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October 13, 2023

VIA: ELECTRONIC FILING

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

Re: Storm Protection Plan Cost Recovery Clause
FPSC Docket No. 20230010-EI

Dear Mr. Teitzman:

Attached for filing in the above docket on behalf of Tampa Electric Company is the Post-Hearing Brief and Statement of Issues and Positions.

Thank you for your assistance in connection with this matter.

Sincerely,

A handwritten signature in blue ink that reads 'Malcolm N. Means'.

Malcolm N. Means

MNM/bml
Attachment

cc: All Parties of Record (w/attachment)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Storm Protection Plan Cost)
Recovery Clause.)
_____)

DOCKET NO. 20230010-EI

FILED: October 13, 2023

**TAMPA ELECTRIC COMPANY'S
POST-HEARING BRIEF AND STATEMENT OF ISSUES AND POSITIONS**

Tampa Electric Company (“Tampa Electric” or “the company”), pursuant to the Order Establishing Procedure, Order No. PSC-2023-0090-PCO-EI, and the Prehearing Order, Order No. PSC-2023-0281-PHO-EI, issued in this docket, submits this Brief and Post-Hearing Statement of Issues and Positions.

I. BACKGROUND

This docket is before the Florida Public Service Commission (“Commission”) pursuant to Section 366.96 of the Florida Statutes. Section 366.96(7) of the Florida Statutes requires the Commission to conduct an annual proceeding to determine a utility’s reasonable and prudent costs to implement an approved SPP, and to allow the utility to recover those costs through a charge separate and apart from base rates. On November 10, 2022, the Commission issued Order No. PSC-2022-0386-FOF-EI in Docket No. 20220048-EI, which had the effect of approving Tampa Electric’s 2022-2031 Storm Protection Plan (“2022 SPP”) with modifications.¹ Based on the requirements of Section 366.96(7) and its approval of Tampa Electric’s 2022 SPP with modifications, the Commission opened this docket on January 3, 2023 to review the prudence of Tampa Electric’s actual incurred SPP costs in 2022, the reasonableness of the company’s estimated costs for 2023 and 2024, and to establish SPP cost recovery factors for 2024.

¹ On December 9, 2023, the Office of Public Counsel (“OPC”) filed a Notice of Administrative Appeal challenging that Order. As of the filing of this Post-Hearing Brief, the briefing schedule is incomplete and the Florida Supreme Court has not issued an opinion on the appeal.

The Office of Public Counsel (“OPC”) intervened in this docket on January 10, 2023, and the Florida Industrial Power Users Group (“FIPUG”) (collectively “Consumer Parties”) intervened in this docket on January 11, 2023.² On April 3, 2023, Tampa Electric filed direct testimony from witnesses Mark R. Roche and C. David Sweat regarding the company’s actual 2022 SPP activities and their associated costs. *See* DN 02480-2023. On May 1, 2023, Tampa Electric filed direct testimony from witness Roche regarding the company’s 2023 actual/estimated SPP costs, the company’s projected 2024 costs, and the company’s proposed 2024 cost recovery factors. Tampa Electric also filed direct testimony from witness Sweat on May 1st to provide a description of the company’s planned SPP activities for 2023 and 2024. *See* DN 02984-2023. On July 21, 2023, Tampa Electric filed revised testimony from witness Roche regarding the company’s proposed 2024 cost recovery factors. *See* DN 04210-2023. This revision was necessary to incorporate a change to the company’s revenue expansion factor based on informal discussions with Commission Staff, and to update Tampa Electric’s proposed 2024 billing determinants based on the company’s latest load forecast. On July 31, 2023, the company filed the second revised testimony of witness Roche to make an additional adjustment to the proposed 2024 billing determinants. *See* DN 04410-2023. None of the consumer parties filed testimony in this docket.

The Commission held a prehearing conference in this matter on August 24, 2023. Prior to the prehearing conference, OPC and Tampa Electric entered into an agreement pursuant to which company witness Sweat provided written responses to proffered cross-examination questions in exchange for OPC’s waiver of cross-examination of the company’s witnesses at hearing.³ Based on

² White Springs Agricultural Chemicals, d/b/a PCS Phosphate, and Nucor Steel Florida, Inc. also intervened in the docket, but ultimately took no position with respect to Tampa Electric’s issues in the docket since they are not Tampa Electric customers.

³ *See* Transcript – August 24, 2023 Prehearing Conference, DN 05097-2023, at 9.

this agreement, the Commission ultimately excused Tampa Electric’s witnesses from appearance at the final hearing. *See* Prehearing Order, at footnote 17. Following the prehearing conference, OPC agreed to facilitate “Type 2” stipulations of Issues 1 through 4, 6, and 7 on the proposed issues list. *See* Prehearing Order, at 25.

The Commission held a final hearing in this matter on September 8, 2023. The Commission entered the above-described pre-filed direct testimony and exhibits of Tampa Electric witnesses Roche and Sweat into the record, as well as an exhibit containing OPC’s proffered cross-examination questions, Tampa Electric’s objections, and witness Sweat’s responses to those questions. [Tr. 10-110; CEL Exhs. 2-4, 43.]⁴ Despite the existence of Type 2 stipulations on the substantive issues in this proceeding, OPC expressed that they were not willing to waive briefs at the final hearing. [Tr. 239:18-19].

II. STANDARD OF REVIEW

Section 366.96(7) of the Florida Statutes 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 base rates, to be referred to as the storm protection plan cost recovery clause.” The term “transmission and distribution storm protection plan costs” is defined in Section 366.96(2)(c) as “the reasonable and prudent costs to implement an approved [SPP].” The Commission adopted Rule 25-6.031, F.A.C. to implement Section 366.96(7). Pursuant to Paragraph (3) of that Rule, the annual SPP cost recovery clause proceeding “will be limited to determining the reasonableness of projected Storm Protection Plan costs, the prudence of actual Storm Protection Plan costs incurred

⁴ Tampa Electric will refer to the Transcript of the September 12, 2023 final hearing, DN 05366-2023, as “Tr.” followed by a page citation, and will refer to exhibits by their number on the comprehensive exhibit list, or “CEL Exh. X”.

by the utility, and to establish Storm Protection Plan cost recovery factors consistent with the requirements of this rule.” R. 25-6.031(3), F.A.C. The Commission’s findings on these issues must be supported by competent, substantial evidence in the record. *Citizens of Fla. v. Brown*, 269 So. 3d 498, 505 (Fla. 2019); *Sierra Club v. Brown*, 243 So. 3d 903, 907-08 (Fla. 2018).

III. SUMMARY OF TAMPA ELECTRIC’S POSITION

The Commission should approve Tampa Electric’s proposed 2024 SPP cost recovery factors for two reasons. First, there are no contested factual issues in this proceeding. Tampa Electric met its burden of proof by presenting competent, substantial evidence establishing the prudence of the company’s actual incurred SPP costs for the year 2022, the reasonableness of the company’s estimated costs for 2023, and the reasonableness of the company’s projected SPP costs for 2024. No party contested this evidence. Second, it is undisputed that the Commission applied the proper standard of review *in this proceeding* as set out in Section 366.96(7), Florida Statutes and Rule 25-6.031(3), F.A.C.⁵ Based on the above, the Commission should approve Tampa Electric’s positions on all issues and authorize the company to put its proposed 2024 SPP cost recovery factors into effect with the first billing cycle of January 2024.

⁵ Instead, as explained below, OPC challenged the standard of review applied in *a different docket* – the one opened last year to review Tampa Electric’s 2022 SPP.

IV. STATEMENT OF ISSUES AND POSITIONS

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?

TECO: *The Commission should approve final Storm Protection Plan Cost Recovery Clause prudently incurred jurisdictional revenue requirements of \$44,118,287 and a jurisdictional cost recovery true-up over-recovery amount of \$1,278,701 for the period January 2022 through December 2022 including interest.*

The uncontested, competent, substantial evidence in the record proves that Tampa Electric's 2022 SPP costs were prudently incurred. Tampa Electric provided testimony and exhibits from witness Sweat that described the company's 2022 SPP activities, explained variances between projected and actual costs incurred in 2022, and explained variances between the level of activity projected for 2022 in the company's 2022 SPP and the company's actual accomplishments. [Tr. 53-73; CEL Exh. 4]. Tampa Electric also presented the calculation of the company's prudently incurred jurisdictional revenue requirement in the testimony and exhibits of company witness Roche. [Tr. 12-18]. No party to this docket has challenged the prudence of the company's 2022 SPP costs or the company's calculation of those costs. As a result, the uncontested, competent, substantial evidence in the record demonstrates that the company's 2022 SPP costs were prudently incurred and properly calculated. The uncontested nature of this Issue is further illustrated by the Consumer Parties' agreement to facilitate a "Type 2"⁶ stipulation for Issue 1. *See* Prehearing Order, at 25. The Commission should accordingly approve Tampa Electric's position on this Issue.

⁶ As the Commission has previously explained, a "Type 2 stipulation occurs on an issue when the utility and the staff, or the utility and at least one party adversarial to the utility, agree on the resolution of the issue and the remaining parties (including staff if they do not join in the agreement) do not object to the Commission relying on the agreed language to resolve that issue in a final order." *See* Prehearing Order, at footnote 16.

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?**

TECO: *** The Commission should approve actual/estimated Storm Protection Plan Cost Recovery Clause jurisdictional revenue requirements of \$67,657,813 and a jurisdictional estimated cost recovery true-up under-recovery amount of \$3,056,003 for the period January through December 2023 including interest.***

The uncontested, competent, substantial evidence in the record proves that Tampa Electric’s estimate of the company’s 2023 SPP costs is reasonable. Tampa Electric provided testimony and exhibits from company witness Roche regarding the calculation of actual and estimated costs for 2023. [Tr. 19-52; CEL Exh. 3]. The company also provided testimony and exhibits from witness Sweat describing the SPP projects and activities estimated for 2023. [Tr. 74-110; CEL Exh. 5]. No party to this docket challenged the reasonableness of the company’s estimated costs for 2023. The uncontested nature of this Issue is further illustrated by the Consumer Parties’ agreement to facilitate a “Type 2” stipulation for Issue 2. *See* Prehearing Order, at 25. The Commission should accordingly approve Tampa Electric’s position on this Issue.

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?**

TECO: *** The Commission should approve reasonably projected Storm Protection Plan Cost Recovery Clause costs of \$212,589,753, and a projected jurisdictional revenue requirement of \$90,584,791 for the period January 2024 through December.***

The uncontested, competent, substantial evidence in the record proves that Tampa Electric’s projection of the company’s 2024 SPP costs is reasonable. Tampa Electric provided testimony and exhibits from company witness Roche regarding the calculation of projected costs for 2024. [Tr. 19-52; CEL Exh. 3]. The company also provided testimony and exhibits from

witness Sweat describing the SPP projects and activities estimated for 2024. [Tr. 73-110; CEL Exh. 5]. No party to this docket challenged the reasonableness of the company's projected costs for 2024. The uncontested nature of this Issue is further illustrated by the Consumer Parties' agreement to facilitate a "Type 2" stipulation for Issue 3. *See* Prehearing Order, at 25. The Commission should accordingly approve Tampa Electric's position on this Issue.

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?

TECO: * The Storm Protection Plan Cost Recovery Clause total jurisdictional cost recovery amounts, including true-ups, to be included in establishing Storm Protection Plan Cost Recovery factors for the period January 2024 through December 2024 is \$92,428,593.*

The uncontested competent substantial evidence in the record proves that Tampa Electric's total jurisdictional cost recovery amount for 2024 should be approved as filed. Tampa Electric provided testimony from company witness Roche regarding the calculation of the company's total jurisdictional revenue requirement for 2024. [Tr. 19-52; CEL Exh. 3]. The company also submitted testimony from witness Sweat describing the SPP projects and activities estimated for 2024. [Tr. 73-110; CEL Exh. 5]. No party to this docket challenged the company's total jurisdictional cost recovery amount for 2024. The uncontested nature of this Issue is further illustrated by the Consumer Parties' agreement to facilitate a "Type 2" stipulation for Issue 4. *See* Prehearing Order, at 25. The Commission should accordingly approve Tampa Electric's position on this Issue.

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?

TECO: * The depreciation rates from Tampa Electric’s most current Depreciation Study, approved by Order No. PSC-2021-0423-S-EI issued November 10, 2021, within Docket No. 20210034-EI, should be and were used to develop the depreciation expense included in the total Storm Protection Plan Cost Recovery Clause amounts for 2024.*

Tampa Electric utilized the depreciation rates approved by Order No. PSC-2021-0423-S-EI to develop the depreciation expense included in the total SPP cost recovery amounts for 2024. The Consumer Parties agreed that Tampa Electric should use the “last approved depreciation rates...to calculate any depreciation expense related to SPPCRC recovery in 2024.” *See* Prehearing Order, at 15. This Issue is therefore uncontested, and the Commission should approve Tampa Electric’s position.

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

TECO: * The appropriate jurisdictional separation factors are as follows:
FPSC Jurisdictional Factor: 93.3746%
FERC Jurisdictional Factor: 6.6254%*

The appropriate jurisdictional separation factors are as follows:

FPSC Jurisdictional Factor: 93.3746%

FERC Jurisdictional Factor: 6.6254%*

The Consumer Parties took no position on this Issue. *See* Prehearing Order, at 16. This Issue is accordingly uncontested, and the Commission should approve Tampa Electric’s position.

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

TECO: * The appropriate January 2024 through December 2024 cost recovery clause factors utilizing the appropriate recognition of Federal Energy Regulatory Commission transmission jurisdictional separation, revenue tax factors and the rate design and cost allocation as put forth in Docket No. 20210034-EI are as follows:

<u>Rate Schedule</u>	<u>Cost Recovery Factors</u> <u>(cents per kWh)</u>
RS	0.658
GS and CS	0.775
GSD Optional – Secondary	0.172
GSD Optional – Primary	0.170
GSD Optional – Subtransmission	0.168
LS-1, LS-2	3.877

<u>Rate Schedule</u>	<u>Cost Recovery Factors</u> <u>(dollars per kW)</u>
GSD – Secondary	0.72
GSD – Primary	0.71
GSD – Subtransmission	0.70
SBD – Secondary	0.72
SBD – Primary	0.71
SBD – Subtransmission	0.70
GSLD - Primary	0.60
GSLD - Subtransmission	0.12*

The uncontested competent substantial evidence in the record proves that Tampa Electric’s proposed cost recovery clause factors for 2024 should be approved as filed. Tampa Electric provided testimony and exhibits from company witness Roche regarding the calculation of the company’s clause factors for 2024. [Tr. 19-52; CEL Exh. 3]. No party to this docket challenged the company’s calculation of these factors. The uncontested nature of this Issue is further

illustrated by the Consumer Parties' agreement to facilitate a "Type 2" stipulation for Issue 7. *See* Prehearing Order, at 25. The Commission should accordingly approve Tampa Electric's position on this Issue.

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

TECO: *** The effective date of the new Storm Protection Plan Cost Recovery Clause factors should be January 1, 2024.***

Tampa Electric proposes that the new SPP cost recovery factors should go into effect on January 1, 2024. The Consumer Parties agreed with Tampa Electric's position. *See* Prehearing Order, at 19-20. The Commission should accordingly approve Tampa Electric's position on this Issue.

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?**

TECO: *** Yes, the Commission should approve revised tariffs reflecting the new Storm Protection Plan Cost Recovery Clause factors determined to be appropriate in this proceeding.***

As explained in Issues 1-7 above, the uncontested competent substantial evidence in this matter proves that Tampa Electric's proposed 2024 SPP clause cost recovery factors should be approved by the Commission. Consequently, the Commission should approve Tampa Electric's proposed tariffs. OPC did raise a legal objection under this Issue in the Prehearing Order but, as explained in the Argument section of this Post-Hearing Brief, the Commission should reject OPC's argument. FIPUG took the position that the Commission should approve the company's revised tariffs "after making downward adjustments as warranted." *See* Prehearing Order, at 21. Again, as explained above, no party challenged the company's positions on Issues 1-7. As a result, the record

in this proceeding does not support any “downward adjustments” to the company’s proposed 2024 cost recovery factors. The Commission should accordingly approve Tampa Electric’s position on this Issue.

ISSUE 10: Should this docket be closed?

TECO: * Yes, Docket No. 20230010-EI should be closed once the Commission’s decisions on all the issues in the docket have become final and the Commission has concluded that the docket has otherwise met the requirements for closure.*

V. ARGUMENT

Pursuant to Section 366.96(7), Florida Statutes and Rule 25-6.031(3), Florida Administrative Code, the issues in this docket “will be limited to” the reasonableness of Tampa Electric’s projected SPP costs, the prudence of Tampa Electric’s incurred SPP costs, and establishment of SPP clause cost recovery factors for 2024. As explained above, Tampa Electric met its burden of proof on these issues by submitting competent, substantial evidence supporting its positions. This evidence was uncontested. Indeed, the Consumer Parties facilitated Type 2 stipulations regarding the prudence of Tampa Electric’s 2022 SPP Costs (Issue 1); the reasonableness of the company’s projected costs for 2023 (Issue 2) and 2024 (Issue 3); and the calculation of the company’s 2024 SPP cost recovery factors (Issues 4 and 7). OPC nonetheless asserts a single legal argument against the Commission’s approval of Tampa Electric’s 2024 SPP cost recovery factors. This argument misses the mark for three reasons.

First, OPC’s argument is irrelevant because it does not address any of the issues in this docket. In short, OPC argues that Commission was required to determine whether Tampa Electric’s 2022 SPP was “prudent to undertake” in last year’s plan-review docket and failed to do

so.⁷ The scope of this proceeding is clearly defined in Rule 25-6.031(3), F.A.C. None of the issues identified in that Rule address how the Commission should review utility SPPs. This is because the plan-approval and cost-recovery proceedings are bifurcated by Section 366.96, which specifies that plan approval is a prerequisite to seeking cost recovery through the SPP clause.⁸ OPC's legal argument regarding how SPPs should be reviewed, therefore, does not address any of the issues in this proceeding and should be rejected.

Second, OPC's argument elides the fact that the prudence of Tampa Electric's SPP activities is in fact addressed in this docket. As OPC notes, Section 366.96 defines recoverable SPP costs as "the reasonable and prudent costs to implement an approved" SPP. §366.96(2)(c), Fla. Stat. This is reflected in Issue 1 in this docket, which asks what amounts the Commission should approve as Tampa Electric's "final 2022 prudently incurred costs." *See* Prehearing Order, at 10. Thus, the question of whether it was prudent for Tampa Electric to incur these plan-implementations was squarely before the Commission in this proceeding. Tampa Electric met its burden of proof on this issue by providing competent, substantial evidence regarding the prudence of these costs. The Consumer Parties did not contest the company's evidence, and instead facilitated a Type 2 stipulation on Issue 1. Accordingly, it is undisputed that the company's 2022 SPP implementation costs were prudently incurred.

Finally, OPC is simply incorrect that the prudence standard set out in Section 366.06 applies when the Commission reviews SPPs. This topic is addressed extensively in Tampa Electric's Answer Brief filed with the Florida Supreme Court in the pending appeal of the

⁷ *See, e.g.* Prehearing Order, at 11 ("The Commission failed to make a finding that the SPP and the programs and projected contained therein are prudent to undertake.").

⁸ Section 366.96(2)(c) defines recoverable SPP costs as "the reasonable and prudent costs to implement an approved" SPP. Notably, OPC cannot and does not contest whether the Commission in fact approved Tampa Electric's 2022 SPP. *See* Order No. PSC-2022-0386-FOF-EI.

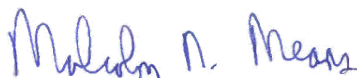
Commission's Order approving the company's 2022 SPP. For the sake of brevity, the company omits those arguments here. Furthermore, as mentioned above, this issue is simply beyond the scope of this docket.

VI. CONCLUSION

There are no pending factual disputes regarding any of the issues in this docket. While OPC raises a legal objection to approval of Tampa Electric's 2024 SPP cost recovery factors, this argument addresses the Commission's Order approving the company's 2022 SPP, not any of the issues in this docket. The Commission should, therefore, approve Tampa Electric's positions on all issues and authorize the company to place its proposed 2024 SPP cost recovery factors into effect with the first billing cycle of January 2024.

DATED this 13th day of October 2023.

Respectfully submitted,



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ATTORNEYS FOR TAMPA ELECTRIC COMPANY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Post-Hearing Brief, filed on behalf of Tampa Electric Company, has been furnished by electronic mail on this 13th day of October 2023 to the following:

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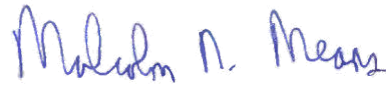
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