workpapers (ACN 2021-314-1-2)(DN 05742-2022)
8. **Objections to Qualifications** - DEF does not object to the qualifications of Staff's witness.
9. **Sequestration of Witnesses** - DEF has not identified any witnesses for sequestration at this time.
10. **Requirements of Order** - At this time, DEF is unaware of any requirements of the Order Establishing Procedure of which it will be unable to comply.

RESPECTFULLY SUBMITTED this 7<sup>th</sup> day of August, 2023.

/s/ Matthew R. Bernier  
**DIANNE M. TRIPLETT**  
Deputy General Counsel  
299 1<sup>st</sup> Avenue North  
St. Petersburg, Florida 33701  
T: (727) 820-4692  
F: (727) 820-5041  
E: [dianne.triplett@duke-energy.com](mailto:dianne.triplett@duke-energy.com)

**MATTHEW R. BERNIER**  
Associate General Counsel  
106 East College Avenue, Suite 800  
Tallahassee, Florida 32301  
T: (850) 521-1428  
F: (727) 820-5041  
E: [matthew.bernier@duke-energy.com](mailto:matthew.bernier@duke-energy.com)

**STEPHANIE A. CUELLO**  
Senior Counsel  
106 East College Avenue, Suite 800  
Tallahassee, Florida 32301  
T: (850) 521-1425  
F: (727) 820-5041  
E: [Stephanie.Cuello@duke-energy.com](mailto:Stephanie.Cuello@duke-energy.com)  
[FLRegulatoryLegal@duke-energy.com](mailto:FLRegulatoryLegal@duke-energy.com)

Attorneys for Duke Energy Florida, LLC



**CERTIFICATE OF SERVICE**

*Docket No. 20230010-EI*

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via electronic mail to the following this 7<sup>th</sup> day of August, 2023.

/s/ Matthew R. Bernier

Attorney

<p>Shaw Stiller/Daniel Dose Office of General Counsel FL Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 <a href="mailto:sstiller@psc.state.fl.us">sstiller@psc.state.fl.us</a> <a href="mailto:ddose@psc.state.fl.us">ddose@psc.state.fl.us</a></p> <p>Kenneth Hoffman Florida Power &amp; Light 134 West Jefferson St. Tallahassee, FL 32301-1713 <a href="mailto:ken.hoffman@fpl.com">ken.hoffman@fpl.com</a></p> <p>Christopher T. Wright Florida Power &amp; Light 700 Universe Boulevard (JB/LAW) Juno Beach FL 33408-0420 (561) 691-7144 (561) 691-7135 <a href="mailto:christopher.wright@fpl.com">christopher.wright@fpl.com</a></p> <p>James W. Brew / Laura W. Baker Stone Mattheis Xenopoulos &amp; Brew, P.C. PCS Phosphate-White Springs 1025 Thomas Jefferson Street, N.W. Suite 800 West Washington, DC 20007-5201 <a href="mailto:jbrew@smxblaw.com">jbrew@smxblaw.com</a> <a href="mailto:lwb@smxblaw.com">lwb@smxblaw.com</a></p>	<p>Mike Cassel VP, Government &amp; Regulatory Affairs FPUC 208 Wildlight Ave. Yulee, FL 32097 <a href="mailto:mcassel@fpuc.com">mcassel@fpuc.com</a></p> <p>Michelle Napier Director, Regulatory Affairs Distribution FPUC 1635 Meathe Drive West Palm Beach, FL 33411 <a href="mailto:mnapier@fpuc.com">mnapier@fpuc.com</a></p> <p>Beth Keating Gunster, Yoakley, &amp; Stewart, P.A. FPUC 215 South Monroe Street, Suite 601 Tallahassee, FL 32301 <a href="mailto:bkeating@gunster.com">bkeating@gunster.com</a></p> <p>Peter J. Mattheis Michael K. Lavanga Joseph R. Briscar Stone, Mattheis, Xenopoulos, &amp; Brew P.C. Nucor 1025 Thomas Jefferson Street, NW Eighth Floor, West Tower Washington, DC 20007 <a href="mailto:pjm@smxblaw.com">pjm@smxblaw.com</a> <a href="mailto:mkl@smxblaw.com">mkl@smxblaw.com</a> <a href="mailto:jrb@smxblaw.com">jrb@smxblaw.com</a></p>	<p>Charles Rehwinkel / P. Christensen / M. Wessling Office of Public Counsel 111 W. Madison St., Room 812 Tallahassee, FL 32399-1400 <a href="mailto:rehwinkel.charles@leg.state.fl.us">rehwinkel.charles@leg.state.fl.us</a> <a href="mailto:christensen.patty@leg.state.fl.us">christensen.patty@leg.state.fl.us</a> <a href="mailto:wessling.mary@leg@state.fl.us">wessling.mary@leg@state.fl.us</a></p> <p>Paula K. Brown Tampa Electric Company Regulatory Affairs P.O. Box 11 Tampa, FL 33601-0111 <a href="mailto:regdept@tecoenergy.com">regdept@tecoenergy.com</a></p> <p>J. Wahlen / M. Means / V. Ponder Ausley McMullen Tampa Electric Company P.O. Box 391 Tallahassee, FL 32302 <a href="mailto:jwahlen@ausley.com">jwahlen@ausley.com</a> <a href="mailto:mmeans@ausley.com">mmeans@ausley.com</a> <a href="mailto:vponder@ausley.com">vponder@ausley.com</a></p> <p>Jon C. Moyle Jr. Moyle Law Firm FIPUG 118 North Gadsden St. Tallahassee, FL 32301 <a href="mailto:jmoyle@moylelaw.com">jmoyle@moylelaw.com</a> <a href="mailto:mqualls@moylelaw.com">mqualls@moylelaw.com</a></p>
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