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August 11, 2023

VIA ELECTRONIC FILING

Mr. Adam J. Teitzman
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. 20230017-EI
Petition for limited proceeding for recovery of incremental storm restoration costs
related to Hurricanes Ian and Nicole, by Florida Power & Light Company –
Response to Staff's Third Set of Data Requests

Dear Mr. Teitzman:

On behalf of Florida Power & Light Company (FPL), enclosed for filing in the above referenced matter is FPL's response to Staff's Third Set of Data Requests No. 1.

Copies of this filing are being served in accordance with the attached certificate of service. If you or your staff have any question regarding this filing, please contact me at (561) 691-7144.

Respectfully submitted,

/sChristopher T. Wright
Christopher T. Wright
Fla. Auth. House Counsel No. 1007055

Enclosures

cc: Ken Hoffman (ken.hoffman@fpl.com)
Certificate of Service

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copies of the foregoing have been furnished by Electronic Mail to the following parties of record this 11th day of August 2023:

Shaw Stiller Daniel Dose Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399 <u>ddose@psc.state.fl.us</u> <u>sstiller@psc.state.fl.us</u> <i>For Commission Staff</i>	Office of Public Counsel c/o The Florida Legislature 111 West Madison Street, Room 812 Tallahassee, FL 32399-1400 <u>rehwinkel.charles@leg.state.fl.us</u> <u>christensen.patty@leg.state.fl.us</u> <i>For Office of Public Counsel</i>
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s/ Christopher T. Wright
Christopher T. Wright
Fla. Auth. House Counsel No. 1007055

Attorney for Florida Power & Light Company

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QUESTION:

Please fully explain how application of Rule 25-6.0143(1)(g), Florida Administrative Code, to require the Florida Power & Light Company to file its petition for disposition of storm restoration costs for Hurricanes Ian and Nicole by September 30, 2023, would create a “substantial hardship” or would violate “principles of fairness” as those phrases are used and defined in Section 120.542(2), Florida Statutes.

RESPONSE:

On July 28, 2023, FPL filed a petition in Docket No. 20230017-EI requesting a temporary variance/waiver of Rule 25-6.0143(1)(g), Florida Administrative Code (“Storm Rule”). More specifically, FPL seeks a three-month variance/waiver of the September 30 date for filing a petition and documentation supporting the review and true-up of the total actual incremental storm restoration costs related to Hurricanes Ian and Nicole. Section 120.542(2), Florida Statutes, provides that “[v]ariations and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness.” FPL submits that its requested temporary variance/waiver fully satisfies the requirements of Section 120.542(2).

The Storm Rule was adopted to implement Sections 350.115 and 366.04(2)(a), Florida Statutes. Section 350.115 provides that the “commission may prescribe by rule uniform systems and classifications of accounts for each type of regulated company and approve or establish adequate, fair, and reasonable depreciation rates and charges.” Similarly, Section 366.04(2)(a) provides that the “commission shall have power over electric utilities...[t]o prescribe uniform systems and classifications of accounts.” FPL’s requested three-month variance/waiver of the filing date for its final Hurricane Ian and Hurricane Nicole storm restoration costs will have no impact on the use and application of the Accumulated Provision Accounts 228.1, 228.2, and 228.4 adopted in the Storm Rule. Indeed, the requested variance/waiver will only delay the final accounting of the incremental storm restoration costs to be charged to Account 228.1 upon Commission approval. Thus, the purpose of the statutes underlying the Storm Rule will continue to be achieved if the requested variance/waiver is granted.

FPL also submits that strict application of the Storm Rule without the requested variance/waiver of the September 30 filing date would, under the present circumstances, result in a substantial hardship. Section 120.542(2), Florida Statutes, defines “substantial hardship” as an “economic, technological, legal, or other type of hardship to the person requesting the variance or waiver.” Pursuant to Section 18 of the Stipulation and Settlement of FPL’s Hurricane Irma storm restoration costs approved by Commission Order No. PSC-2019-0319-S-EI in Docket No. 20180049-EI (“Irma Settlement”), FPL is required to engage an outside independent auditor to audit FPL’s requested storm restoration costs for the first named tropical system whose damages exceed \$250 million, which is Hurricane Ian. Section 17 of the Irma Settlement further provides that FPL’s petition and pre-filed direct testimony will be filed after any required audit is concluded. However,

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as fully explained in its pending petition, FPL currently does not anticipate that the outside independent audit required by the Irma Settlement will be completed until sometime in November 2023 due to the very significant volume of storm-related costs and invoices for Hurricane Ian. Stated differently, the outside independent audit will not be completed until after the September 30 filing date in the Storm Rule. Under these circumstances, FPL submits that strict application of the September 30 filing date in the Storm Rule would result in a substantial hardship because FPL simply cannot technically and legally comply with both the September 30 filing date of the Storm Rule and Sections 17 and 18 of the Irma Settlement.

Further, without the requested waiver/variance, FPL and its customers would be required to incur unnecessary and duplicative costs to file the petition and documentation supporting the total actual incremental storm restoration costs related to Hurricanes Ian and Nicole twice: first, on September 30 as required by the Storm Rule; and second, after the audit has been completed as required by the Irma Settlement. FPL submits that it would not be prudent to incur the costs and time needed to prepare and submit such duplicative filings and to respond to discovery arising from such duplicative filings.

Relatedly, the results of the outside independent audit potentially could impact the final Hurricane Ian and Hurricane Nicole storm restoration costs. If the requested variance/waiver is not granted and FPL is required to file its petition on September 30 as required by the Storm Rule, there is a risk that the September 30 filing potentially could be inconsistent with the final Hurricane Ian and Hurricane Nicole storm restoration costs that must be filed after the audit is complete. The potential for filing conflicting final Hurricane Ian and Hurricane Nicole storm restoration costs in this proceeding could, again, lead to unnecessary discovery and costs and could create unnecessary confusion regarding the final costs at issue for stakeholders and FPL's customers.

For the foregoing reasons, as well as those more fully explained in FPL's pending petition, FPL's requested three-month variance/waiver of the September 30 filing date in the Storm Rule fully satisfies the requirements of Section 120.542(2), Florida Statutes.