

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: October 31, 2023

TO: Office of Commission Clerk (Teitzman)

FROM: Office of Industry Development and Market Analysis (Eichler, Crawford, Temprano)
Division of Economics (Guffey, Hampson, Smith II)
Office of the General Counsel (Stiller, Dose)

RE: Docket No. 20230010-EI – Storm protection plan cost recovery clause.

AGENDA: 11/09/23 – Regular Agenda – Post-hearing Decision – Participation is Limited to Commissioners and Staff

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: La Rosa

CRITICAL DATES: Decision must be rendered by 12/01/23 in order to implement new Storm Protection Plan Cost Recovery Clause factors with the first billing cycle in 2024.

SPECIAL INSTRUCTIONS: None

COMMISSION
CLERK

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List of Acronyms and Abbreviations

BR	Briefs
DCA	District Court of Appeals
DEF	Duke Energy Florida, LLC
EXH	Exhibit
F.A.C.	Florida Administrative Code
F.S.	Florida Statutes
FERC	Federal Energy Regulatory Commission
FIPUG	Florida Industrial Power Users Group
FPL	Florida Power & Light Company
FPUC	Florida Public Utilities Company
GSD	General Service Demand
GSLD	General Service Large Demand
Nucor	Nucor Steel Florida, Inc.
O&M	Operations and Maintenance
OPC	Office of Public Counsel
PCS	White Springs Agricultural Chemicals Inc. d/b/a PCS Phosphate – White Springs
SPP	Storm Protection Plan
SPPCRC	Storm Protection Plan Cost Recovery Clause
TECO	Tampa Electric Company
TR	Transcript

Case Background

The 2019 Florida Legislature enacted Section 366.96, Florida Statutes (F.S.), entitled “Storm protection plan cost recovery.” Section 366.96(3), F.S., established a new requirement that each public utility file a transmission and distribution storm protection plan (SPP) covering the immediate 10-year planning period, and explaining the systematic approach the utility will follow to achieve the objectives of reducing restoration costs and outage times associated with extreme weather events and enhancing reliability. Pursuant to Sections 366.96(5) and 366.96(6), F.S., the Florida Public Service Commission (Commission) is required every three years to determine whether it is in the public interest to approve, approve with modification, or deny each utility’s SPP.

The initial SPPs under Section 366.96, F.S., were filed by Florida Power & Light Company (FPL)/Gulf Power Company, Tampa Electric Company (TECO), and Duke Energy Florida, LLC (DEF) in 2020. All of the utilities reached settlement agreements with various intervenors regarding the SPPs prior to final hearing. These settlement agreements were approved by the Commission on August 28, 2020.¹

On March 9, 2022, pursuant to Sections 366.96(5) and 366.96(6), F.S., and consistent with the terms of the above-referenced settlement agreements,² FPL, TECO, and DEF filed their first updated SPPs for Commission review.³ On that same date, Florida Public Utilities Company (FPUC) submitted its initial SPP⁴ for Commission review. Those four dockets were consolidated for purposes of hearing only and proceeded to final hearing August 2, 2022. On November 10, 2022, the Commission entered four final orders approving, with modifications, each utility’s SPP.⁵ On December 15, 2022, OPC filed Notices of Administrative Appeal with the Florida Supreme Court for all four dockets.⁶ These appeals remain pending.

¹ Order No. PSC-2020-0293-AS-EI, issued August 28, 2020, in Docket Nos. 20200067-EI, *In re: Review of 2020-2029 Storm Protection Plan pursuant to Rule 25-6.030, F.A.C., Tampa Electric Company*; 20200069-EI, *In re: Review of 2020-2029 Storm Protection Plan pursuant to Rule 25-6.030, F.A.C., Duke Energy Florida, LLC*; 20200070-EI, *In re: Review of 2020-2029 Storm Protection Plan pursuant to Rule 25-6.030, F.A.C., Gulf Power Company*; 20200071-EI, *In re: Review of 2020-2029 Storm Protection Plan pursuant to Rule 25-6.030, F.A.C., Florida Power & Light Company*; and 20200092-EI, *In re: Storm Protection Plan cost recovery clause*.

² The settlement agreements required these utilities to file updated plans in 2022, consistent with the requirement in section 396.96(6), F.S., that the Commission is to review utility SPPs “[a]t least every 3 years.”

³ Docket Nos. 20220051-EI (FPL), 20220050-EI (DEF) and 20220048-EI (TECO).

⁴ On March 17, 2020, FPUC requested that it be allowed to defer the filing of its initial SPP for a period of one year, from April 10, 2020, to April 10, 2021. By Order No. PSC-2020-0097-PCO-EI, issued on April 6, 2020, the Prehearing Officer granted FPUC’s request to file its initial SPP in 2021, and further instructed FPUC to submit its updated SPP in 2023. FPUC requested and was allowed by Order PSC-2021-0026-CO-EI entered January 10, 2021, to defer the filing of its initial SPP from April 12, 2021, to April 2022, so that it could remain in alignment with the overall plan update schedule for the other utilities. See Docket No. 20200228-EI, *In re: Request to modify filing dates set forth in Order PSC-2020-0097-PCO-EI for storm protection plan and first plan update, by Florida Public Utilities Company*.

⁵ Order No. PSC-2022-0386A-FOF-EI, issued December 1, 2022, in Docket No. 20220048-EI, *In re: Review of Storm Protection Plan, pursuant to Rule 25-6.030, F.A.C., Tampa Electric Company*; Order No. PSC-2022-0387-FOF-EI, issued November 10, 2023, in Docket No. 20220049-EI, *In re: Review of Storm Protection Plan, pursuant to Rule 25-6.030, F.A.C., Florida Public Utilities Company*; Order No. PSC-2022-0388A-FOF-EI, issued November 14, 2022, in Docket No. 20220050-EI, *In re: Review of Storm Protection Plan, pursuant to Rule 25-6.030, F.A.C.,*

Docket No. 20230010-EI

Date: October 31, 2023

In addition to reviewing SPPs at least every three years, the Commission must conduct an annual proceeding pursuant to Section 366.96(7), F.S., to determine a 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 (SPPCRC). The annual SPPCRC proceeding is a rolling three-year review that includes a true-up of actual costs for the prior year, the calculation of actual/estimated costs for the year of the filing, and projected costs for the following year.

This 2023 annual SPPCRC docket was opened⁷ January 3, 2023, by Order No. PSC-2023-0010-PCO-EI. Notices of Intent to Retain Party Status were filed by TECO, DEF, FPUC, FPL, Florida Industrial Power Users Group (FIPUG), White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs (PCS), Nucor Steel Florida, Inc. (Nucor), and OPC. No additional parties filed for intervention.

On April 3, 2023, TECO, DEF, FPUC, and FPL filed their petitions for approval of SPPCRC final true-up for January through December 2022, along with supporting prefiled testimony and exhibits. On May 1, 2023, TECO, DEF, FPUC, and FPL filed their petitions for approval of 2023 actual/estimated true-up and projected 2024 SPPCRC factors.

On May 2, 2023, FPL filed a corrected petition for approval of 2023 actual/estimated true-up and projected 2024 SPPCRC factors along with accompanying testimony and exhibits. This filing replaced FPL's May 1st filing in its entirety. On July 21, 2023, TECO filed a revised petition for approval of projected 2024 SPPCRC costs with accompanying testimony and exhibits. This filing revised TECO's May 1st filing with respect to the revenue expansion factor and updated 2024 billing determinants based on the most recent load forecast. On July 31, 2023, TECO filed a second revised petition for approval of projected 2024 SPPCRC costs with accompanying testimony and exhibits. This filing revised TECO's July 21st filing (first revised petition) by updating the SPPCRC Projection with adjustments to the 2024 billing determinants due to an update in the forecasting models.

The Commission conducted an administrative hearing in this matter on September 12, 2023. The parties waived cross examination⁸ and stipulated to the admission of all prefiled testimony of the following witnesses: Mark R. Roche and C. David Sweat (TECO); Jason Bennett and Mark Cutshaw (FPUC); Michael Jarro and Richard Hume (FPL); Robert E. Brong, Brian Lloyd, and Christopher Menendez (DEF); and Hymavathi Vedula and Donna Brown (Staff). The testimony

Duke Energy Florida, LLC; and Order No. PSC-2022-0389-FOF-EI, issued November 10, 2022, in Docket No. 20220051-EI, In re: Review of Storm Protection Plan, pursuant to Rule 25-6.030, F.A.C., Florida Power & Light Company.

⁶ Case Nos. SC22-1733 (FPL), SC22-1735 (DEF), SC22-1745 (FPUC) and SC22-1748 (TECO).

⁷ The 2022 SPPCRC docket concluded when the Commission entered Final Order Approving Storm Cost Recovery Amounts and Related Tariffs and Establishing Storm Cost Recovery Factors for the Period January 2023 Through December 2023, Order No. PSC-2022-0418-FOF-EI, issued December 12, 2022, in Docket No. 20220010-EI, *In re: Storm protection plan cost recovery clause*. On December 20, 2022, OPC filed a Notice of Administrative Appeal of this Final Order with the Florida Supreme Court, which remains pending as Case No. SC22-1777.

⁸ By agreement of the parties at the Prehearing Conference, OPC's written questions in lieu of cross-examination and each utility's responses and objections thereto, along with affidavits, were included on the Comprehensive Exhibit List as Stipulated Exhibits Nos. 42-46.

of these witnesses was entered into the record as though read. Exhibits 1-49 as identified on the Comprehensive Exhibit List were admitted into evidence without objection.

TECO, FPUC, DEF, FPL, OPC, and PCS submitted post-hearing briefs. FIPUG and Nucor joined in OPC's brief.

The Commission has jurisdiction over this matter pursuant to Sections 366.04, 366.05, 366.06, and 366.96, F.S.

DISCUSSION

Section 366.96(2), F.S., defines "transmission and distribution storm protection plan costs" as "the reasonable and prudent costs to implement an approved transmission and distribution storm protection plan." Rule 25-6.031(3), Florida Administrative Code (F.A.C.), specifies how the Commission is to assess reasonable and prudent costs in the annual SPPCRC proceeding:

An annual hearing to address petitions for recovery of Storm Protection Plan costs will be limited to determining [1] the reasonableness of the estimated and projected Storm Protection Plan costs, [2] the prudence of actual Storm Protection Plan costs incurred by the utility, and [3] to establish Storm Protection Plan cost recovery factors consistent with the requirements of this rule.

The utilities bear the burden to demonstrate that the costs for which they seek recovery were prudently incurred and that all projections they submitted are reasonable. See *Espinoza v. Dep't of Bus. & Prof. Reg.*, 739 So. 2d 1250, 1251 (Fla. 3d DCA 1999) ("The general rule is that, apart from statute, the burden of proof is on the party asserting the affirmative of an issue before an administrative tribunal."). Prudence and reasonableness are standards of conduct. See *Vogel v. Allen*, 443 So. 2d 368, 369 (Fla. 5th DCA 1983).

The well-established standard for determining prudence is "what a reasonable utility manager would have done, in light of the conditions and circumstances which were known, or should have been known, at the time the decision was made." Order No. PSC-11-0547-FOF-EI, issued November 23, 2011, in Docket No. 20110009-EI, *In re: Nuclear cost recovery clause*.

"[D]eviation from a standard of conduct is essentially an ultimate finding of fact clearly within the realm of the hearing officer's fact-finding discretion." *Holmes v. Turlington*, 480 So. 2d 150, 153 (Fla. 1st DCA 1985); see *Safeway Ins. Co. v. Godoy*, 584 So. 2d 1136, 1136 (Fla. 3d DCA 1991) (whether hours claimed by counsel were "reasonably, necessarily, and prudently expended" is a factual finding); *Nest v. Dep't of Prof. Reg.*, 490 So. 2d 987, 989 (Fla. 1st DCA 1986) ("the ability to practice with reasonable skill and safety is essentially an ultimate finding of fact"). The questions for the Commission, then, are whether there is competent, substantial evidence in the record to demonstrate that the utilities (1) acted prudently in incurring the actual costs for which they now seek recovery, and (2) made reasonable estimates and projections of future costs.

Each utility supported its petition for recovery with testimony providing details regarding SPP implementation activities and costs, and how those costs are consistent with the SPP, as required

by Rule 25-6.031(2), F.A.C. No other party or intervenor – including OPC - offered any witness testimony in support of their arguments.

OPC forwards a legal argument in Issues 1-4 and 7 that no cost recovery should be allowed due to an alleged failure of the Commission to make certain prudence determinations regarding the underlying SPP programs and projects. Subject to this argument, OPC takes no position on the factors for each utility in Issues 1-4 and 7. The effect of OPC's position is to allow the Commission to entertain and approve Type 2 stipulations⁹ on the factors and allow cost recovery to proceed if (and only if) it rejects OPC's overarching legal argument that no cost recovery is currently appropriate.

OPC's facilitated Type 2 stipulations are conditioned as follows:

Regarding Issues 1-4 and 7, OPC takes no position on the factors only for all four utilities, nor does it have the burden of proof related to them. As such, the OPC represents that it will not contest or oppose the Commission taking action approving a proposed stipulation between the Company and another party or staff as to a final resolution of the factors. No person is authorized to state that the OPC is a participant in, or party to, a stipulation on these issues, either in this docket, in an order of the Commission or in a representation to a Court. OPC otherwise maintains its position on Issues 1-4 and 7 for purposes of briefing.

⁹ A Type 2 stipulation occurs on an issue when the utility and 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.

Discussion of 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?

Recommendation:

TECO

Staff recommends the Commission approve \$44,118,287 as TECO's final 2022 prudently incurred costs and an over-recovery amount of \$1,278,701 as TECO's jurisdictional cost recovery true-up amount, including interest, for the period January 2022 through December 2022. (Eichler)

DEF

Staff recommends the Commission approve \$416,956,141 as DEF's final 2022 prudently incurred costs and an over-recovery amount of \$10,715,993 as DEF's jurisdictional cost recovery true-up amount, including interest, for the period January 2022 through December 2022. (Eichler)

FPUC

Staff recommends the Commission approve \$1,519,733 as FPUC's final 2022 prudently incurred costs and an under-recovery amount of \$157,305 as FPUC's jurisdictional cost recovery true-up amount, including interest, for the period January 2022 through December 2022. (Eichler)

FPL

Staff recommends the Commission approve \$1,292,952,697 as FPL's final 2022 prudently incurred costs and an under-recovery amount \$5,171,245 as FPL's jurisdictional cost recovery true-up amount, including interest, for the period January 2022 through December 2022. (Eichler)

TECO

Position of the Parties

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.

OPC

The Commission failed to make findings that the SPP and the programs and projects contained therein are prudent to undertake and seek recovery pursuant to Section 366.06(1), Florida Statutes. Therefore, no amount of FPUC's 2022 costs have yet been determined to be "prudent." OPC has taken no position on the 2022 costs, which allowed the Commission to approve Type 2

stipulations on the *factors only*. For FPL, DEF, and TECO, OPC takes no position on the 2022 factors.

FIPUG

Upon Commission review and application of the legal standards of review for recovery of the costs sought by the Utilities' the Commission should approve less monetary sums than sought by the Utilities'. Agree with OPC regarding the factors for all utilities.

PCS

Agree with OPC.

NUCOR

Nucor takes no position.

PARTIES' ARGUMENTS

TECO

TECO asserts that the uncontested, competent, substantial evidence supports a Commission finding that its 2022 expenditures were prudently incurred. (TECO BR 5).

OPC

OPC takes no position on the factors for TECO regarding 2022 prudently incurred costs and the final jurisdictional revenue requirement true-up amount for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only. (OPC BR 3).

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS joins OPC in facilitating a Type 2 stipulation. (PCS BR 2)

NUCOR

Nucor supports a Type 2 stipulation. (Nucor BR 1)

ANALYSIS

This issue addresses the prudence of TECO's 2022 activities, actual incurred costs, and the resultant final true-up amount that TECO will use in calculating its 2024 SPPCRC factor. Staff notes that the resolution of this issue will impact Issues 4-9. In addition, staff notes that the determination of prudence is a review of what a reasonable utility manager would have done in light of the facts that were known or were reasonably knowable at the time the decision(s) were made. Accordingly, Commission staff is limiting its discussion and analysis to the facts in the record related to actual costs incurred in 2022.

Based on the Settlement Agreement approved by the Commission in Order No. PSC-2020-0293-AS-EI,¹⁰ OPC takes no position on the factors only for TECO. This position allows the Commission to approve a Type 2 stipulation on the factors only. Staff believes the record supports Commission approval of the Type 2 stipulation as set forth below.

In support of TECO's 2022 true-up recovery amount, TECO witness Sweat 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; EXH 4) Staff asked clarifying questions regarding the 2022 variances through discovery and TECO provided answers. (EXH 23-24) Staff reviewed TECO's responses and found them supported and adequate. Witness Sweat also opined that TECO appropriately and prudently managed the SPP projects. (TR 53-73)

TECO witness Roche provided additional support for the reported costs and methods used to determine the 2022 final true-up recovery amounts. (TR 12-18; EXH 2) Witness Roche provided a calculation of the final 2022 prudently incurred costs and determined it was \$44,118,287. (EXH 2) Witness Roche also explained that the actual 2022 project costs were compared to the prior estimate of 2022 project costs to determine the jurisdictional cost recovery true-up over-recovery amount of \$1,278,701 for the period January 2022 through December 2022, including interest. (TR 12-18, EXH 2)

Commission staff witness Brown provided testimony and sponsored audit reports of TECO's 2022 actual costs associated with the SPP activities. (TR 224-226; EXH 22, BSP C11-1123 – C11-1131) As noted in witness Brown's testimony, staff's audit activities included tracing and verification of the 2022 costs and the final true-up amounts. (TR 224-226; EXH 22, BSP C11-1123 – C11-1131) Witness Brown reported one finding. (TR 224-226; EXH 22, BSP C11-1129) TECO was found to be applying an inappropriate revenue expansion factor to capital investment projects. The factor included a component for uncollectable accounts or bad debt expense. The appropriate mechanism for uncollectible accounts is base rates, not the SPPCRC. Witness Brown recounted that staff held an informal meeting with TECO on June 28, 2023, where TECO agreed to remove bad debt expense from the calculation for the SPPCRC return on investment rate moving forward. TECO also agreed to file an updated SPPCRC projection to address this issue. (EXH 22, BSP C11-1129)

Staff found no evidence that the requested costs to be recovered for year 2022 did not align with TECO's approved 2022 Storm Protection Plan filed in Docket No. 20220048-EI.

CONCLUSION

Staff recommends the Commission approve the Type 2 stipulation and approve \$44,118,287 as TECO's final 2022 prudently incurred costs and an over-recovery amount of \$1,278,701 as TECO's jurisdictional cost recovery true-up amount, including interest, for the period January 2022 through December 2022.

¹⁰ This Order was issued August 28, 2020, in Docket Nos. 20200067-EI and 20200092-EI, and disposed of the issues in TECO's original SPP and SPPCRC dockets.

DEF

Position of the Parties

DEF

The Commission should approve as prudently incurred DEF's 2022 SPP investments of \$416,956,141 (System). This amount results in an overrecovery of \$10,715,993.

OPC

The Commission failed to make findings that the SPP and the programs and projects contained therein are prudent to undertake and seek recovery pursuant to Section 366.06(1), Florida Statutes. Therefore, no amount of FPUC's 2022 costs have yet been determined to be "prudent." OPC has taken no position on the 2022 costs, which allowed the Commission to approve Type 2 stipulations on the factors only. For FPL, DEF, and TECO, OPC takes no position on the 2022 factors.

FIPUG

Upon Commission review and application of the legal standards of review for recovery of the costs sought by the Utilities' the Commission should approve less monetary sums than sought by the Utilities'. Agree with OPC regarding the factors for all utilities.

PCS

Agree with OPC.

NUCOR

Regarding DEF, agree with OPC.

PARTIES' ARGUMENTS

DEF

DEF argues that its 2022 SPP costs were prudently incurred as it implemented the 2020 SPP. (DEF BR 2). DEF argues that no party presented specific evidence regarding alleged imprudence of any particular action, and that the only record evidence supports a finding that the claimed 2022 costs were prudently incurred. (DEF BR 2).

OPC

OPC takes no position on the factors for DEF regarding 2022 prudently incurred costs and the final jurisdictional revenue requirement true-up amount for the purpose of allowing the Commission to approve Type 2 stipulations for those utilities on the factors only. (OPC BR 3).

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS joins OPC in facilitating a Type 2 stipulation. (PCS BR 2)

NUCOR

Nucor supports a Type 2 stipulation. (Nucor BR 1)

ANALYSIS

This issue addresses the prudence of DEF's 2022 activities, actual incurred costs, and the resultant final true-up amount that DEF will use in calculating its 2024 SPPCRC factor. Staff notes that the resolution of this issue will impact Issues 4-9. In addition, staff notes that the determination of prudence is a review of what a reasonable utility manager would have done in light of the facts that were known or were reasonably knowable at the time the decision(s) were made. Accordingly, Commission staff is limiting its discussion and analysis to the facts in the record related to actual costs incurred in 2022.

Based on the Settlement Agreement approved by the Commission in Order No. PSC-2020-0293-AS-EI, OPC takes no position on the factors for DEF. This position allows the Commission to approve a Type 2 stipulation on the factors only. Staff believes the record supports Commission approval of the Type 2 stipulation as set forth below.

DEF asserts that its 2022 SPP investments were prudently incurred implementing its approved 2020-2029 SPP. DEF argues that no party challenged the prudence of any specific 2022 expenditure, the decision to move forward with any specific project, the prudence of the management of any specific project, or the prudence of any specific project's cost. As a result, DEF believes the Commission should approve a net final true-up over-recovery amount of \$10,715,993 for the period of January 2022 through December 2022. (DEF BR 2)

In support of DEF's 2022 true-up recovery amount, DEF witness Lloyd described the company's 2022 SPP distribution-related activities and variances. (TR 186-191; EXH 16) DEF witness Brong described the company's 2022 SPP transmission-related activities and variances. (TR 203-206; EXH 16) Staff asked clarifying questions regarding select variances and project delays through discovery and DEF provided answers. (EXH 34) Staff reviewed DEF's responses and found them supported and adequate.

DEF witness Menendez provided additional support for the reported costs and methods used to determine the 2022 final true-up recovery amounts. (TR 173-177; EXH 16) Witness Menendez provided a calculation of the final 2022 prudently incurred costs and determined it was \$416,956,141. (EXH 16) Witness Menendez also explained that the actual 2022 project costs were compared to the prior estimate of 2022 project costs to determine the jurisdictional cost recovery true-up over-recovery amount of \$10,715,993 for the period January 2022 through December 2022, including interest. (TR 173-177; EXH 16)

Commission staff witness Vedula provided testimony and sponsored audit reports of DEF's 2022 actual costs associated with the SPP activities. (TR 217-218; EXH 19, BSP C10-1092 – C10-1099) As noted in witness Vedula's testimony, staff's audit activities included tracing and verification of the 2022 costs and the final true-up amounts. (TR 217-218; EXH 19, BSP C10-1092 – C10-1099) Witness Vedula reported no findings.

Staff found no evidence that the requested costs to be recovered for year 2022 did not align with DEF's approved 2020-2029 Storm Protection Plan filed in Docket Nos. 20200069-EI.

CONCLUSION

Staff recommends the Commission approve the Type 2 stipulation and approve \$416,956,141 as DEF's final 2022 prudently incurred costs and an over-recovery amount of \$10,715,993 as DEF's jurisdictional cost recovery true-up amount, including interest, for the period January 2022 through December 2022.

FPUC

Position of the Parties

FPUC

The final, end of period true up amount to be included in the calculation of the 2024 cost recovery factors is an under-recovery of \$157,305, which reflects the difference between the actual, end of period revenue requirement of \$490,460 based on actual expenditures, and the \$333,155 included in the calculation of the 2023 SPPCRC factors. This revenue requirement is based upon FPUC's incurred total costs of \$1,519,733 for the period May 2022 through December 2022.

OPC

The Commission failed to make findings that the SPP and the programs and projects contained therein are prudent to undertake and seek recovery pursuant to Section 366.06(1), Florida Statutes. Therefore, no amount of FPUC's 2022 costs have yet been determined to be "prudent." OPC has taken no position on the 2022 costs, which allowed the Commission to approve Type 2 stipulations on the factors only. For FPL, DEF, and TECO, OPC takes no position on the 2022 factors.

FIPUG

Upon Commission review and application of the legal standards of review for recovery of the costs sought by the Utilities' the Commission should approve less monetary sums than sought by the Utilities'. Agree with OPC regarding the factors for all utilities.

PCS

Agree with OPC.

NUCOR

Nucor takes no position.

PARTIES' ARGUMENTS

FPUC

FPUC asserts that the facilitated Type 2 stipulation should be approved. (FPUC BR 1, 3). FPUC argues that OPC's position on Issue 1 is an expansion of the same argument made in last year's

SPPCRC docket¹¹ and that it should be rejected for the same reasons the Commission relied upon in the Final Order in that earlier docket.¹² (FPUC BR 6 – 9).

OPC

While taking no position on the 2022 factors for FPUC, OPC’s legal position is that no cost recovery should be authorized for that utility because the “Commission failed to make a finding that the [FPUC] SPP and the programs and projects contained therein are prudent to undertake and seek recovery pursuant to Section 366.06(1), Florida Statutes.” (OPC BR 3).¹³

FIPUG

FIPUG adopted OPC’s post-hearing brief. (FIPUG BR 1)

PCS

PCS joins OPC in facilitating a Type 2 stipulation. (PCS BR 2)

NUCOR

Nucor supports a Type 2 stipulation. (Nucor BR 1)

ANALYSIS

This issue addresses the prudence of FPUC’s 2022 activities, actual incurred costs, and the resultant final true-up amount that FPUC will use in calculating its 2024 SPPCRC factor. Staff notes that the resolution of this issue will impact Issues 4-9. In addition, staff notes that the determination of prudence is a review of what a reasonable utility manager would have done in light of the facts that were known or were reasonably knowable at the time the decision(s) were made. Accordingly, Commission staff is limiting its discussion and analysis to the facts in the record related to actual costs incurred in 2022.

OPC contends that the Commission was required to conduct a full prudence review of FPUC’s proposed SPP programs and projects under Section 366.06(1), F.S., as a prerequisite to making a determination of recoverable costs in this docket. Because there was no review and prudence finding regarding FPUC’s SPP programs and projects, concludes the argument, OPC contends there can be no cost recovery.

Prior to the Prehearing Conference, OPC proposed nine issues for consideration in this docket, two of which read as follows:

OPC ISSUE 4A: Has FPUC 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?

¹¹ Docket No. 20220010-EI.

¹² Order No. PSC-2022-0418-FOF-EI.

¹³ FPUC was not a party to Order No. PSC-2020-0293-AS-EI. Upon request of FPUC, the Commission allowed that utility to file its initial SPP later than the other utilities. *See* fn. 4, *supra*.

OPC ISSUE 4B: Has the Commission properly determined, pursuant to Section 366.06(1), Fla. Stat., that the projected expenditures proposed for cost recovery by FPUC are prudent?

The Prehearing Officer disallowed all issues pursued by OPC, specifically disposing of the two issues quoted above as follows:

The first of these issues asks the Commission to determine whether each utility has “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.” The programs and projects contained in each utility’s SPP are subject to Commission review every three years in a docket separate and apart from the SPPCRC docket. [fn.1 See Fla. Stat. § 366.96(6). F.S.] The SPPCRC docket is “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.” [fn. 2 Fla. Stat. § 366.96(7).] F.S. Thus, the Commission lacks statutory authority to review the current SPP programs and projects in this [SPPCRC] docket.

The programs and projects in each utility’s current SPP were approved by this Commission in November 2022. [fn. 3 Order No. PSC-2022-0386-FOF-EI (TECO); Order No. PSC-2022-0387-FOF-EI (FPUC); Order No. PSC-2022-0388A-FOF-EI (DEF); and Order No. PSC-2022-0389-FOF-EI (FPL).] In the 2022 Final Orders approving the SPPs, the Commission concluded that Section 366.96(5), F.S., requires it to determine whether each utility’s SPP is in the public interest when approving, approving with modification, or denying the SPP. [fn. 4 “No later than 180 days after a utility files a transmission and distribution storm protection plan that contains all of the elements required by commission rule, the commission shall determine whether it is in the public interest to approve, approve with modification, or deny the plan.” Fla. Stat. § 366.96(5). F.S.] The Commission rejected OPC’s argument that the prudence standard should be applied to SPP projects and programs, and approved, with a few modifications, the utilities’ SPPs as being in the public interest. Those Orders, along with the Order concluding the 2022 SPPCRC docket [fn. 5 Order No. PSC-2022-0418-FOF-EI.], are the subject of a consolidated appeal brought by OPC and currently pending before the Florida Supreme Court. [fn. 6 Case Nos. SC22-1733, SC22-1735, SC22-1745, SC22-1748 & SC22-1777.] Until such time as the Court disposes of the appeal or otherwise relinquishes jurisdiction, this Commission is without authority to revisit or supplement the findings of fact and conclusions of law regarding the current SPP in the prior Final Orders. Those findings and conclusions directly address and dispose of the first issue OPC has proposed in this docket.

For all of these reasons, OPC proposed Issues 1A, 2A, 3A & 4A are disallowed.

OPC’s second issue requests that the Commission determine whether the projected expenditures proposed for cost recovery by each utility are prudent. Just

as it did with the above issue, OPC argues here that the Commission should apply a prudence test where another standard is established by law. The Commission's review of projected expenditures in the SPPCRC is "limited to determining the reasonableness of projected Storm Protection Plan costs" by Rule 25-6.031(3), F.A.C. Projected expenditures are not subject to a separate prudence determination in this docket as urged by OPC. The appropriate legal scope of the Commission's review of each utility's actual 2022, actual/estimated 2023, and projected 2024 SPP projects, costs, and revenue requirements in this docket is accurately and fully set forth in Issues No. 1-4.

Because the cognizable matters raised by OPC are subsumed in Issues No. 1-4, proposed Issues 1B, 2B, 3B & 4B are disallowed.¹⁴

OPC's legal argument in Issue 1 is an untimely reargument of proposed and stricken Issues 4A and 4B. Staff believes that OPC's argument that the Commission allegedly failed to make a prerequisite finding of prudence for FPUC should again be rejected on the same grounds relied upon by the Prehearing Officer and quoted immediately above.

No party opposed a Type 2 stipulation for Issue 1. Thus, if the Commission concurs with staff's recommendation that OPC's overarching legal argument should be rejected, the only remaining question is whether to accept the Type 2 stipulation.

FPUC asserts that its proposed factors have been developed through projections and calculations made in accordance with Rule 25-6.031, F.A.C., and that the factors are based on 2022 actual, prudently incurred costs associated with the implementation of those aspects of FPUC's approved SPP. FPUC contends that OPC's argument regarding the review of FPUC's SPP is misplaced and erroneous, and that the Commission properly conducted its review of FPUC's SPP in accordance with Section 366.96, F.S., and Rule 25-6.030, F.A.C. (FPUC BR 3, 7-8)

In support of FPUC's 2022 true-up recovery amount, FPUC witness Cutshaw 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 127-131) Staff asked clarifying questions regarding the 2022 variances and calculations through discovery and FPUC provided answers. (EXH 29-31) Staff reviewed FPUC's responses and believe they are supported and adequate.

FPUC witness Bennett¹⁵ provided additional support for the reported costs and methods used to determine the 2022 final true-up recovery amounts. (TR 111-116; EXH 6) Witness Bennett provided a calculation of the final 2022 prudently incurred costs and determined it was \$1,519,733. (EXH 6) Witness Bennett also explained that the actual 2022 project costs were compared to the prior estimate of 2022 project costs to determine the jurisdictional cost recovery

¹⁴ Order No. PSC-2023-0281-PHO-EI, issued September 8, 2023, in Docket No. 20230010-EI, *In re: Storm Protection Plan Cost Recovery Clause*, pp. 27-28.

¹⁵ FPUC witness Bennett adopted the testimony and exhibits of FPUC witness Waruszewski.

true-up under-recovery amount of \$157,305 for the period January 2022 through December 2022, including interest. (TR 111-116; EXH 6)

Commission staff witness Vedula provided testimony and sponsored audit reports of FPUC's 2022 actual costs associated with the SPP activities. (TR 219-220; EXH 20, BSP C10-1102 – C10-1109) As noted in witness Vedula's testimony, staff's audit activities included tracing and verification of the 2022 costs and the final true-up amounts. (TR 219-220; EXH 20, BSP C10-1102 – C10-1109) Witness Vedula reported no findings.

Staff found no evidence that the requested costs to be recovered for year 2022 did not align with FPUC's approved Storm Protection Plan filed in Docket No. 20220049-EI.

CONCLUSION

Staff recommends the Commission reject OPC's legal argument for the reasons set forth above, approve the Type 2 stipulation, and approve \$1,519,733 as FPUC's final 2022 prudently incurred costs and an under-recovery amount of \$157,305 as FPUC's jurisdictional cost recovery true-up amount, including interest, for the period January 2022 through December 2022.

FPL

Position of the Parties

FPL

FPL's final total SPPCRC cost incurred for 2022 is \$1,292,952,697. 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. (*FPL witnesses Jarro and Hume*).

OPC

The Commission failed to make findings that the SPP and the programs and projects contained therein are prudent to undertake and seek recovery pursuant to Section 366.06(1), Florida Statutes. Therefore, no amount of FPUC's 2022 costs have yet been determined to be "prudent." OPC has taken no position on the 2022 costs, which allowed the Commission to approve Type 2 stipulations on the factors only. For FPL, DEF, and TECO, OPC takes no position on the 2022 factors.

FIPUG

Upon Commission review and application of the legal standards of review for recovery of the costs sought by the Utilities' the Commission should approve less monetary sums than sought by the Utilities'. Agree with OPC regarding the factors for all utilities.

PCS

Agree with OPC.

NUCOR

Nucor takes no position.

PARTIES' ARGUMENTS

FPL

FPL argues that no party contested the prudence of its actual 2022 projects or costs and that the facilitated Type 2 stipulation should be approved. (FPL BR 5).

OPC

OPC takes no position on the factors for FPL regarding 2022 prudently incurred costs and the final jurisdictional revenue requirement true-up amount for the purpose of allowing the Commission to approve a Type 2 stipulation on the factors only. (OPC BR 3).

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS joins OPC in facilitating a Type 2 stipulation. (PCS BR 2)

NUCOR

Nucor supports a Type 2 stipulation. (Nucor BR 1)

ANALYSIS

This issue addresses the prudence of FPL's 2022 activities, actual incurred costs, and the resultant final true-up amount that FPL will use in calculating its 2024 SPPCRC factor. Staff notes that the resolution of this issue will impact Issues 4-9. In addition, staff notes that the determination of prudence is a review of what a reasonable utility manager would have done in light of the facts that were known or were reasonably knowable at the time the decision(s) were made. Accordingly, Commission staff is limiting its discussion and analysis to the facts in the record related to actual costs incurred in 2022.

Based on the Settlement Agreement approved by the Commission in Order No. PSC-2020-0293-AS-EI, OPC takes no position on the factors for FPL. This position allows the Commission to approve a Type 2 stipulation on the factors only. Staff believes the record supports Commission approval of the Type 2 stipulation as set forth below.

FPL argues that its final true-up of its 2022 SPP projects and associated costs is consistent with the actual/estimated 2022 SPP costs approved in Docket No. 20220010-EI and its 2020-2029 SPP approved in Docket Nos. 20200070-EI and 20200071-EI. FPL asserts that no parties challenged or made any recommended adjustments to any of the 2022 SPP projects, costs, or revenue requirements included in FPL's 2022 SPPCRC final true-up, and as a result, the Commission should approve FPL's undisputed net final true-up under-recovery amount of \$5,171,245, including interest, for the period of January 2022 through December 2022. (FPL BR 1-2)

In support of FPL's 2022 true-up recovery amount, FPL witness Jarro 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 142-149; EXH 8-9) Staff asked clarifying questions regarding select apparent extreme 2022 variances through discovery and FPL provided answers. (EXH 37-38) Staff reviewed FPL's responses and found them supported and adequate. Witness Sweat also opined that FPL appropriately and prudently managed the SPP projects. (TR 149)

FPL witness Hume provided additional support for the reported costs and methods used to determine the 2022 final true-up recovery amounts. (TR 159-163; EXH 12) Witness Hume provided a calculation of the final 2022 prudently incurred costs and determined it was \$1,292,952,697. (EXH 12) Witness Hume also explained that the actual 2022 project costs were compared to the prior estimate of 2022 project costs to determine the jurisdictional cost recovery true-up under-recovery amount of \$5,171,245 for the period January 2022 through December 2022, including interest. (TR 159-163; EXH 12) FPL filed an errata to Exhibit 12 on August 4, 2023. The changes were non-numerical in nature and did not impact any previously detailed calculations.

Commission staff witness Brown provided testimony and sponsored audit reports of FPL's 2022 actual costs associated with the SPP activities. (EXH 21, BSP C11-1123 – C11-1131) As noted in witness Brown's testimony, staff's audit activities included tracing and verification of the 2022 costs and the final true-up amounts. (EXH 22, BSP C11-1112 – C11-1119) Witness Brown reported no findings.

Staff found no evidence that the requested costs to be recovered for year 2022 did not align with FPL's approved 2020-2029 Storm Protection Plan filed in Docket Nos. 20200070-EI and 20200071-EI.

CONCLUSION

Staff recommends the Commission approve the Type 2 stipulation and approve \$1,292,952,697 as FPL's final 2022 prudently incurred costs and an under-recovery amount \$5,171,245 as FPL's jurisdictional cost recovery true-up amount, including interest, for the period January 2022 through December 2022.

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?

Recommendation:

TECO

Staff recommends the Commission approve \$67,657,813 as TECO's reasonably estimated 2023 costs and an under-recovery amount of \$3,056,003 as TECO's jurisdictional cost recovery true-up amount, including interest, for the period January 2023 through December 2023. (Eichler)

DEF

Staff recommends the Commission approve \$669,882,033 as DEF's reasonably estimated 2023 costs and an over-recovery amount of \$17,788,390 as DEF's jurisdictional cost recovery true-up amount, including interest, for the period January 2023 through December 2023. (Eichler)

FPUC

Staff recommends the Commission approve \$10,319,882 as FPUC's reasonably estimated 2023 costs and an over-recovery amount of \$142,094 as FPUC's jurisdictional cost recovery true-up amount, including interest, for the period January 2023 through December 2023. (Eichler)

FPL

Staff recommends the Commission approve \$1,307,293,308 as FPL's reasonably estimated 2023 costs and an under-recovery amount of \$14,860,970 as FPL's jurisdictional cost recovery true-up amount, including interest, for the period January 2023 through December 2023. (Eichler)

TECO

Position of the Parties

TECO

The Commission should approve actual/estimated Storm Protection Plan Cost Recovery Clause jurisdictional revenue requirement 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.

OPC

The Commission failed to make a finding that the SPP and the programs and projects contained therein are prudent to undertake and seek recovery pursuant to Section 366.06(1), Florida Statutes. Therefore, no amounts for the Utilities' 2023 costs have yet been determined to be "prudent." However, OPC has taken no position on these costs, which allowed the Commission to approve Type 2 stipulations on the *factors only*.

FIPUG

The Commission should approve less than the Utilities' requested reasonably estimated 2023 costs and estimated jurisdictional revenue requirement true-up amount for the Storm Protection Plan Cost Recovery Clause. Agree with OPC regarding the factors for all utilities.

PCS

Agree with OPC.

NUCOR

Nucor takes no position.

PARTIES' ARGUMENTS

TECO

TECO asserts that the uncontested, competent, substantial evidence supports a Commission finding that its 2023 expenditures have been reasonably estimated. (TECO BR 6). TECO continues that OPC's "prospective" prudence argument is irrelevant to this docket because (1) it is beyond the scope of this proceeding to re-examine the SPPs that the Commission approved last year in a separate docket, (2) the prudence of the utility's 2022 costs is squarely addressed in Issue 1, and (3) the standards in Section 366.06(1), F.S., do not apply in a proceeding under Section 366.96(7), F.S. (TECO BR 11-13).

OPC

OPC argues that the Commission must make two prudence determinations in order to allow it to approve recovery of reasonably estimated 2023 storm protection costs and a reasonably estimated jurisdictional revenue requirement true-up amount. First, OPC contends the Commission must make a "prospective" prudence determination of the SPP programs and projects. (OPC BR 5). Second, the Commission must make a "retrospective" prudence determination in the SPPCRC docket of costs incurred to implement SPP programs and projects. (OPC BR 5). OPC argues that this layered review is mandated because both the SPP and SPPCRC dockets involve ratemaking and, therefore, are subject to the requirements of 366.06(1), F.S.

In support of this legal argument, OPC cites to Hearing Exhibits 43-46, which are written cross examination questions proffered by OPC and answered by TECO (EXH 43), FPUC (EXH 44), FPL (EXH 45) and DEF (EXH 46). OPC asserts that the witnesses' answers to these questions demonstrate (1) that there is a difference or can be a difference in a prospective determination of whether managerial and operational actions are prudent and a retrospective finding of whether money was spent prudently (OPC BR 8-9); (2) that the Commission made no prospective findings of prudence for individual projects or programs prior to implementation of the SPPs (OPC BR 7, 9); and (3) that the Commission in its review of cost recovery made no prudence findings regarding the SPP projects and programs (OPC BR 7, 9-12). As noted by OPC, the witnesses' substantive answers to these questions were qualified by each utility objecting on the grounds that the questions were irrelevant and called for legal conclusions. (OPC BR 7-12)

OPC takes no position on the 2023 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 2. (OPC BR 13)

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS joins OPC in facilitating a Type 2 stipulation. (PCS BR 2)

NUCOR

Nucor supports a Type 2 stipulation. (Nucor BR 1)

ANALYSIS

This issue addresses the reasonableness of TECO's 2023 actions, estimated costs, and the resultant final true-up amount that TECO will use in calculating its 2024 SPPCRC factor. Staff notes that the resolution of this issue will impact Issues 4-9.

OPC contends that the Commission must make prospective and retrospective prudence findings before cost recovery can be allowed in this docket. Staff agrees that the Commission engages in both prospective and retrospective review before allowing recovery for storm protection activities, but disagrees with OPC on the scope of that review.

The scope of Commission prospective review of SPPs is clearly set forth in statute:

No later than 180 days after a utility files a transmission and distribution plan that contains all of the elements required by Commission rule, the commission shall determine whether it is in the public interest to approve, approve with modification, or deny the plan.

Section 366.96(5), F.S.

Likewise, the Commission's retrospective review of costs incurred or about to be incurred pursuant to an approved SPP is clearly established:

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.

Rule 25-6.031(3), F.A.C.

Staff believes that OPC's arguments as to why prudence should be lifted from Section 366.06(1), F.S., and made a threshold issue in the SPP and SPPCRC dockets, despite a different and specific statutory and rule framework, is in all material respects a reargument of the position taken in last year's SPP and SPPCRC docket and rejected by the Commission. As noted above, that Final Order is currently on appeal to the Florida Supreme Court.

Consistent with that Final Order, staff believes that OPC's argument that the Commission failed to make a prerequisite finding of prudence should be rejected. In staff's opinion, OPC's argument is an improper collateral attack on the Final Order and should be rejected on that basis.

OPC raises the identical arguments with respect to all utilities in Issue 2 as it did with respect to FPUC in Issue 1. Accordingly, staff believes the Prehearing Officer's analysis is equally appropriate and applicable to OPC's arguments here, and should be rejected based on the findings and conclusions made by the Prehearing Officer and quoted *supra*.

OPC takes no position on 2023 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 2. (*See also* OPC BR 13). No party opposes the Type 2 stipulations. Thus, if the Commission concurs with staff's recommendation that OPC's overarching legal argument should be rejected, the only remaining question is whether to approve the Type 2 stipulations. Staff believes the record supports Commission approval of the Type 2 stipulation as set forth below.

TECO argues that no party to this docket has challenged the reasonableness of its 2023 SPP costs or its calculation of those costs, and as a result, the uncontested, competent, substantial evidence in the record demonstrates that the company's 2023 SPP costs are reasonable. (TECO BR 6)

In support of TECO's 2023 recovery amount, TECO witness Sweat described the company's 2023 SPP activities, explained variances between projected and actual costs incurred in 2023, and explained variances between the level of activity projected for 2023 in the company's approved 2022-2031 SPP and the company's actual accomplishments. (TR 74-109; EXH 5) Staff asked clarifying questions regarding the 2023 variances through discovery and TECO provided answers. (EXH 25-26) Staff reviewed TECO's responses and found them supported and adequate. Witness Sweat also opined that TECO appropriately and reasonably managed the SPP projects. (TR 74-109)

TECO witness Roche provided additional support for the reported costs and methods used to determine the 2023 true-up recovery amounts. (TR 19-52; EXH 3) Witness Roche provided a calculation of the estimated 2023 reasonably incurred costs and determined it was \$67,657,813. (EXH 3) Witness Roche also explained that the updated estimate of 2023 project costs were compared to the prior estimate of 2023 project costs to determine the jurisdictional cost recovery true-up under-recovery amount of \$3,056,003 for the period January 2023 through December 2023, including interest. (TR 19-52, EXH 3)

Staff found no evidence that the requested costs to be recovered for year 2023 did not align with TECO's approved 2022 Storm Protection Plan filed in Docket No. 20220048-EI.

CONCLUSION

Staff recommends the Commission reject OPC's legal argument for the reasons set forth above, approve the Type 2 stipulation, and approve \$67,657,813 as TECO's reasonably estimated 2023 costs and an under-recovery amount of \$3,056,003 as TECO's jurisdictional cost recovery true-up amount, including interest, for the period January 2023 through December 2023.

DEF

Position of the Parties

DEF

The Commission should approve as reasonable DEF's estimated 2023 SPP investments of \$669,882,033 (System). This amount results in an estimated over-recovery of \$17,788,390.

OPC

The Commission failed to make a finding that the SPP and the programs and projects contained therein are prudent to undertake and seek recovery pursuant to Section 366.06(1), Florida Statutes. Therefore, no amounts for the Utilities' 2023 costs have yet been determined to be "prudent." However, OPC has taken no position on these costs, which allowed the Commission to approve Type 2 stipulations on the *factors only*.

FIPUG

The Commission should approve less than the Utilities' requested reasonably estimated 2023 costs and estimated jurisdictional revenue requirement true-up amount for the Storm Protection Plan Cost Recovery Clause. Agree with OPC regarding the factors for all utilities.

PCS

Agree with OPC.

NUCOR

Agree with OPC.

PARTIES' ARGUMENTS

DEF

DEF argues that its 2023 SPP costs are reasonable estimates to implement the 2020 SPP. (DEF BR 3). DEF further argues that no party presented specific evidence regarding alleged unreasonableness of any particular expenditure, and that the only record evidence supports a finding that the 2023 cost estimates are reasonable. (DEF BR 3). DEF states that OPC's legal argument is an impermissible collateral attack on the Commission's prior order approving the DEF SPP and is also contrary to Rule 25-6.031(3), F.A.C., and Section 366.96(5), F.S., both of which prescribe a scope of review that does not include the "prudence" test argued by OPC. (DEF BR 3).

OPC

OPC argues that the Commission must make two prudence determinations in order to allow it to approve recovery of reasonably estimated 2023 storm protection costs and a reasonably estimated jurisdictional revenue requirement true-up amount. First, the Commission must make a "prospective" prudence determination of the SPP programs and projects. (OPC BR 5). Second, the Commission must make a "retrospective" prudence determination in the SPPCRC docket of costs incurred to implement SPP programs and projects. (OPC BR 5). OPC argues that this layered review is mandated because both the SPP and SPPCRC dockets involve ratemaking and, therefore, are subject to the requirements of 366.06(1), F.S.

In support of this legal argument, OPC cites to Hearing Exhibits 43-46, which are written cross examination questions proffered by OPC and answered by TECO (EXH 43), FPUC (EXH 44), FPL (EXH 45) and DEF (EXH 46). OPC asserts that the witnesses' answers to these questions demonstrate (1) that there is a difference or can be a difference in a prospective determination of whether managerial and operational actions are prudent and a retrospective finding of whether money was spent prudently (OPC BR 8-9); (2) that the Commission made no prospective findings of prudence for individual projects or programs prior to implementation of the SPPs (OPC BR 7, 9); and (3) that the Commission in its review of cost recovery made no prudence findings regarding the SPP projects and programs (OPC BR 7, 9-12). As noted by OPC, the witnesses' substantive answers to these questions were qualified by each utility objecting on the grounds that the questions were irrelevant and called for legal conclusions. (OPC BR 7-12)

OPC takes no position on the 2023 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 2. (OPC BR 13)

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS joins OPC in facilitating a Type 2 stipulation. (PCS BR 2)

NUCOR

Nucor supports a Type 2 stipulation. (Nucor BR 1)

ANALYSIS

This issue addresses the reasonableness of DEF's 2023 actions, estimated costs, and the resultant final true-up amount that DEF will use in calculating its 2024 SPPCRC factor. Staff notes that the resolution of this issue will impact Issues 4-9.

OPC raises the same argument with respect to DEF in Issue 2 as it did for TECO. For the reasons, discussed immediately above, staff believes that OPC's arguments should be rejected for the same reasons they were rejected by the Prehearing Officer.

As noted above, OPC takes no position on 2023 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 2. (*See also* OPC BR 13). No party opposes the Type 2 stipulations. Thus, if the Commission concurs with staff's recommendation that OPC's overarching legal argument should be rejected, the only remaining question is whether to approve the Type 2 stipulations. Staff believes the record supports Commission approval of the Type 2 stipulation as set forth below.

DEF asserts that its 2023 SPP investments are reasonable costs associated with implementing the approved 2023-2032 SPP. DEF argues that no party challenged the reasonableness of any specific 2023 expenditure, the decision to move forward with any specific project, the reasonableness of the management of any specific project, or the reasonableness of any specific project's cost. As a result, DEF believes the Commission should approve a net final true-up over-

recovery amount of \$17,788,390 for the period of January 2023 through December 2023. (DEF BR 2-4)

In support of DEF's 2023 true-up recovery amount, DEF witness Lloyd described the company's 2023 SPP distribution-related activities and variances. (TR 192-201; EXH 17) DEF witness Brong described the company's 2023 SPP transmission-related activities and variances. (TR 207-215; EXH 17) DEF witness Menendez provided additional support for the reported costs and methods used to determine the 2023 true-up recovery amounts. (TR 178-184; EXH 17) Witness Menendez explained that the actual 2023 project costs were compared to the prior estimate of 2023 project costs to determine the jurisdictional cost recovery true-up over-recovery amount of \$17,788,390 for the period January 2023 through December 2023 including interest (TR 178-184; EXH 17). Witness Menendez also provided a calculation of the estimated 2023 reasonably incurred costs and determined it was \$669,882,033. (EXH 17)

Staff found no evidence that the requested costs to be recovered for year 2023 did not align with DEF's approved 2023-2032 Storm Protection Plan filed in Docket No. 20220050-EI.

CONCLUSION

Staff recommends the Commission rejects OPC's legal argument for the reasons set forth above, approve the Type 2 stipulation, and approve \$669,882,033 as DEF's reasonably estimated 2023 costs and an over-recovery amount of \$17,788,390 as DEF's jurisdictional cost recovery true-up amount, including interest, for the period January 2023 through December 2023.

FPUC

Position of the Parties

FPUC

FPUC projects an end of period 2023 over-recovery of \$142,094, based on a revised 2023 revenue requirement of \$923,527, which is net of \$975,504 already recovered through base rates. This reflects reasonably estimated end-of-period costs of \$10,319,882.

OPC

The Commission failed to make a finding that the SPP and the programs and projects contained therein are prudent to undertake and seek recovery pursuant to Section 366.06(1), Florida Statutes. Therefore, no amounts for the Utilities' 2023 costs have yet been determined to be "prudent." However, OPC has taken no position on these costs, which allowed the Commission to approve Type 2 stipulations on the *factors only*.

FIPUG

The Commission should approve less than the Utilities' requested reasonably estimated 2023 costs and estimated jurisdictional revenue requirement true-up amount for the Storm Protection Plan Cost Recovery Clause, Agree with OPC regarding the factors for all utilities.

PCS

Agree with OPC.

NUCOR

Nucor takes no position.

PARTIES' ARGUMENTS

FPUC

FPUC asserts that the facilitated Type 2 stipulation should be approved. (FPUC BR 1, 3). FPUC argues that OPC's position on Issue 2 is an expansion of the same argument made in last year's SPPCRC docket¹⁶ and that it should be rejected for the same reasons the Commission relied upon in the Final Order in that earlier docket.¹⁷ (FPUC BR 6 – 9).

OPC

OPC argues that the Commission must make two prudence determinations in order to allow it to approve recovery of reasonably estimated 2023 storm protection costs and a reasonably estimated jurisdictional revenue requirement true-up amount. First, the Commission must make a prospective prudence determination of the SPP programs and projects. (OPC BR 5). Second, the Commission must make a retrospective prudence determination in the SPPCRC docket of costs incurred to implement SPP programs and projects. (OPC BR 5). OPC argues that this layered review is mandated because both the SPP and SPPCRC dockets involve ratemaking and, therefore, are subject to the requirements of 366.06(1), F.S.

In support of this legal argument, OPC cites to Hearing Exhibits 43-46, which are written cross examination questions proffered by OPC and answered by TECO (EXH 43), FPUC (EXH 44), FPL (EXH 45) and DEF (EXH 46). OPC asserts that the witnesses' answers to these questions demonstrate (1) that there is a difference or can be a difference in a prospective determination of whether managerial and operational actions are prudent and a retrospective finding of whether money was spent prudently (OPC BR 8-9); (2) that the Commission made no prospective findings of prudence for individual projects or programs prior to implementation of the SPPs (OPC BR 7 & 9); and (3) that the Commission in its review of cost recovery made no prudence findings regarding the SPP projects and programs (OPC BR 7, 9-12). As noted by OPC, the witnesses' substantive answers to these questions were qualified by each utility objecting on the grounds that the questions were irrelevant and called for legal conclusions. (OPC BR 7-12).

OPC takes no position on the 2023 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 2. (OPC BR 13).

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS joins OPC in facilitating a Type 2 stipulation. (PCS BR 2)

¹⁶ Docket No. 20220010-EI.

¹⁷ Order No. PSC-2022-0418-FOF-EI.

NUCOR

Nucor supports a Type 2 stipulation. (Nucor BR 1)

ANALYSIS

This issue addresses the reasonableness of FPUC's 2023 actions, estimated costs, and the resultant final true-up amount that FPUC will use in calculating its 2024 SPPCRC factor. Staff notes that the resolution of this issue will impact Issues 4-9.

OPC raises the same argument with respect to FPUC in Issue 2 as it did for TECO. For the reasons discussed *supra*, staff believes that OPC's arguments should be rejected for the same reasons they were rejected by the Prehearing Officer.

As noted above and discussed in the staff analysis of Issue 1, OPC takes no position on 2023 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 2. (*See also* OPC BR 13). No party opposes the Type 2 stipulations. Thus, if the Commission concurs with staff's recommendation that OPC's overarching legal argument should be rejected, the only remaining question is whether to approve the Type 2 stipulations. Staff believes the record supports Commission approval of the Type 2 stipulation as set forth below.

FPUC asserts that its proposed factors have been developed through projections and calculations made in accordance with Rule 25-6.031, F.A.C., and that the factors are based reasonable estimates of costs to be incurred in 2023. FPUC argues that OPC's argument regarding the review of FPUC's SPP is misplaced and erroneous and that the Commission properly conducted its review of FPUC's SPP in accordance with Section 366.96, F.S., and Rule 25-6.030, F.A.C. (FPUC BR 3, 7-8)

In support of FPUC's 2023 recovery amount, FPUC witness Cutshaw described the company's 2023 SPP activities, explained variances between projected and actual costs incurred in 2023, and explained variances between the level of activity projected for 2023 in the company's approved 2022-2031 SPP and the company's actual accomplishments. (TR 132-140) Staff asked clarifying questions regarding the 2023 variances through discovery and FPUC provided answers. (EXH 31, 33) Staff reviewed FPUC's responses and found them supported and adequate. Witness Cutshaw also affirmed that FPUC's programs and activities for 2023 are consistent with FPUC's approved 2022-2031 SPP. (TR 139-140)

FPUC witness Bennett provided additional support for the reported costs and methods used to determine the 2023 true-up recovery amounts. (TR 117-125; EXH 7) Witness Bennett provided a calculation of the estimated 2023 reasonably incurred costs and determined it was \$10,319,882. (EXH 7) Witness Bennett also explained that the updated estimate of 2023 project costs were compared to the prior estimate of 2023 project costs to determine the jurisdictional cost recovery true-up over-recovery amount of \$142,094 for the period January 2023 through December 2023, including interest. (TR 117-125; EXH 7)

Staff found no evidence that the requested costs to be recovered for year 2023 did not align with FPUC's approved Storm Protection Plan filed in Docket No. 20220049-EI.

CONCLUSION

Staff recommends the Commission reject OPC's legal argument for the reasons set forth above, approve the Type 2 stipulation, and approve \$10,319,882 as FPUC's reasonably estimated 2023 costs and an over-recovery amount of \$142,094 as FPUC's jurisdictional cost recovery true-up amount, including interest, for the period January 2023 through December 2023.

FPL

Position of the Parties

FPL

FPL's total SPPCRC cost estimated for 2023 is \$1,307,293,308. 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. No parties presented any evidence of record to refute or otherwise contest the prudence or reasonableness of FPL's actual/estimated 2023 projects or associated costs. (*FPL witnesses Jarro and Hume*)

OPC

The Commission failed to make a finding that the SPP and the programs and projects contained therein are prudent to undertake and seek recovery pursuant to Section 366.06(1), Florida Statutes. Therefore, no amounts for the Utilities' 2023 costs have yet been determined to be "prudent." However, OPC has taken no position on these costs, which allowed the Commission to approve Type 2 stipulations on the *factors only*.

FIPUG

The Commission should approve less than the Utilities' requested reasonably estimated 2023 costs and estimated jurisdictional revenue requirement true-up amount for the Storm Protection Plan Cost Recovery Clause. Agree with OPC regarding the factors for all utilities.

PCS

Agree with OPC.

NUCOR

For all other utilities, Nucor takes no position.

PARTIES' ARGUMENTS

FPL

FPL argues that no party contested the prudence of its actual 2023 projects or costs, or the reasonableness of its estimated 2023 projects or costs, and that the facilitated Type 2 stipulation should be approved. (FPL BR 5 - 6). FPL continues that OPC's prudence arguments are beyond the scope of this proceeding, have been fully considered and rejected by the Commission in a prior order, and are now the subject of an appeal before the Florida Supreme Court. (FPL BR 10 - 14). Finally, FPL argues that the specific review standards set forth in 366.96(7), F.S., govern this proceeding, and OPC's argument that the prudence standard in 366.06(1), F.S., should apply

ignores and contradicts the more specific legislative enactment on this subject. (FPL BR 14 – 16).

OPC

OPC argues that the Commission must make two prudence determinations in order to allow it to approve recovery of reasonably estimated 2023 storm protection costs and a reasonably estimated jurisdictional revenue requirement true-up amount. First, the Commission must make a prospective prudence determination of the SPP programs and projects. (OPC BR 5). Second, the Commission must make a retrospective prudence determination in the SPPCRC docket of costs incurred to implement SPP programs and projects. (OPC BR 5). OPC argues that this layered review is mandated because both the SPP and SPPCRC dockets involve ratemaking and, therefore, are subject to the requirements of 366.06(1), F.S.

In support of this legal argument, OPC cites to Hearing Exhibits 43-46, which are written cross examination questions proffered by OPC and answered by TECO (EXH 43), FPUC (EXH 44), FPL (EXH 45) and DEF (EXH 46). OPC asserts that the witnesses' answers to these questions demonstrate (1) that there is a difference or can be a difference in a prospective determination of whether managerial and operational actions are prudent and a retrospective finding of whether money was spent prudently (OPC BR 8-9); (2) that the Commission made no prospective findings of prudence for individual projects or programs prior to implementation of the SPPs (OPC BR 7, 9); and (3) that the Commission in its review of cost recovery made no prudence findings regarding the SPP projects and programs (OPC BR 7, 9-12). As noted by OPC, the witnesses' substantive answers to these questions were qualified by each utility objecting on the grounds that the questions were irrelevant and called for legal conclusions. (OPC BR 7-12)

OPC takes no position on the 2023 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 2. (OPC BR 13).

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS joins OPC in facilitating a Type 2 stipulation. (PCS BR 2)

NUCOR

Nucor supports a Type 2 stipulation. (Nucor BR 1)

ANALYSIS

This issue addresses the reasonableness of FPL's 2023 actions, estimated costs, and the resultant final true-up amount that FPL will use in calculating its 2024 SPPCRC factor. Staff notes that the resolution of this issue will impact Issues 4-9.

OPC raises the same argument with respect to FPL in Issue 2 as it did for TECO. As discussed above, staff believes that OPC's arguments should be rejected for the same reasons they were rejected by the Prehearing Officer.

As noted above, OPC takes no position on 2023 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 2. (*See also* OPC BR 13). No party opposes the Type 2 stipulations. Thus, if the Commission concurs with staff's recommendation that OPC's overarching legal argument should be rejected, the only remaining question is whether to approve the Type 2 stipulations. Staff believes the record supports Commission approval of the Type 2 stipulation as set forth below.

FPL argues that its actual/estimated true-up of its 2023 SPP projects and associated costs is consistent with the projected 2023 SPP costs approved in Docket No. 20220010-EI and its 2023-2032 SPP approved in Docket No. 20220051-EI. FPL asserts that no parties challenged or made any recommended adjustments to any of the 2023 SPP projects, costs, or revenue requirements included in FPL's 2023 SPPCRC actual/estimated true-up, and as a result, the Commission should approve FPL's undisputed actual/estimated true-up under-recovery amount of \$14,860,970, including interest, for the period of January 2023 through December 2023. (FPL BR 2)

In support of FPL's 2023 recovery amount, FPL witness Jarro described the company's 2023 SPP activities, explained variances between projected and actual costs incurred in 2023, and explained variances between the level of activity projected for 2023 in the company's approved 2023-2032 SPP and the company's actual accomplishments. (TR 150-155; EXH 10) Staff asked clarifying questions regarding the 2023 variances through discovery and FPL provided answers. (EXH 39) Staff reviewed FPL's responses and found them supported and adequate. Witness Jarro also opined that FPL appropriately and reasonably managed the SPP projects. (TR 155)

FPL witness Hume provided additional support for the reported costs and methods used to determine the 2023 true-up recovery amounts. (TR 164-169; EXH 13) Witness Hume provided a calculation of the estimated 2023 reasonably incurred costs and determined it was \$1,307,293,308. (EXH 3) Witness Hume also explained that the updated estimate of 2023 project costs were compared to the prior estimate of 2023 project costs to determine the jurisdictional cost recovery true-up under-recovery amount of \$14,860,970 for the period January 2023 through December 2023, including interest. (TR 164-169; EXH 13)

Staff found no evidence that the requested costs to be recovered for year 2023 did not align with FPL's approved 2023-2032 Storm Protection Plan filed in Docket No. 20220051-EI.

CONCLUSION

Staff recommends the Commission reject OPC's legal argument for the reasons set forth above, approve the Type 2 stipulation, and approve \$1,307,293,308 as FPL's reasonably estimated 2023 costs and an under-recovery amount of \$14,860,970 as FPL's jurisdictional cost recovery true-up amount, including interest, for the period January 2023 through December 2023.

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?

Recommendation:

TECO

Staff recommends the Commission approve \$212,589,753 as TECO's reasonably projected 2024 costs and a jurisdictional revenue requirement of \$90,584,791 for the period January 2024 through December 2024. (Eichler)

DEF

Staff recommends the Commission approve \$783,792,564 as DEF's reasonably projected 2024 costs and a jurisdictional revenue requirement of \$201,370,792 for the period January 2024 through December 2024. (Eichler)

FPUC

Staff recommends the Commission approve \$13,620,916 as FPUC's reasonably projected 2024 costs and a jurisdictional revenue requirement of \$2,448,891 for the period January 2024 through December 2024. (Eichler)

FPL

Staff recommends the Commission approve \$1,389,706,289 as FPL's reasonably projected 2024 costs and a jurisdictional revenue requirement of \$513,855,741 for the period January 2024 through December 2024. (Eichler)

TECO

Position of the Parties

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.

OPC

The Commission failed to make a finding that the SPP and the programs and projects contained therein are prudent to undertake and seek recovery pursuant to Section 366.06(1), Florida Statutes. Therefore, no amounts for the Utilities' 2024 costs have yet been determined to be "prudent." However, OPC has taken no position on these costs, which allowed the Commission to approve Type 2 stipulations on the *factors only*.

FIPUG

The Commission should approve less than the Utilities' reasonably projected 2024 costs and projected jurisdictional revenue requirement amount for the Storm Protection Plan Cost Recovery Clause. Agree with OPC regarding the factors for all utilities.

PCS

Agree with OPC.

NUCOR

Nucor takes no position.

PARTIES' ARGUMENTS

TECO

TECO asserts that the uncontested, competent, substantial evidence supports a Commission finding that its 2024 projected costs have been reasonably estimated. (TECO BR 6-7) TECO continues that OPC's prospective prudence argument is irrelevant to this docket because (1) it is beyond the scope of this proceeding to re-examine the SPPs that the Commission approved last year in a separate docket, (2) the prudence of the utility's 2022 costs is squarely addressed in Issue 1, and (3) the standards in Section 366.06(1), F.S., do not apply in a proceeding under Section 366.96(7), F.S. (TECO BR 11-13)

OPC

OPC raises in Issue 3 (2024 reasonably projected costs) the same prospective prudence argument it made in Issue 2 regarding 2023 reasonably projected costs. (OPC BR 13) As it did in Issue 2, OPC relies upon Hearing Exhibits 43-46, which are the written cross examination questions proffered by OPC and answered separately by each utility. (OPC BR 14-16) OPC asserts that the witnesses' answers to these questions demonstrate (1) that the SPP programs and projects on which 2024 costs are based have not been subject to a prospective prudence review (OPC BR 14-15) and (2) the 2024 costs will be subject to a retrospective prudence review in 2025 after they have been incurred (OPC BR 16). As noted by OPC, the witnesses' substantive answers to these questions were qualified by each utility objecting on the grounds that the questions were irrelevant and called for legal conclusions. (OPC BR 7-12)

OPC takes no position on the 2024 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 3. (OPC BR 17)

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS joins OPC in facilitating a Type 2 stipulation. (PCS BR 2)

NUCOR

Nucor supports a Type 2 stipulation. (Nucor BR 1)

ANALYSIS

This issue addresses the reasonableness of TECO's 2024 projected activities and costs, and the resultant final true-up amount that TECO will use in calculating its 2024 SPPCRC factor. Staff notes that the resolution of this issue will impact Issues 4-9.

As discussed above, OPC takes no position on the 2024 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 3. (OPC BR 17) No party opposes the Type 2 stipulations. Thus, if the Commission concurs with staff's recommendation above that OPC's overarching legal argument should be rejected, the only remaining question is whether to accept the Type 2 Stipulations. Staff believes the record supports Commission approval of the Type 2 stipulation as set forth below.

TECO argues that no party to this docket challenged the reasonableness of its projected costs for 2024 and as a result, the uncontested, competent, substantial evidence in the record proves that TECO's projection of its 2024 SPP costs is reasonable. (TECO BR 6-7)

In support of TECO's 2024 recovery amount, TECO witness Sweat described the company's projected 2024 SPP projects and activities. (TR 74-109; EXH 5) TECO witness Roche provided additional support for the reported costs and methods used to determine the 2024 recovery amounts. (TR 19-52; EXH 3) Witness Roche provided a calculation of the projected 2024 costs and determined it to be \$212,589,753. (EXH 3) Witness Roche also determined the projected jurisdictional revenue requirement to be \$90,584,791 for the period January 2024 through December 2024. (TR 19-52, EXH 3)

On July 21, 2023, TECO filed revised testimony from witness Roche regarding its proposed 2024 cost recovery factors. This revision incorporated a change to TECO's revenue expansion factor based on informal discussions with staff, and updated TECO's proposed 2024 billing determinants based on its 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. Staff reviewed all subsequent filings with the same methodology and rigor used to review the original filings.

Staff found no evidence that the requested costs to be recovered for year 2024 did not align with TECO's approved 2022 Storm Protection Plan filed in Docket No. 20220048-EI.

CONCLUSION

Staff recommends the Commission approve the Type 2 stipulation and approve \$212,589,753 as TECO's reasonably projected 2024 costs and a jurisdictional revenue requirement of \$90,584,791 for the period January 2024 through December 2024.

DEF

Position of the Parties

DEF

The Commission should approve as reasonable DEF's projected 2024 SPP investments of \$783,792,564 (System). This amount results in a projected jurisdictional revenue requirement of \$201,370,792.

OPC

The Commission failed to make a finding that the SPP and the programs and projects contained therein are prudent to undertake and seek recovery pursuant to Section 366.06(1), Florida Statutes. Therefore, no amounts for the Utilities' 2024 costs have yet been determined to be "prudent." However, OPC has taken no position on these costs, which allowed the Commission to approve Type 2 stipulations on the *factors only*.

FIPUG

The Commission should approve less than the Utilities' reasonably projected 2024 costs and projected jurisdictional revenue requirement amount for the Storm Protection Plan Cost Recovery Clause. Agree with OPC regarding the factors for all utilities.

PCS

Agree with OPC.

NUCOR

Agree with OPC.

PARTIES' ARGUMENTS

DEF

DEF argues that its 2024 SPP costs are reasonable estimates to implement its approved SPP. (DEF BR 4) DEF further argues that no party presented specific evidence regarding alleged unreasonableness of any particular expenditure, and that the only record evidence supports a finding that the 2024 cost estimates are reasonable. (DEF BR 5) DEF states that OPC's legal argument is an impermissible collateral attack on the Commission's prior order approving the DEF SPP and is also contrary to Rule 25-6.031(3), F.A.C., and Section 366.96(5), F.S., both of which prescribe a scope of review that does not include the prudence test argued by OPC. (DEF BR 3)

OPC

OPC raises in Issue 3 (2024 reasonably projected costs) the same prospective prudence argument it made in Issue 2 regarding 2023 reasonably projected costs. (OPC BR 13) As it did in Issue 2, OPC relies upon Hearing Exhibits 43-46, which are the written cross examination questions proffered by OPC and answered separately by each utility. (OPC BR 14-16) OPC asserts that the witnesses' answers to these questions demonstrate (1) that the SPP programs and projects on which 2024 costs are based have not been subject to a prospective prudence review (OPC BR 14-15) and (2) the 2024 costs will be subject to a retrospective prudence review in 2025 after they have been incurred (OPC BR 16). As noted by OPC, the witnesses' substantive answers to these questions were qualified by each utility objecting on the grounds that the questions were irrelevant and called for legal conclusions. (OPC BR 7-12)

OPC takes no position on the 2024 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 3. (OPC BR 17)

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS joins OPC in facilitating a Type 2 stipulation. (PCS BR 2)

NUCOR

Nucor supports a Type 2 stipulation. (Nucor BR 1)

ANALYSIS

This issue addresses the reasonableness of DEF's 2024 projected activities and costs, and the resultant final true-up amount that DEF will use in calculating its 2024 SPPCRC factor. Staff notes that the resolution of this issue will impact Issues 4-9.

As discussed above, OPC takes no position on the 2024 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 3. (OPC BR 17) No party opposes the Type 2 stipulations. Thus, if the Commission concurs with staff's recommendation above that OPC's overarching legal argument should be rejected, the only remaining question is whether to accept the Type 2 Stipulations. Staff believes the record supports Commission approval of the Type 2 stipulation as set forth below.

DEF asserts that its 2024 SPP investments are reasonable costs associated with implementing the approved 2023-2032 SPP. DEF argues that no party challenged the reasonableness of any specific 2024 expenditure, the decision to move forward with any specific project, the reasonableness of the management of any specific project, or the reasonableness of any specific project's cost. As a result, DEF believes the Commission should approve a projected recovery amount of \$201,370,792 for the period of January 2024 through December 2024. (DEF BR 4-6)

In support of DEF's 2024 projected recovery amount, DEF witness Lloyd described the company's 2024 SPP distribution-related activities. (TR 192-201; EXH 18) DEF witness Brong described the company's 2023 SPP transmission-related activities. (TR 207-215; EXH 18) DEF witness Menendez provided additional support for the reported costs and methods used to determine the 2024 recovery amounts. (TR 178-184; EXH 18) Witness Menendez provided a calculation of the estimated 2023 reasonably incurred costs and determined it to be \$783,792,564. (EXH 18) Witness Menendez also determined the jurisdictional revenue requirement amount to be \$17,788,390 for the period January 2024 through December 2024. (TR 178-184; EXH 18)

Staff found no evidence that the requested costs to be recovered for year 2024 did not align with DEF's approved 2023-2032 Storm Protection Plan filed in Docket No. 20220050-EI.

CONCLUSION

Staff recommends the Commission approve the Type 2 stipulation and approve \$783,792,564 as DEF's reasonably projected 2024 costs and a jurisdictional revenue requirement of \$201,370,792 for the period January 2024 through December 2024.

FPUC

Position of the Parties

FPUC

FPUC projects total expenditures of \$13,620,916, with a revenue requirement of \$2,448,891 which is net of \$975,504 already recovered through base rates. (Cutshaw, Bennett)

OPC

The Commission failed to make a finding that the SPP and the programs and projects contained therein are prudent to undertake and seek recovery pursuant to Section 366.06(1), Florida Statutes. Therefore, no amounts for the Utilities' 2024 costs have yet been determined to be "prudent." However, OPC has taken no position on these costs, which allowed the Commission to approve Type 2 stipulations on the *factors only*.

FIPUG

The Commission should approve less than the Utilities' reasonably projected 2024 costs and projected jurisdictional revenue requirement amount for the Storm Protection Plan Cost Recovery Clause. Agree with OPC regarding the factors for all utilities.

PCS

Agree with OPC.

NUCOR

Nucor takes no position.

PARTIES' ARGUMENTS

FPUC

FPUC asserts that the facilitated Type 2 stipulation should be approved. (FPUC BR 1, 4) FPUC argues that OPC's position on Issue 3 is an expansion of the same argument made in last year's SPPCRC docket¹⁸ and that it should be rejected for the same reasons the Commission relied upon in the Final Order in that earlier docket.¹⁹ (FPUC BR 6 – 9)

¹⁸ Docket No. 20220010-EI.

¹⁹ Order No. PSC-2022-0418-FOF-EI.

OPC

OPC raises in Issue 3 (2024 reasonably projected costs) the same prospective prudence argument it made in Issue 2 regarding 2023 reasonably projected costs. (OPC BR 13) As it did in Issue 2, OPC relies upon Hearing Exhibits 43-46, which are the written cross examination questions proffered by OPC and answered separately by each utility. (OPC BR 14-16) OPC asserts that the witnesses' answers to these questions demonstrate (1) that the SPP programs and projects on which 2024 costs are based have not been subject to a prospective prudence review (OPC BR 14-15) and (2) the 2024 costs will be subject to a retrospective prudence review in 2025 after they have been incurred (OPC BR 16). As noted by OPC, the witnesses' substantive answers to these questions were qualified by each utility objecting on the grounds that the questions were irrelevant and called for legal conclusions. (OPC BR 7-12)

OPC takes no position on the 2024 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 3. (OPC BR 17)

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS joins OPC in facilitating a Type 2 stipulation. (PCS BR 2)

NUCOR

Nucor supports a Type 2 stipulation. (Nucor BR 1)

ANALYSIS

This issue addresses the reasonableness of FPUC's 2024 projected activities and costs, and the resultant final true-up amount that FPUC will use in calculating its 2024 SPPCRC factor. Staff notes that the resolution of this issue will impact Issues 4-9.

As discussed above, OPC takes no position on the 2024 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 3. (OPC BR 17) No party opposes the Type 2 stipulations. Thus, if the Commission concurs with staff's recommendation above that OPC's overarching legal argument should be rejected, the only remaining question is whether to accept the Type 2 Stipulations. Staff believes the record supports Commission approval of the Type 2 stipulation as set forth below.

FPUC asserts that its proposed factors have been developed through projections and calculations made in accordance with Rule 25-6.031, F.A.C., and that the factors are based reasonable estimates of costs to be incurred in 2024. FPUC argues that OPC's argument regarding the review of FPUC's SPP is misplaced and erroneous and that the Commission properly conducted its review of FPUC's SPP in accordance with Section 366.96, F.S., and Rule 25-6.030, F.A.C. (FPUC BR 3, 7-8)

In support of FPUC's 2024 recovery amount, FPUC witness Cutshaw described the company's projected 2024 SPP projects and activities. (TR 132-140) FPUC witness Bennett provided additional support for the reported costs and methods used to determine the 2024 recovery

amounts. (TR 117-125; EXH 7) Witness Roche provided a calculation of the projected 2024 costs and determined it to be \$13,620,916. (EXH 7) Witness Bennett also determined the projected jurisdictional revenue requirement to be \$2,448,891 for the period January 2024 through December 2024. (TR 117-125; EXH 7)

Staff found no evidence that the requested costs to be recovered for year 2024 did not align with FPUC's approved Storm Protection Plan filed in Docket No. 20220049-EI.

CONCLUSION

Staff recommends the Commission approve the Type 2 stipulation and approve \$13,620,916 as FPUC's reasonably projected 2024 costs and a jurisdictional revenue requirement of \$2,448,891 for the period January 2024 through December 2024.

FPL

Position of the Parties

FPL

FPL's total SPPCRC cost projected for 2024 is \$1,389,706,289. FPL's projected SPPCRC jurisdictional revenue requirement for the period January 2024 through December 2024 is \$513,855,741.

OPC

The Commission failed to make a finding that the SPP and the programs and projects contained therein are prudent to undertake and seek recovery pursuant to Section 366.06(1), Florida Statutes. Therefore, no amounts for the Utilities' 2024 costs have yet been determined to be "prudent." However, OPC has taken no position on these costs, which allowed the Commission to approve Type 2 stipulations on the *factors only*.

FIPUG

The Commission should approve less than the Utilities' reasonably projected 2024 costs and projected jurisdictional revenue requirement amount for the Storm Protection Plan Cost Recovery Clause. Agree with OPC regarding the factors for all utilities.

PCS

Agree with OPC.

NUCOR

Nucor supports a Type 2 stipulation.

PARTIES' ARGUMENTS

FPL

FPL argues that no party contested the reasonableness of its projected 2024 projects or estimated costs, and that the facilitated Type 2 stipulation should be approved. (FPL BR 6) FPL continues that OPC's prudence arguments are beyond the scope of this proceeding, have been fully considered and rejected by the Commission in a prior order, and are now the subject of an appeal

before the Florida Supreme Court. (FPL BR 10 – 14) Finally, FPL argues that the specific review standards set forth in 366.96(7), F.S., govern this proceeding, and OPC’s argument that the prudence standard in 366.06(1), F.S., should apply ignores and contradicts the more specific legislative enactment on this subject. (FPL BR 14 – 16)

OPC

OPC raises in Issue 3 (2024 reasonably projected costs) the same prospective prudence argument it made in Issue 2 regarding 2023 reasonably projected costs. (OPC BR 13) As it did in Issue 2, OPC relies upon Hearing Exhibits 43-46, which are the written cross examination questions proffered by OPC and answered separately by each utility. (OPC BR 14-16) OPC asserts that the witnesses’ answers to these questions demonstrate (1) that the SPP programs and projects on which 2024 costs are based have not been subject to a prospective prudence review (OPC BR 14-15) and (2) the 2024 costs will be subject to a retrospective prudence review in 2025 after they have been incurred (OPC BR 16). As noted by OPC, the witnesses’ substantive answers to these questions were qualified by each utility objecting on the grounds that the questions were irrelevant and called for legal conclusions. (OPC BR 7-12)

OPC takes no position on the 2024 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 3. (OPC BR 17).

FIPUG

FIPUG adopted OPC’s post-hearing brief. (FIPUG BR 1)

PCS

PCS joins OPC in facilitating a Type 2 stipulation. (PCS BR 2)

NUCOR

Nucor supports a Type 2 stipulation. (Nucor BR 1)

ANALYSIS

This issue addresses the reasonableness of FPL’s 2024 projected activities and costs, and the resultant final true-up amount that FPL will use in calculating its 2024 SPPCRC factor. Staff notes that the resolution of this issue will impact Issues 4-9.

As discussed above, OPC takes no position on the 2024 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 3. (OPC BR 17) No party opposes the Type 2 stipulations. Thus, if the Commission concurs with staff’s recommendation that OPC’s overarching legal argument should be rejected, the only remaining question is whether to accept the Type 2 Stipulations. Staff believes the record supports Commission approval of the Type 2 stipulation as set forth below.

FPL argues that its 2024 SPPCRC factors and associated SPP projects and costs are consistent with the 2023-2032 SPP approved in Docket No. 20220051-EI. FPL asserts that no parties challenged or made any recommended adjustments to any of the 2024 SPP projects, associated costs, or revenue requirements included in FPL’s 2024 projection, and as a result, the

Commission should approve FPL's undisputed projected recovery amount of \$513,855,741 for the period of January 2024 through December 2024. (FPL BR 2)

In support of FPL's 2024 recovery amount, FPL witness Jarro described the company's projected 2024 SPP projects and activities. (TR 155-157; EXH 11) FPL witness Hume provided additional support for the reported costs and methods used to determine the 2024 recovery amounts. (TR 169-171; EXH 14) Witness Hume provided a calculation of the projected 2024 costs and determined it to be \$1,389,706,289. (EXH 14) Witness Hume also determined the projected jurisdictional revenue requirement to be \$513,855,741 for the period January 2024 through December 2024. (TR 169-171, EXH 14)

Staff found no evidence that the requested costs to be recovered for year 2024 did not align with FPL's approved 2023-2032 Storm Protection Plan filed in Docket No. 20220051-EI.

CONCLUSION

Staff recommends the Commission approve the Type 2 stipulations and approve \$1,389,706,289 as FPL's reasonably projected 2024 costs and a jurisdictional revenue requirement of \$513,855,741 for the period January 2024 through December 2024.

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?

Recommendation:

TECO

Staff recommends the Commission approve \$92,428,593 as TECO's total jurisdictional cost recovery amount, including true-ups, to be used in establishing TECO's Storm Protection Plan Cost Recovery factor for the period January 2024 through December 2024. (Eichler)

DEF

Staff recommends the Commission approve \$172,866,409 as DEF's total jurisdictional cost recovery amount, including true-ups, to be used in establishing DEF's Storm Protection Plan Cost Recovery factor for the period January 2024 through December 2024. (Eichler)

FPUC

Staff recommends the Commission approve \$2,465,876 as FPUC's total jurisdictional cost recovery amount, including true-ups, to be used in establishing FPUC's Storm Protection Plan Cost Recovery factor for the period January 2024 through December 2024. (Eichler)

FPL

Staff recommends the Commission approve \$533,887,956 as FPL's total jurisdictional cost recovery amount, including true-ups, to be used in establishing FPL's Storm Protection Plan Cost Recovery factor for the period January 2024 through December 2024. (Eichler)

TECO

Position of the Parties

TECO

The Storm Protection Plan Cost Recovery Clause total jurisdictional cost recovery amount, 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.

OPC

The Commission failed to make a finding that the SPPs and the programs and projects contained therein are prudent to undertake and seek recovery pursuant to Section 366.06(1), Florida Statutes. Therefore, the Commission cannot yet lawfully establish the 2024 cost recovery factors. However, OPC has taken no position on these costs, which allowed the Commission to approve Type 2 stipulations on the *factors only*.

FIPUG

The Storm Protection Plan Cost Recovery Clause total jurisdictional revenue requirements requested by the Utilities, including true-ups, to be included in the Storm Protection Plan Cost Recovery factors for 2024, should be less than as requested. Agree with OPC regarding the factors for all utilities.

PCS

Agree with OPC.

NUCOR

Nucor takes no position.

PARTIES' ARGUMENTS

TECO

TECO asserts that the uncontested, competent, substantial evidence supports a Commission finding that its total jurisdictional cost recovery amount for 2024 has been reasonably estimated. (TECO BR 6-7) TECO continues that OPC's "prospective" prudence argument is irrelevant to this docket because (1) it is beyond the scope of this proceeding to re-examine the SPPs that the Commission approved last year in a separate docket, (2) the prudence of the utility's 2022 costs is squarely addressed in Issue 1, and (3) the standards in Section 366.06(1), F.S., do not apply in a proceeding under Section 366.96(7), F.S. (TECO BR 11-13).

OPC

OPC incorporates its arguments for Issues 2 and 3 as its argument under Issue 4, and on those grounds asserts that the Commission cannot lawfully establish the 2024 cost recovery factors. (OPC BR 17) OPC takes no position on the 2024 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 4. (OPC BR 17)

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS joins OPC in facilitating a Type 2 stipulation. (PCS BR 2)

NUCOR

Nucor supports a Type 2 stipulation. (Nucor BR 1)

ANALYSIS

This is a fall-out issue addressing the amount the Commission should approve to establish TECO's net SPPCRC recovery amount to be collected through its 2024 SPPCRC factor. No new arguments or concerns are addressed in this issue. The total jurisdictional amount is the sum of the recovery amounts decided in Issues 1, 2, and 3. As addressed in prior issues, staff believes no evidence of unreasonableness or imprudence was presented and thus no adjustments to TECO's requested recovery amounts are necessary. Consistent with staff's analysis in all prior issues, TECO's total jurisdictional recovery amount is \$92,428,593.

As noted above, OPC takes no position on the 2024 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 4. (OPC BR 17) No party opposes the Type 2 stipulations. Thus, if the Commission concurs with staff's recommendation that OPC's overarching legal argument should be rejected, the only remaining

question is whether to accept the Type 2 stipulations. Staff believes the record supports Commission approval of the Type 2 stipulation as set forth below.

TECO argues that no party to this docket challenged its total jurisdictional cost recovery amount for 2024, and as a result the uncontested competent substantial evidence in the record proves that TECO's total jurisdictional cost recovery amount for 2024 should be approved as filed. (TECO BR 7)

In summary, staff found no evidence of unreasonableness or imprudence in its review of TECO's 2023 SPPCRC filings and believes no evidence of unreasonableness or imprudence was presented by the parties. Thus, no adjustments to TECO's requested recovery amounts are necessary. Consistent with staff's analysis in Issue 1-3, a total jurisdictional recovery amount of \$92,428,593 should be used in establishing TECO's 2024 SPPCRC factor.

CONCLUSION

Staff recommends the Commission approve the Type 2 stipulation and approve \$92,428,593 as TECO's total jurisdictional cost recovery amount, including true-ups, to be used in establishing TECO's Storm Protection Plan Cost Recovery factor for the period January 2024 through December 2024.

DEF

Position of the Parties

DEF

\$172,866,409.

OPC

The Commission failed to make a finding that the SPPs and the programs and projects contained therein are prudent to undertake and seek recovery pursuant to Section 366.06(1), Florida Statutes. Therefore, the Commission cannot yet lawfully establish the 2024 cost recovery factors. However, OPC has taken no position on these costs, which allowed the Commission to approve Type 2 stipulations on the *factors only*.

FIPUG

The Storm Protection Plan Cost Recovery Clause total jurisdictional revenue requirements requested by the Utilities, including true-ups, to be included in the Storm Protection Plan Cost Recovery factors for 2024, should be less than as requested. Agree with OPC regarding the factors for all utilities.

PCS

Agree with OPC.

NUCOR

Regarding DEF, agree with OPC.

PARTIES' ARGUMENTS

DEF

DEF asserts that this jurisdictional revenue requirement is a fall-out issue from Issues 1-3, and incorporates the arguments in those issues as its argument in Issue 4. (DEF BR 6) DEF states that no party has challenged any specific input used for the revenue requirement, and that the overwhelming evidence supports its total request. (DEF BR 6)

OPC

OPC incorporates its arguments for Issues 2 and 3 as its argument under Issue 4, and on those grounds asserts that the Commission cannot lawfully establish the 2024 cost recovery factors. (OPC BR 17) OPC takes no position on the 2024 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 4. (OPC BR 17)

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS joins OPC in facilitating a Type 2 stipulation. (PCS BR 2)

NUCOR

Nucor supports a Type 2 stipulation. (Nucor BR 1)

ANALYSIS

This is a fall-out issue addressing the amount the Commission should approve to establish DEF's net SPPCRC recovery amount to be collected through its 2024 SPPCRC factor. No new arguments or concerns are addressed in this issue. The total jurisdictional amount is the sum of the recovery amounts decided in Issues 1, 2, and 3. As addressed in prior issues, staff believes no evidence of unreasonableness or imprudence was presented and thus no adjustments to DEF's requested recovery amounts are necessary. Consistent with staff's analysis in all prior issues, DEF's total jurisdictional recovery amount is \$172,866,409.

As noted above, OPC takes no position on the 2024 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 4. (OPC BR 17) No party opposes the Type 2 stipulations. Thus, if the Commission concurs with staff's recommendation that OPC's overarching legal argument should be rejected, the only remaining question is whether to accept the Type 2 stipulations. Staff believes the record supports Commission approval of the Type 2 stipulation as set forth below.

DEF asserts that the arguments presented regarding issues 1-3 should be incorporated into issue 4 and that since no party has challenged any specific aspect of the inputs or calculation of this total, the Commission should approve a total jurisdictional revenue requirement of \$172,866,409. (DEF BR 6-7)

In summary, staff found no evidence of unreasonableness or imprudence in its review of DEF's 2023 SPPCRC filings and believes no evidence of unreasonableness or imprudence was

presented by the parties. Thus, no adjustments to DEF's requested recovery amounts are necessary. Consistent with staff's analysis in Issue 1-3, a total jurisdictional recovery amount of \$172,866,409 should be used in establishing DEF's 2024 SPPCRC factor.

CONCLUSION

Staff recommends the Commission approve the Type 2 stipulations and approve \$172,866,409 as DEF's total jurisdictional cost recovery amount, including true-ups, to be used in establishing DEF's Storm Protection Plan Cost Recovery factor for the period January 2024 through December 2024.

FPUC

Position of the Parties

FPUC

The total amount upon which FPUC's proposed factors are calculated is \$2,464,102, which when adjusted for taxes is \$2,465,876.

OPC

The Commission failed to make a finding that the SPPs and the programs and projects contained therein are prudent to undertake and seek recovery pursuant to Section 366.06(1), Florida Statutes. Therefore, the Commission cannot yet lawfully establish the 2024 cost recovery factors. However, OPC has taken no position on these costs, which allowed the Commission to approve Type 2 stipulations on the *factors only*.

FIPUG

The Storm Protection Plan Cost Recovery Clause total jurisdictional revenue requirements requested by the Utilities, including true-ups, to be included in the Storm Protection Plan Cost Recovery factors for 2024, should be less than as requested. Agree with OPC regarding the factors for all utilities.

PCS

Agree with OPC.

NUCOR

Nucor takes no position.

PARTIES' ARGUMENTS

FPUC

FPUC asserts that the facilitated Type 2 stipulation should be approved. (FPUC BR 1, 3) FPUC argues that OPC's position on Issue 4 is an expansion of the same argument made in last year's

SPPCRC docket²⁰ and that it should be rejected for the same reasons the Commission relied upon in the Final Order in that earlier docket.²¹ (FPUC BR 6 – 9)

OPC

OPC incorporates its arguments for Issues 2 and 3 as its argument under Issue 4, and on those grounds asserts that the Commission cannot lawfully establish the 2024 cost recovery factors. (OPC BR 17) OPC takes no position on the 2024 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 4. (OPC BR 17)

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS joins OPC in facilitating a Type 2 stipulation. (PCS BR 2)

NUCOR

Nucor supports a Type 2 stipulation. (Nucor BR 1)

ANALYSIS

This is a fall-out issue addressing the amount the Commission should approve to establish FPUC's net SPPCRC recovery amount to be collected through its 2024 SPPCRC factor. No new arguments or concerns are addressed in this issue. The total jurisdictional amount is the sum of the recovery amounts decided in Issues 1, 2, and 3. As addressed in prior issues, staff believes no evidence of unreasonableness or imprudence was presented and thus no adjustments to FPUC's requested recovery amounts are necessary. Consistent with staff's analysis in all prior issues, FPUC's total jurisdictional recovery amount is \$2,465,876.

As noted above, OPC takes no position on the 2024 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 4. (OPC BR 17) No party opposes the Type 2 stipulations. Thus, if the Commission concurs with staff's recommendation that OPC's overarching legal argument should be rejected, the only remaining question is whether to accept the Type 2 stipulations. Staff believes the record supports Commission approval of the Type 2 stipulation as set forth below.

FPUC asserts that its proposed 20 have been developed through projections and calculations made in accordance with Rule 25-6.031, F.A.C., and that the factors are based on 2022 actual, prudently incurred costs associated with the implementation of those aspects of FPUC's approved SPP, as well as reasonable estimates of costs to be incurred in the remainder of 2023 and in 2024. FPUC argues that OPC's argument regarding the review of FPUC's SPP is misplaced and erroneous and that the Commission properly conducted its review of FPUC's SPP in accordance with Section 366.96, F.S., and Rule 25-6.030, F.A.C. (FPUC BR 3, 7-8)

²⁰ Docket No. 20220010-EI.

²¹ Order No. PSC-2022-0418-FOF-EI.

In summary, staff found no evidence of unreasonableness or imprudence in its review of FPUC's 2023 SPPCRC filings and believes no evidence of unreasonableness or imprudence was presented by the parties. Thus, no adjustments to FPUC's requested recovery amounts are necessary. Consistent with staff's analysis in Issue 1-3, a total jurisdictional recovery amount of \$2,465,876 should be used in establishing FPUC's 2024 SPPCRC factor.

CONCLUSION

Staff recommends the Commission approve the Type 2 Stipulation and approve \$2,465,876 as FPUC's total jurisdictional cost recovery amount, including true-ups, to be used in establishing FPUC's Storm Protection Plan Cost Recovery factor for the period January 2024 through December 2024.

FPL

Position of the Parties

FPL

The projected total SPPCRC jurisdictional revenue requirement for the period January 2024 through December 2024, including true-up amounts, is \$533,887,956. (FPL witnesses Jarro and Hume)

OPC

The Commission failed to make a finding that the SPPs and the programs and projects contained therein are prudent to undertake and seek recovery pursuant to Section 366.06(1), Florida Statutes. Therefore, the Commission cannot yet lawfully establish the 2024 cost recovery factors. However, OPC has taken no position on these costs, which allowed the Commission to approve Type 2 stipulations on the *factors only*.

FIPUG

The Storm Protection Plan Cost Recovery Clause total jurisdictional revenue requirements requested by the Utilities, including true-ups, to be included in the Storm Protection Plan Cost Recovery factors for 2024, should be less than as requested. Agree with OPC regarding the factors for all utilities.

PCS

Agree with OPC.

NUCOR

Nucor takes no position.

PARTIES' ARGUMENTS

FPL

FPL argues that no party contested the reasonableness or prudence of its projects or costs underlying the 2024 jurisdictional revenue requirements, and that the facilitated Type 2 stipulation should be approved. (FPL BR 5 - 6) FPL continues that OPC's prudence arguments

are beyond the scope of this proceeding, have been fully considered and rejected by the Commission in a prior order, and are now the subject of an appeal before the Florida Supreme Court. (FPL BR 10 – 14) Finally, FPL argues that the specific review standards set forth in 366.96(7), F.S., govern this proceeding, and OPC’s argument that the prudence standard in 366.06(1), F.S., should apply ignores and contradicts the more specific legislative enactment on this subject. (FPL BR 14 – 16)

OPC

OPC incorporates its arguments for Issues 2 and 3 as its argument under Issue 4, and on those grounds asserts that the Commission cannot lawfully establish the 2024 cost recovery factors. (OPC BR 17) OPC takes no position on the 2024 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 4. (OPC BR 17)

FIPUG

FIPUG adopted OPC’s post-hearing brief. (FIPUG BR 1)

PCS

PCS joins OPC in facilitating a Type 2 stipulation. (PCS BR 2)

NUCOR

Nucor supports a Type 2 stipulation. (Nucor BR 1)

ANALYSIS

This is a fall-out issue addressing the amount the Commission should approve to establish FPL’s net SPPCRC recovery amount to be collected through its 2024 SPPCRC factor. No new arguments or concerns are addressed in this issue. The total jurisdictional amount is the sum of the recovery amounts decided in Issues 1, 2, and 3. As addressed in prior issues, staff believes no evidence of unreasonableness or imprudence was presented and thus no adjustments to FPL’s requested recovery amounts are necessary. Consistent with staff’s analysis in all prior issues, FPL’s total jurisdictional recovery amount is \$533,887,956.

As noted above, OPC takes no position on the 2024 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 4. (OPC BR 17) No party opposes the Type 2 stipulations. Thus, if the Commission concurs with staff’s recommendation that OPC’s overarching legal argument should be rejected, the only remaining question is whether to accept the Type 2 stipulations. Staff believes the record supports Commission approval of the Type 2 stipulation as set forth below.

FPL argues that no parties presented any evidence of record to refute or otherwise contest the reasonableness or prudence of the projects or associated costs underlying the total 2024 SPPCRC jurisdictional revenue requirement, or the calculation of that revenue requirement. FPL asserts that its SPPCRC filings are reasonable and prudent, and that 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. (FPL BR 3, 6)

In summary, staff found no evidence of unreasonableness or imprudence in its review of FPL's 2023 SPPCRC filings and believes no evidence of unreasonableness or imprudence was presented by the parties. Thus, no adjustments to FPL's requested recovery amounts are necessary. Consistent with staff's analysis in Issue 1-3, a total jurisdictional recovery amount of \$533,887,956 should be used in establishing FPL's 2024 SPPCRC factor.

CONCLUSION

Staff recommends the Commission approve the Type 2 stipulation and approve \$533,887,956 as FPL's total jurisdictional cost recovery amount, including true-ups, to be used in establishing FPL's Storm Protection Plan Cost Recovery factor for the period January 2024 through December 2024.

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?

Recommendation: The appropriate depreciation rates that should be used to develop the depreciation expense included in the total Storm Protection Plan Cost Recovery Clause amounts for the period January 2024 through December 2024 are:

TECO

The depreciation rates approved by Order No. PSC-2021-0423-S-EI issued November 10, 2021, in Docket No. 20210034-EI. (Smith)

DEF

The depreciation rates approved by Order No. PSC-2021-0202A-AS-EI, issued June 28, 2021, in Docket No. 20210016-EI. (Smith)

FPUC

The depreciation rates approved by Order No. PSC-2020-0347-AS-EI, issued October 8, 2020, in Docket Nos. 20190155, 20190156, and 20190174-EI. (Smith)

FPL

The depreciation rates approved by Order No. PSC-2021-0446-S-EI, issued December 2, 2021, and PSC-2021-0446A-S-EI, issued December 9, 2021, in Docket No. 20210015-EI. (Smith)

TECO

Position of the Parties

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.

OPC

The last approved depreciation rates for the Companies should be used to calculate any depreciation expense related to SPPCRC recovery in 2024.

FIPUG

FIPUG adopts the position of OPC.

PCS

Agree with OPC.

NUCOR

Nucor takes no position.

PARTIES' ARGUMENTS

TECO

TECO argued that it developed the depreciation expense included in the 2024 SPP cost recovery amounts using the depreciation rates that were approved in Order No. PSC-2021-0423-S-EI. (TECO BR 8) TECO stated that the Consumer Parties agreed in their Prehearing statements that TECO should use the “last approved depreciation rates... to calculate any depreciation expense related to SPPCRC recovery in 2024.” (TECO BR 8) Therefore, TECO argued that this issue is uncontested. (TECO BR 8)

OPC

OPC argued that the depreciation expense recovered through the SPPCRC in 2024 should be calculated using the last approved depreciation rates for each Company. (OPC BR 17)

FIPUG

FIPUG adopted OPC’s post-hearing brief. (FIPUG BR 1)

PCS

PCS agreed with OPC and made no independent argument. (PCS BR 2)

NUCOR

Nucor made no argument on this issue.

ANALYSIS

This issue presents staff’s review and recommendation concerning the appropriate depreciation rates that should be used for developing TECO’s depreciation expense included in the total Storm Protection Plan Cost Recovery Clause amounts for the period January 2024 through December 2024.

Rule 25-6.031(6)(c), F.A.C., states that, “The utility may recover annual depreciation expense on capitalized Storm Protection Plan expenditures using the utility’s most recent Commission-approved rates.” No intervenor provided any testimony or evidence taking issue with or contradicting any of the Company’s positions, nor did they offer any alternative positions. Therefore, consistent with Rule 25-6.031(6)(c), F.A.C., staff recommends that the depreciation rates approved by Order No. PSC-2021-0423-S-EI, issued November 10, 2021, in Docket No. 20210034-EI should be used for developing any depreciation expense included in TECO’s total Storm Protection Plan Cost Recovery Clause amounts for the period January 2024 through December 2024. (TR 28-29)

CONCLUSION

The appropriate depreciation rates that should be used to develop TECO’s depreciation expense included in the total Storm Protection Plan Cost Recovery Clause amounts for the period January 2024 through December 2024 are its last-approved depreciation rates, as reflected in Order No. PSC-2021-0423-S-EI.

DEF

Position of the Parties

DEF

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

OPC

The last approved depreciation rates for the Companies should be used to calculate any depreciation expense related to SPPCRC recovery in 2024.

FIPUG

FIPUG adopts the position of OPC.

PCS

Agree with OPC.

NUCOR

Agree with OPC.

PARTIES' ARGUMENTS

DEF

DEF made no argument on this issue.

OPC

OPC argued that the depreciation expense recovered through the SPPCRC in 2024 should be calculated using the last approved depreciation rates for each Company. (OPC BR 17)

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS agreed with OPC and made no independent argument. (PCS BR 2)

NUCOR

Nucor made no argument on this issue.

ANALYSIS

This issue presents staff's review and recommendation concerning the appropriate depreciation rates that should be used for developing DEF's depreciation expense included in the total Storm Protection Plan Cost Recovery Clause amounts for the period January 2024 through December 2024.

Rule 25-6.031(6)(c), F.A.C., states that, "The utility may recover annual depreciation expense on capitalized Storm Protection Plan expenditures using the utility's most recent Commission-

approved rates.” No intervenor provided any testimony taking issue with or contradicting any of the company’s positions nor did they offer any alternative positions. Therefore, consistent with Rule 25-6.031(6)(c), F.A.C., staff recommends that the depreciation rates approved by Order No. PSC-2021-0202A-AS-EI, issued June 28, 2021, in Docket No. 20210016-EI should be used for developing DEF’s depreciation expense included in the total Storm Protection Plan Cost Recovery Clause amounts for the period January 2024 through December 2024. (EXH 1015)

CONCLUSION

The appropriate depreciation rates that should be used to develop DEF’s depreciation expense included in the total Storm Protection Plan Cost Recovery Clause amounts for the period January 2024 through December 2024 are the last-approved depreciation rates for that utility.

FPUC

Position of the Parties

FPUC

The appropriate depreciation rates are those approved as part of the Commission’s approval of the Settlement Agreement, Order No. PSC-2020-0347-AS-EI, issued October 8, 2020, in Docket Nos. 20190155, 20190156, and 20190174-EI.

OPC

The last approved depreciation rates for the Companies should be used to calculate any depreciation expense related to SPPCRC recovery in 2024.

FIPUG

FIPUG adopts the position of OPC.

PCS

Agree with OPC.

NUCOR

Nucor takes no position.

PARTIES’ ARGUMENTS

FPUC

FPUC made no argument on this issue.

OPC

OPC argued that the depreciation expense recovered through the SPPCRC in 2024 should be calculated using the last approved depreciation rates for each Company. (OPC BR 17)

FIPUG

FIPUG adopted OPC’s post-hearing brief. (FIPUG BR 1)

PCS

PCS agreed with OPC and made no independent argument. (PCS BR 2)

NUCOR

Nucor made no argument on this issue.

ANALYSIS

This issue presents staff's review and recommendation concerning the appropriate depreciation rates that should be used for developing FPUC's depreciation expense included in the total Storm Protection Plan Cost Recovery Clause amounts for the period January 2024 through December 2024.

Rule 25-6.031(6)(c), F.A.C., states that, "The utility may recover annual depreciation expense on capitalized Storm Protection Plan expenditures using the utility's most recent Commission-approved rates." No intervenor provided any testimony taking issue with or contradicting any of the Company's positions nor did they offer any alternative positions. Therefore, consistent with Rule 25-6.031(6)(c), F.A.C., staff recommends that the depreciation rates approved by Order No. PSC-2020-0347-AS-EI, issued October 8, 2020, in Docket Nos. 20190155, 20190156, and 20190174-EI should be used for developing FPUC's depreciation expense included in the total Storm Protection Plan Cost Recovery Clause amounts for the period January 2024 through December 2024. (TR 121)

CONCLUSION

The appropriate depreciation rates that should be used to develop FPUC's depreciation expense included in the total Storm Protection Plan Cost Recovery Clause amounts for the period January 2024 through December 2024 are the last-approved depreciation rates for that utility.

FPL

Position of the Parties

FPL

The depreciation rates used to calculate the depreciation expense should be the Commission-approved depreciation rates that are in effect during the period allowed capital investment is in service. For the period January 2024 through December 2024, FPL's depreciation rates are those approved by the Commission Order Nos. PSC-2021-0446-S-EI and PSC-2021-0446A-S-EI in Docket No. 20210015-EI. (FPL witness Humes)

OPC

The last approved depreciation rates for the Companies should be used to calculate any depreciation expense related to SPPCRC recovery in 2024.

FIPUG

FIPUG adopts the position of OPC.

PCS

Agree with OPC.

NUCOR

Nucor takes no position.

PARTIES' ARGUMENTS

FPL

FPL argued that the Intervenor agree with FPL's position on Issue No. 5. FPL references pages 14-15 of Prehearing Order No. PSC-2023-0281-PHO-EI. (FPL BR 7)

OPC

OPC argued that the depreciation expense recovered through the SPPCRC in 2024 should be calculated using the last approved depreciation rates for each Company. (OPC BR 17)

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS agreed with OPC and made no independent argument. (PCS BR 2)

NUCOR

Nucor made no argument on this issue.

ANALYSIS

This issue presents staff's review and recommendation concerning the appropriate depreciation rates that should be used for developing FPL's depreciation expense included in the total Storm Protection Plan Cost Recovery Clause amounts for the period January 2024 through December 2024.

Rule 25-6.031(6)(c), F.A.C., states that, "The utility may recover annual depreciation expense on capitalized Storm Protection Plan expenditures using the utility's most recent Commission-approved rates." No intervenor provided any testimony taking issue with or contradicting any of the Company's positions nor did they offer any alternative positions. Therefore, consistent with Rule 25-6.031(6)(c), F.A.C., staff recommends that the depreciation rates approved by Order No. PSC-2021-0446-S-EI, issued December 2, 2021, and PSC-2021-0446A-S-EI, issued December 9, 2021, in Docket No. 20210015-EI should be used for developing FPL's depreciation expense included in the total Storm Protection Plan Cost Recovery Clause amounts for the period January 2024 through December 2024. (EXH 2088)

CONCLUSION

The appropriate depreciation rates that should be used to develop FPL's depreciation expense included in the total Storm Protection Plan Cost Recovery Clause amounts for the period January 2024 through December 2024 are the last approved depreciation rates for that utility.

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

Recommendation:

TECO

The jurisdictional separation factors as shown in TECO's position are appropriate. (Guffey, Hampson)

DEF

The jurisdictional separation factors as shown in DEF's position are appropriate. (Guffey, Hampson)

FPUC

The jurisdictional separation factors as shown in FPUC's position are appropriate. (Guffey, Hampson)

FPL

The jurisdictional separation factors as shown in FPL's position are appropriate. (Guffey, Hampson)

TECO

Position of the Parties

TECO

The appropriate jurisdictional separation factors are as follows:

FPSC Jurisdictional Factor: 93.3746%

FERC Jurisdictional Factor: 6.6254%

OPC

OPC takes no position.

FIPUG

FIPUG adopts the position of OPC.

PCS

Agree with OPC.

NUCOR

Nucor takes no position.

PARTIES' ARGUMENTS

TECO

The appropriate jurisdictional separation factors are as follows:

FPSC Jurisdictional Factor: 93.3746%

FERC Jurisdictional Factor: 6.6254%

TECO stated that the consumer parties took no position on this issue and accordingly this issue is uncontested. (TECO BR 8)

OPC

OPC made no argument on this issue. (OPC BR 18)

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS agreed with OPC and made no independent argument. (PCS BR 2)

NUCOR

Nucor made no argument on this issue. (Nucor BR 2)

ANALYSIS

This issue addresses the appropriate jurisdictional separation factors for each utility. The jurisdictional separation factors as shown in TECO's position are appropriate and supported in the record. (TR 42-43)

CONCLUSION

The jurisdictional separation factors as shown in TECO's position are appropriate and supported in the record.

DEF

Position of the Parties

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

OPC

OPC takes no position.

FIPUG

FIPUG adopts the position of OPC.

PCS

Agree with OPC.

NUCOR

Agree with OPC.

PARTIES' ARGUMENTS

DEF

The proper separation factors for use in this docket are the separation factors approved in Order No. PSC-2021-0202A-AS-EI. OPC took no position on this issue and the remaining interveners adopted OPC's position as it relates to DEF. (DEF BR 7)

OPC

OPC made no argument on this issue. (OPC BR 18)

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS agreed with OPC and made no independent argument. (PCS BR 2)

NUCOR

Nucor agreed with OPC and made no independent argument. (Nucor BR 2)

ANALYSIS

This issue addresses the appropriate jurisdictional separation factors for each utility. The jurisdictional separation factors as shown in DEF's position are appropriate and based on Order No. PSC-2021-0202A-AS-EI. (EXH 18)

CONCLUSION

The jurisdictional separation factors as shown in DEF's position are appropriate and supported in the record.

FPUC

Position of the Parties

FPUC

There is no jurisdictional separation applicable to FPUC.

OPC

OPC takes no position.

FIPUG

FIPUG adopts the position of OPC.

PCS

Agree with OPC.

NUCOR

Nucor takes no position.

PARTIES' ARGUMENTS

FPUC

FPUC made no argument on this issue. (FPUC BR 5)

OPC

OPC made no argument on this issue. (OPC BR 18))

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS agreed with OPC and made no independent argument. (PCS BR 2)

NUCOR

Nucor made no argument on this issue. (Nucor BR 2)

ANALYSIS

This issue addresses the appropriate jurisdictional separation factors for each utility. There is no jurisdictional separation applicable to FPUC. (FPUC BR 5; EXH 7)

CONCLUSION

There is no jurisdictional separation applicable to FPUC.

FPL

Position of the Parties

FPL

As shown on page 1 of Exhibit RLH-4 (CEL EXH 15), FPL's retail jurisdictional separation factors for the period January 2024 through December 2021 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)

OPC

OPC takes no position.

FIPUG

FIPUG adopts the position of OPC.

PCS

Agree with OPC.

NUCOR

Nucor takes no position.

PARTIES' ARGUMENTS

FPL

FPL stated that the intervenors took no position on Issue 6. (FPL BR 7)

OPC

OPC made no argument on this issue. (OPC BR 18)

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS agreed with OPC and made no independent argument. (PCS BR 2)

NUCOR

Nucor made no argument on this issue. (Nucor BR 2)

ANALYSIS

This issue addresses the appropriate jurisdictional separation factors for each utility. The jurisdictional separation factors as shown in FPL's position are appropriate and supported in the record. (EXH 15)

CONCLUSION

The jurisdictional separation factors as shown in FPL's position are appropriate and supported in the record.

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

Recommendation:

The appropriate factors for TECO are as follows: (Guffey, Hampson)

Cost Recovery Factors

<u>Rate Schedule</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

Cost Recovery Factors

<u>Rate Schedule</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 appropriate factors for DEF are as follows: (Guffey, Hampson)

Customer Class

SPPCRC Factor

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

The appropriate factors for FPUC are as follows: (Guffey, Hampson)

Rate Schedule	SPP FACTORS PER KWH
Residential	\$0.00432
General Service	\$0.00498
General Service Demand	\$0.00273
General Service Large Demand	\$0.00174
Industrial/Standby	\$0.00293
Lighting Service	\$0.02652

The appropriate factors for FPL are as follows: (Guffey, Hampson)

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		

TECO

Position of the Parties

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:

Cost Recovery Factors

<u>Rate Schedule</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

Cost Recovery Factors

<u>Rate Schedule</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

OPC

The Commission failed to make a finding that the SPPs and the programs and projects contained therein are prudent to undertake and seek recovery pursuant to Section 366.06(1), Florida Statutes. Therefore, the Commission cannot yet lawfully establish the 2024 cost recovery factors. However, OPC has taken no position on these costs, which allowed the Commission to approve Type 2 stipulations on the *factors only*.

FIPUG

FIPUG adopts the position of OPC.

PCS

PCS did not address this issue in its post-hearing brief.

NUCOR

Nucor did not address this issue in its post-hearing brief.

PARTIES' ARGUMENTS

TECO

TECO asserts that the uncontested, competent, substantial evidence supports a Commission finding that its 2024 proposed cost recovery clause factors should be approved as filed. (TECO BR 9-10) TECO continues that OPC's "prospective" prudence argument is irrelevant to this docket because (1) it is beyond the scope of this proceeding to re-examine the SPPs that the Commission approved last year in a separate docket, (2) the prudence of the utility's 2022 costs is squarely addressed in Issue 1, and (3) the standards in Section 366.06(1), F.S., do not apply in a proceeding under Section 366.96(7), F.S. (TECO BR-13)

OPC

OPC incorporates its arguments for Issues 2 and 3 as its argument under Issue 7, and on those grounds asserts that the Commission cannot lawfully establish the 2024 cost recovery factors. (OPC BR 18) OPC takes no position on the 2024 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 7. (OPC BR 18)

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS joins OPC in facilitating a Type 2 stipulation. (PCS BR 2)

NUCOR

Nucor supports a Type 2 stipulation. (Nucor BR 1)

ANALYSIS

This issue addresses the appropriate SPPCRC factors for TECO, as determined in this proceeding. As noted above, OPC takes no position on the 2024 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 7. (OPC BR 18). No party opposes the Type 2 stipulations. Thus, if the Commission concurs with staff's recommendation that OPC's overarching legal argument should be rejected, the only remaining question is whether to accept the Type 2 Stipulations. Staff believes the record supports Commission approval of the Type 2 stipulation.

The appropriate Storm Protection Plan Cost Recovery Clause factors for 2024 for each rate class are those stated above in the recommendation. The Commission should approve the proposed 2024 SPPCRC factors as filed; the projects and costs included for recovery are consistent with the Commission-approved SPPs, and no party has challenged the expenditures as being either unreasonable or imprudent. (EXH 3)

CONCLUSION

The appropriate factors for TECO are as follows:

Cost Recovery Factors

<u>Rate Schedule</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

Cost Recovery Factors

<u>Rate Schedule</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

DEF

Position of the Parties

DEF

Customer Class	SPPCRC Factor
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
Curtaillable	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

OPC

The Commission failed to make a finding that the SPPs and the programs and projects contained therein are prudent to undertake and seek recovery pursuant to Section 366.06(1), Florida Statutes. Therefore, the Commission cannot yet lawfully establish the 2024 cost recovery factors. However, OPC has taken no position on these costs, which allowed the Commission to approve Type 2 stipulations on the *factors only*.

FIPUG

FIPUG adopts the position of OPC.

PCS

PCS did not address this issue in its post-hearing brief.

NUCOR

Nucor did not address this issue in its post-hearing brief.

PARTIES' ARGUMENTS

DEF

DEF believes Issue 7 is stipulated based on OPC taking no position on the factors and, to the extent it is not, incorporates its arguments in Issues 1-4 as its argument in Issue 7. (DEF BR 8-9)

OPC

OPC incorporates its arguments for Issues 2 and 3 as its argument under Issue 7, and on those grounds asserts that the Commission cannot lawfully establish the 2024 cost recovery factors. (OPC BR 18) OPC takes no position on the 2024 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 7. (OPC BR 8-9)

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS joins OPC in facilitating a Type 2 stipulation. (PCS BR 2)

NUCOR

Nucor supports a Type 2 stipulation. (Nucor BR 1)

ANALYSIS

This issue addresses the appropriate SPPCRC factors for DEF, as determined in this proceeding. As noted above, OPC takes no position on the 2024 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 7. (OPC BR 18) No party opposes the Type 2 stipulations. Thus, if the Commission concurs with staff's recommendation that OPC's overarching legal argument should be rejected, the only remaining question is whether to accept the Type 2 Stipulations. Staff believes the record supports Commission approval of the Type 2 stipulation. (EXH 18)

CONCLUSION

The appropriate factors for DEF are as follows:

Customer Class	SPPCRC Factor
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
Curtaillable	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

FPUC

Position of the Parties

FPUC:

Rate Schedule	SPP FACTORS PER KWH
Residential	\$0.00432
General Service	\$0.00498
General Service Demand	\$0.00273
General Service Large Demand	\$0.00174
Industrial/Standby	\$0.00293
Lighting Service	\$0.02652

OPC

The Commission failed to make a finding that the SPPs and the programs and projects contained therein are prudent to undertake and seek recovery pursuant to Section 366.06(1), Florida Statutes. Therefore, the Commission cannot yet lawfully establish the 2024 cost recovery factors. However, OPC has taken no position on these costs, which allowed the Commission to approve Type 2 stipulations on the *factors only*.

FIPUG

FIPUG adopts the position of OPC.

PCS

PCS did not address this issue in its post-hearing brief.

NUCOR

Nucor did not address this issue in its post-hearing brief.

PARTIES' ARGUMENTS

FPUC

FPUC asserts that the facilitated Type 2 stipulation should be approved. (FPUC BR 1, 5) FPUC argues that OPC's position on Issue 7 is an expansion of the same argument made in last year's SPPCRC docket²² and that it should be rejected for the same reasons the Commission relied upon in the Final Order in that earlier docket.²³ (FPUC BR 6 – 9)

OPC

OPC incorporates its arguments for Issues 2 and 3 as its argument under Issue 7, and on those grounds asserts that the Commission cannot lawfully establish the 2024 cost recovery factors. (OPC BR 18) OPC takes no position on the 2024 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 7.

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS joins OPC in facilitating a Type 2 stipulation. (PCS BR 2)

NUCOR

Nucor supports a Type 2 stipulation. (Nucor BR 1)

ANALYSIS

This issue addresses the appropriate SPPCRC factors for FPUC, as determined in this proceeding. As noted above, OPC takes no position on the 2024 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 7. (OPC BR 18) No party opposes the Type 2 stipulations. Thus, if the Commission concurs with staff's recommendation that OPC's overarching legal argument should be rejected, the only remaining question is whether to accept the Type 2 Stipulations. Staff believes the record supports Commission approval of the Type 2 stipulation. (EXH 7)

²² Docket No. 20220010-EI.

²³ Order No. PSC-2022-0418-FOF-EI.

CONCLUSION

The appropriate factors for FPUC are as follows:

Rate Schedule	SPP FACTORS PER KWH
Residential	\$0.00432
General Service	\$0.00498
General Service Demand	\$0.00273
General Service Large Demand	\$0.00174
Industrial/Standby	\$0.00293
Lighting Service	\$0.02652

FPL

Position of the Parties

FPL

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		

OPC

The Commission failed to make a finding that the SPPs and the programs and projects contained therein are prudent to undertake and seek recovery pursuant to Section 366.06(1), Florida Statutes. Therefore, the Commission cannot yet lawfully establish the 2024 cost recovery factors. However, OPC has taken no position on these costs, which allowed the Commission to approve Type 2 stipulations on the *factors only*.

FIPUG

FIPUG adopts the position of OPC.

PCS

PCS did not address this issue in its post-hearing brief.

NUCOR

Nucor did not address this issue in its post-hearing brief.

PARTIES' ARGUMENTS

FPL

FPL argues that no party contested the reasonableness or prudence of its proposed 2024 factors, and that the facilitated Type 2 stipulation should be approved. (FPL BR 5 - 6) FPL continues that OPC's prudence arguments are beyond the scope of this proceeding, have been fully considered and rejected by the Commission in a prior order, and are now the subject of an appeal before the Florida Supreme Court. (FPL BR 10 – 14) Finally, FPL argues that the specific review standards set forth in 366.96(7), F.S., govern this proceeding, and OPC's argument that the prudence standard in 366.06(1), F.S., should apply ignores and contradicts the more specific legislative enactment on this subject. (FPL BR 14 – 16)

OPC

OPC incorporates its arguments for Issues 2 and 3 as its argument under Issue 7, and on those grounds asserts that the Commission cannot lawfully establish the 2024 cost recovery factors. (OPC BR 18) OPC takes no position on the 2024 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 7.

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS joins OPC in facilitating a Type 2 stipulation. (PCS BR 2)

NUCOR

Nucor supports a Type 2 stipulation. (Nucor BR 1)

ANALYSIS

This issue addresses the appropriate SPPCRC factors for each utility, as determined in this proceeding. As noted above, OPC takes no position on the 2024 costs for the purpose of allowing the Commission to approve Type 2 stipulations on the factors only for Issue 7. (OPC BR 18) No party opposes the Type 2 stipulations. Thus, if the Commission concurs with staff's recommendation that OPC's overarching legal argument should be rejected, the only remaining question is whether to accept the Type 2 Stipulations. Staff believes the record supports Commission approval of the Type 2 stipulation. (EXH 14)

CONCLUSION

The appropriate factors for FPL 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		

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

Recommendation: The effective date of the new Storm Protection Plan Cost Recovery Clause factors should be effective the first billing cycle of January 2024 through December 2024. (Guffey, Hampson)

TECO

Position of the Parties

TECO

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

OPC

Any Commission-approved SPPCRC factors should be effective no sooner than the first day of the first billing cycle for January 2024.

FIPUG

FIPUG adopts the position of OPC.

PCS

Agree with OPC.

NUCOR

Nucor takes no position.

PARTIES' ARGUMENTS

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. (TECO BR 10)

OPC

Any Commission-approved SPPCRC factors should be effective no sooner than the first day of the first billing cycle for January 2024. (OPC BR 18-19)

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS agreed with OPC and made no independent argument. (PCS BR 3)

NUCOR

Nucor made no argument on this issue. (Nucor BR 2)

ANALYSIS

This issue addresses the appropriate effective date for the SPPCRC factors for TECO. The effective date of TECO's new Storm Protection Plan Cost Recovery Clause factors should be effective the first billing cycle of January 2024 through December 2024.

CONCLUSION

The effective date of TECO's new Storm Protection Plan Cost Recovery Clause factors should be effective the first billing cycle of January 2024 through December 2024.

DEF

Position of the Parties

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.

OPC

Any Commission-approved SPPCRC factors should be effective no sooner than the first day of the first billing cycle for January 2024.

FIPUG

FIPUG adopts the position of OPC.

PCS

Agree with OPC.

NUCOR

Agree with OPC.

PARTIES' ARGUMENTS

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. (DEF BR 9)

OPC

Any Commission-approved SPPCRC factors should be effective no sooner than the first day of the first billing cycle for January 2024. (OPC BR 18-19)

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS agreed with OPC and made no independent argument. (PCS BR 3)

NUCOR

Nucor agreed with OPC and made no independent argument. (Nucor BR 2)

ANALYSIS

This issue addresses the appropriate effective date for the SPPCRC factors for DEF. The effective date of DEF's new Storm Protection Plan Cost Recovery Clause factors should be effective the first billing cycle of January 2024 through December 2024.

CONCLUSION

The effective date of DEF's new Storm Protection Plan Cost Recovery Clause factors should be effective the first billing cycle of January 2024 through December 2024.

FPUC

Position of the Parties

FPUC

The effective date for FPUC's cost recovery factors should be the first billing cycle for January 1, 2024, which could include some consumption from the prior month. Thereafter, customers should be billed the approved factors for a full 12 months, unless the factors are otherwise modified by the Commission.

OPC

Any Commission-approved SPPCRC factors should be effective no sooner than the first day of the first billing cycle for January 2024.

FIPUG

FIPUG adopts the position of OPC.

PCS

Agree with OPC.

NUCOR

Nucor takes no position.

PARTIES' ARGUMENTS

FPUC

The effective date for FPUC's cost recovery factors should be the first billing cycle for January 1, 2024, which could include some consumption from the prior month. Thereafter, customers should be billed the approved factors for a full 12 months, unless the factors are otherwise modified by the Commission. (FPUC BR 5)

OPC

Any Commission-approved SPPCRC factors should be effective no sooner than the first day of the first billing cycle for January 2024. (OPC BR 18-19)

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS agreed with OPC and made no independent argument. (PCS BR 3)

NUCOR

Nucor made no argument on this issue. (Nucor BR 2)

ANALYSIS

This issue addresses the appropriate effective date for FPUC's SPPCRC factors for each utility. The effective date of FPUC's new Storm Protection Plan Cost Recovery Clause factors should be effective the first billing cycle of January 2024 through December 2024.

CONCLUSION

The effective date of FPUC's new Storm Protection Plan Cost Recovery Clause factors should be effective the first billing cycle of January 2024 through December 2024.

FPL

Position of the Parties

FPL

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*)

OPC

Any Commission-approved SPPCRC factors should be effective no sooner than the first day of the first billing cycle for January 2024.

FIPUG

FIPUG adopts the position of OPC.

PCS

Agree with OPC.

NUCOR

Nucor takes no position.

PARTIES' ARGUMENTS

FPL

According to FPL witness Hume, 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. The Intervenor agreed with FPL's position on Issue No. 8. See pages 19-20 of Prehearing Order No. PSC-2023-0281-PHO-EI. (FPL BR 8)

OPC

Any Commission-approved SPPCRC factors should be effective no sooner than the first day of the first billing cycle for January 2024. (OPC BR 18-19)

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS agreed with OPC and made no independent argument. (PCS BR 3)

NUCOR

Nucor made no argument on this issue. (Nucor BR 2)

ANALYSIS

This issue addresses the appropriate effective date for the SPPCRC factors for FPL. The effective date of FPL's new Storm Protection Plan Cost Recovery Clause factors should be effective the first billing cycle of January 2024 through December 2024.

CONCLUSION

The effective date of FPL's new Storm Protection Plan Cost Recovery Clause factors should be effective the first billing cycle of January 2024 through December 2024.

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?

Recommendation: Yes, the Commission should approve revised tariffs reflecting the new Storm Protection Plan Cost Recovery Clause factors determined to be appropriate in this proceeding. The Commission should give staff administrative authority to approve the revised tariffs. (Guffey, Hampson)

TECO

Position of the Parties

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.

OPC

The Commission failed to make a finding that the SPPs and the programs and projects contained therein are prudent to undertake and seek recovery pursuant to Section 366.06(1), Florida Statutes. Therefore, the Commission cannot yet lawfully establish the 2024 cost recovery factors. However, OPC has taken no position on these costs, which allowed the Commission to approve Type 2 stipulations on the *factors only*.

FIPUG

FIPUG adopts the position of OPC.

PCS

Agree with OPC.

NUCOR

Nucor takes no position.

PARTIES' ARGUMENTS

TECO

TECO contends that as explained in Issues 1-7 above, the uncontested competent substantial evidence in this matter proves that TECO's proposed 2024 SPP clause cost recovery factors should be approved by the Commission. Consequently, the Commission should approve TECO's proposed tariffs. TECO notes that OPC's legal objection was rejected in the Prehearing Order, and should likewise be rejected here. FIPUG took the position that the Commission should approve TECO's revised tariffs "after making downward adjustments as warranted;" however, none of the parties 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. (TECO BR 10-11)

OPC

OPC argues that the Commission failed to make a finding that the SPPs and the programs and projects contained therein are prudent to undertake and seek recovery pursuant to Section 366.06(1), F.S. Therefore, the Commission cannot yet lawfully establish the 2024 cost recovery factors. However, OPC took no position on these costs, which allows the Commission to approve Type 2 stipulations on the factors only. (OPC BR 19)

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS agreed with OPC and made no independent argument. (PCS BR 3).

NUCOR

Nucor made no argument on this issue. (Nucor BR 2)

ANALYSIS

This issue addresses the revised tariffs for TECO, which should reflect the new SPPCRC factors as determined to be appropriate in this proceeding.

If the Commission concurs with staff's recommendation that OPC's overarching legal argument should be rejected, the Commission should approve TECO's revised tariffs reflecting the new Storm Protection Plan Cost Recovery Clause factors, as shown as a Type 2 stipulation in Issue 7. The Commission should give staff administrative authority to approve the revised tariffs.

CONCLUSION

The Commission should approve revised TECO's tariffs reflecting the new Storm Protection Plan Cost Recovery Clause factors determined to be appropriate in this proceeding. The Commission should give staff administrative authority to approve the revised tariffs.

DEF

Position of the Parties

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.

OPC

The Commission failed to make a finding that the SPPs and the programs and projects contained therein are prudent to undertake and seek recovery pursuant to Section 366.06(1), Florida Statutes. Therefore, the Commission cannot yet lawfully establish the 2024 cost recovery factors.

However, OPC has taken no position on these costs, which allowed the Commission to approve Type 2 stipulations on the *factors only*.

FIPUG

FIPUG adopts the position of OPC.

PCS

Agree with OPC.

NUCOR

Agree with OPC.

PARTIES' ARGUMENTS

DEF

DEF contends that the Commission should approve DEF's revised tariffs reflecting the Storm Protection Plan Cost Recovery Clause factors determined to be appropriate in this proceeding. Accordingly, the Commission should direct Staff to verify that the revised tariffs are consistent with the Commission's decision and grant staff administrative authority to approve DEF's revised tariffs reflecting the new Storm Protection Plan Cost Recovery Clause factors determined to be appropriate in this proceeding. (DEF BR 9-10)

OPC

OPC contends that the Commission failed to make a finding that the SPPs and the programs and projects contained therein are prudent to undertake and seek recovery pursuant to Section 366.06(1), F.S. Therefore, the Commission cannot yet lawfully establish the 2024 cost recovery factors. However, OPC took no position on these costs, which allows the Commission to approve Type 2 stipulations on the factors only. (OPC BR 19)

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS agreed with OPC and made no independent argument. (PCS BR 3).

NUCOR

Nucor agreed with OPC and made no independent argument. (Nucor BR 2)

ANALYSIS

This issue addresses the revised tariffs for DEF, which should reflect the new SPPCRC factors as determined to be appropriate in this proceeding.

If the Commission concurs with staff's recommendation that OPC's overarching legal argument should be rejected, the Commission should approve revised tariffs reflecting DEF's new Storm Protection Plan Cost Recovery Clause factors, as shown as a Type 2 stipulation in Issue 7. The Commission should give staff administrative authority to approve the revised tariffs.

CONCLUSION

The Commission should approve revised tariffs reflecting DEF's new Storm Protection Plan Cost Recovery Clause factors determined to be appropriate in this proceeding. The Commission should give staff administrative authority to approve the revised tariffs.

FPUC

Position of the Parties

FPUC

Yes. The Commission should approve revised tariffs reflecting the SPPCRC 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.

OPC

The Commission failed to make a finding that the SPPs and the programs and projects contained therein are prudent to undertake and seek recovery pursuant to Section 366.06(1), Florida Statutes. Therefore, the Commission cannot yet lawfully establish the 2024 cost recovery factors. However, OPC has taken no position on these costs, which allowed the Commission to approve Type 2 stipulations on the *factors only*.

FIPUG

FIPUG adopts the position of OPC.

PCS

Agree with OPC.

NUCOR

Nucor takes no position.

PARTIES' ARGUMENTS

FPUC

FPUC contends that the Commission should approve revised tariffs reflecting the SPPCRC factors determined to be appropriate in this proceeding. Further, the Commission should direct staff to verify that the revised tariffs are consistent with the Commission's decision. (FPUC BR 5)

OPC

OPC argues that the Commission failed to make a finding that the SPPs and the programs and projects contained therein are prudent to undertake and seek recovery pursuant to Section 366.06(1), F.S. Therefore, the Commission cannot yet lawfully establish the 2024 cost recovery factors. However, OPC has taken no position on these costs, which allows the Commission to approve Type 2 stipulations on the factors only. (OPC BR 19)

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS agreed with OPC and made no independent argument. (PCS BR 3).

NUCOR

Nucor made no argument on this issue. (Nucor BR 2)

ANALYSIS

This issue addresses the revised tariffs for FPUC, which should reflect the new SPPCRC factors as determined to be appropriate in this proceeding.

If the Commission concurs with staff's recommendation that OPC's overarching legal argument should be rejected, the Commission should approve revised tariffs reflecting FPUC's new Storm Protection Plan Cost Recovery Clause factors, as shown as a Type 2 stipulation in Issue 7. The Commission should give staff administrative authority to approve the revised tariffs.

CONCLUSION

The Commission should approve revised tariffs reflecting FPUC's new Storm Protection Plan Cost Recovery Clause factors determined to be appropriate in this proceeding. The Commission should give staff administrative authority to approve the revised tariffs.

FPL

Position of the Parties

FPL

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*)

OPC

The Commission failed to make a finding that the SPPs and the programs and projects contained therein are prudent to undertake and seek recovery pursuant to Section 366.06(1), Florida Statutes. Therefore, the Commission cannot yet lawfully establish the 2024 cost recovery factors. However, OPC has taken no position on these costs, which allowed the Commission to approve Type 2 stipulations on the *factors only*.

FIPUG

FIPUG adopts the position of OPC.

PCS

Agree with OPC.

NUCOR

Nucor takes no position.

PARTIES' ARGUMENTS

FPL

FPL notes that in its Prehearing Statement, OPC argued that the Commission should not approve revised tariffs reflecting the new SPPCRC factors determined to be appropriate in this proceeding because, according to OPC, the Commission failed to make a prudence finding for the SPP. These are the same arguments that OPC maintained on Issue Nos. 1-4 and 7 for purposes of briefing. Consistent with arguments FPL has made elsewhere in its brief, FPL contends that OPC's position on Issue 9 should be rejected. FIPUG stated in its Prehearing Statement that the Commission should approve revised tariffs but only "after making downward adjustments as warranted." However, FPL contends that FIPUG failed to identify any such adjustment or provide any explanation for why FIPUG believes such an adjustment is appropriate. Moreover, no parties presented any evidence of record, let alone evidence to refute or otherwise contest FPL's proposed 2024 SPPCRC Factors, including the reasonableness or prudence of any of the individual underlying projects and associated costs. Further, the parties agreed to facilitate a Type 2 Stipulation for the 2024 SPPCRC Factors. Therefore, FPL contends that FIPUG's position should be denied, and the Commission should grant staff administrative authority to approve revised tariffs reflecting FPL's 2024 SPPCRC Factors. (FPL BR 8-9)

OPC

OPC contends that the Commission failed to make a finding that the SPPs and the programs and projects contained therein are prudent to undertake and seek recovery pursuant to Section 366.06(1), F.S. Therefore, the Commission cannot yet lawfully establish the 2024 cost recovery factors. However, OPC took no position on these costs, which allows the Commission to approve Type 2 stipulations on the factors only. (OPC BR 19)

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS agreed with OPC and made no independent argument. (PCS BR 3).

NUCOR

Nucor made no argument on this issue. (Nucor BR 2)

ANALYSIS

FPL

This issue addresses the revised tariffs for FPL, which should reflect the new SPPCRC factors as determined to be appropriate in this proceeding.

If the Commission concurs with staff's recommendation that OPC's overarching legal argument should be rejected, the Commission should approve revised tariffs reflecting FPL's new Storm

Protection Plan Cost Recovery Clause factors, as shown as a Type 2 stipulation in Issue 7. The Commission should give staff administrative authority to approve the revised tariffs.

CONCLUSION

The Commission should approve revised tariffs reflecting FPL's new Storm Protection Plan Cost Recovery Clause factors determined to be appropriate in this proceeding. The Commission should give staff administrative authority to approve the revised tariffs.

Issue 10: Should this docket be closed?

Recommendation: While a separate docket number is assigned each year, this is a continuing docket and should remain open for administrative convenience. (Stiller, Dose)

Position of the Parties

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.

DEF

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

FPUC

This is a continuing docket and should remain open.

FPL

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)

OPC

No.

FIPUG

Yes.

PCS

No position.

NUCOR

No position.

PARTIES' ARGUMENTS

TECO

TECO argues that there are no remaining disputed of material fact in this docket, and only one legal argument made by OPC in opposition to the relief sought by TECO. TECO contends that OPC's legal argument strays beyond the statutory scope of this proceeding and should be rejected. TECO concludes by arguing that it met its burden of proof under the applicable laws and, therefore, this docket should be closed. (TECO BR 11)

DEF

DEF argues that, under Commission practice, this docket should remain open until next year's docket is established. (DEF BR 10)

FPUC

FPUC argues that this is a continuing docket and should remain open. (FPUC BR 6)

FPL

FPL argues that this is a continuing docket that should remain open, and also notes that the Commission assigns a new docket number each year for administrative convenience. (FPL BR 9)

OPC

OPC states that this docket should not be closed. (OPC BR 20)

FIPUG

FIPUG adopted OPC's post-hearing brief. (FIPUG BR 1)

PCS

PCS takes no position. (PCS BR 3)

NUCOR

Nucor takes no position. (Nucor BR 2)

ANALYSIS

This is a continuing docket and should remain open for administrative convenience. A new docket number will be assigned next year.

CONCLUSION

This is a continuing docket and should remain open. A new docket number will be assigned next year.