

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricanes Elsa, Eta, Isaias, Ian, Nicole, and Tropical Storm Fred, by Duke Energy Florida, LLC.

DOCKET NO. 20230020-EI

In re: Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricane Idalia, by Duke Energy Florida, LLC.

DOCKET NO. 20230116-EI  
ORDER NO. PSC-2024-0151-PHO-EI  
ISSUED: May 14, 2024

PREHEARING ORDER

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on May 7, 2024, in Tallahassee, Florida, before Commissioner Art Graham, as Prehearing Officer.

APPEARANCES:

MATTHEW R. BERNIER, STEPHANIE A. CUELLO, ESQUIRES, 106 East College Avenue, Tallahassee, Florida 32301; and DIANNE M. TRIPLETT, Deputy General Counsel, 299 First Avenue North, St. Petersburg, Florida 33701  
On behalf of Duke Energy Florida, LLC (DEF).

WALT TRIERWEILER, Public Counsel, CHARLES REHWINKEL, Deputy Public Counsel, Office of Public Counsel, c/o Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400  
On behalf of Citizens of the State of Florida (OPC).

STEPHANIE U. EATON, ESQUIRE, Spilman Thomas & Battle, PLLC, 110 Oakwood Drive, Suite 500, Winston-Salem, NC 27103 and STEVEN W. LEE, Spilman Thomas & Battle, PLLC, 110 Bent Creek Boulevard, Suite 101, Mechanicsburg, PA 17050  
On behalf of Walmart, Inc. (Walmart).

JAMES W. BREW and LAURA WYNN BAKER, ESQUIRES, Stone Mattheis Xenopoulos & Brew, PC, 1025 Thomas Jefferson Street, NW, Suite 800 West, Washington, DC 20007-5201  
On behalf of White Springs Agricultural Chemicals, Inc. d/b/a PCS-Phosphate – White Springs (PCS Phosphate).

SUZANNE BROWNLESS, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850  
On behalf of the Florida Public Service Commission (Staff).

MARY ANNE HELTON, ESQUIRE, Deputy General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850  
Advisor to the Florida Public Service Commission.

KEITH C. HETRICK, ESQUIRE, General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850  
Florida Public Service Commission General Counsel

## **I. CASE BACKGROUND**

On January 23, 2023, Duke Energy Florida, LLC (DEF) filed a petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricanes Elsa, Eta, Isaias, Ian, Nicole, and Tropical Storm Fred (Storms). The intervention of the Office of Public Counsel (OPC) was recognized by Order No. PSC-2023-0085-PCO-EI, issued February 15, 2023. Walmart, Inc. (Walmart) filed a petition to intervene on March 6, 2023, which was granted by Order No. PSC-PSC-2023-0377-PCO-EI, issued December 20, 2023. The Commission approved DEF's interim storm cost recovery charge for the Storms on March 23, 2023, subject to final true-up.<sup>1</sup>

On September 29, 2023, DEF filed its petition for approval of actual costs related to the Storms, in the amount of \$431.4 million, an approximate reduction of \$10.7 million. DEF also requested to continue the storm restoration charge through the end of March 2024, as initially approved in Order No. PSC-2023-0111-PCO-EI. The disposition of any over- or under- recovery would be handled through the capacity cost recovery clause at a future date. Final hearing was set for Docket No. 20230020-EI on May 21-22, 2024, by Order No. PSC-2023-0333-PCO-EI, issued on November 2, 2023.

On October 16, 2023, the Company filed a petition for a limited proceeding in Docket No. 20230116-EI seeking authority to implement an interim storm restoration recovery surcharge to recover approximately \$166.1 million in incremental storm restoration costs, replenishment of the storm reserve, and interest related to Hurricane Idalia, to begin with the first billing cycle of January 2024 through December 31, 2024, subject to final true-up. The Company also requested approval to include and spread the recovery of the remaining interim incremental storm restoration costs for the Storms in the surcharge for Hurricane Idalia, thereby amending the currently approved surcharge. The \$166.1 million includes \$73.9 million related to the uncollected restoration costs from the Storms and \$91.9 million related to Hurricane Idalia. DEF also requested modification of the 12-month recovery period for the combined incremental

---

<sup>1</sup> Order No. PSC-2023-0111-PCO-EI, issued March 23, 2023, in this docket.

restoration costs commencing with the first billing cycle of January 2024. These requests were granted by Order No. PSC-2023-0375-PCO-EI, issued on December 19, 2023. Costs for the Storms requested in Docket No. 20230020-EI and costs for Hurricane Idalia requested in Docket No. 20230116-EI are at issue in the final hearing set for May 21-22, 2024.

## **II. CONDUCT OF PROCEEDINGS**

Pursuant to Rule 28-106.211, F.A.C., this Prehearing Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

## **III. JURISDICTION**

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapter 366, Florida Statutes (F.S.). This hearing will be governed by said Chapter and Chapter 120, F.S., and Rules 25-6, 25-22, and 28-106, F.A.C., as well as any other applicable provisions of law.

## **IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION**

Information for which proprietary confidential business information status is requested pursuant to Section 366.093, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Section 119.07(1), F.S., pending a formal ruling on such request by the Commission or pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Section 366.093, F.S. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, F.S., to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, F.S., at the hearing shall adhere to the following:

- (1) When confidential information is used in the hearing that has not been filed as prefiled testimony or prefiled exhibits, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents and with the confidential information highlighted. Any party wishing to examine the confidential material that is not

subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.

- (2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Office of Commission Clerk's confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C., if continued confidentiality of the information is to be maintained.

#### **V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES**

Testimony of all witnesses to be sponsored by the parties and Staff has been prefiled and will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to timely and appropriate objections. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to three minutes.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer. After all parties and Staff have had the opportunity to cross-examine the witness, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

The parties shall avoid duplicative or repetitious cross-examination. Further, friendly cross-examination will not be allowed. Cross-examination shall be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Any party conducting what appears to be a friendly cross-examination of a witness should be prepared to indicate why that witness's direct testimony is adverse to its interests.

**VI. ORDER OF WITNESSES**

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Christopher A. Menendez	DEF	1, 2, 15, 16,
*Shelly Ross	DEF	1-14
*William T. Fountain	DEF	2, 9
Lisa V. Perry	Walmart	16, 17
*Carl Vinson	Staff	1-14
*Tomer Kopelovich	Staff	1-14
<u>Rebuttal</u>		
Christopher A. Menendez	DEF	16, 17

\*Parties have agreed that these witnesses can be excused.

**VII. BASIC POSITIONS**

**DEF:** Not applicable. DEF's positions on specific issues are listed below.

**OPC:** The burden of proof in a Commission proceeding is always on a utility seeking a rate change and upon other parties seeking to change established rates. *Fla. Power Corp. v. Cresse*, 413 So. 2d 1187, 1191 (Fla. 1982). Duke Energy Florida (DEF) has the burden to prove whether the Commission should approve DEF's Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricanes Elsa, Eta, Isaias, Ian, Nicole, and Tropical Storm Fred. As a result of the stipulation entered into among the parties to Docket No. 20170271-EI and approved in Order No. PSC-2019-0232-AS- EI (2019 Settlement), DEF agreed to follow certain processes for incurring storm restoration costs. DEF also agreed to engage an independent accountant to perform an audit of its compliance with the agreed processes.

The OPC has reviewed DEF's audit plan, audit report and audit workpapers, and the OPC further conducted discovery involving a review of a representative sample of invoices and cost documentation. After conducting this review and cooperatively meeting with DEF and their outside auditors, the OPC determined that the company has materially complied with the 2019 Settlement and that the

audit was well-designed and well-executed. DEF has also demonstrated that it maintains a practice of working to continuously improve its stewardship of the resources it acquires for restoring service after severe weather events.

Based on the entirety of the circumstances, DEF's petition meets the burden of proof established by the 2019 Settlement and other applicable laws. As a result of the due diligence performed by the OPC and the cooperation by DEF in this matter, OPC is in support of DEF's commitment to an ongoing, continuous storm restoration process improvement plan so that current and future customers only pay for prudent, cost-effective storm restoration costs incurred due to extreme weather events.

**WALMART:** Walmart takes no position regarding the amount of restoration costs or accounting treatment of the same in this Docket. Walmart raised an issue in Comments filed March 7, 2023 ("Comments"), prior to DEF's recovery of storm costs at issue in this Docket, which is set forth as the Walmart Contested Issue below. Namely, the Company's recovery of storm costs in this manner is not cost-based because it fails to appropriately reflect the demand-related nature of the underlying costs and creates intraclass subsidies within demand metered customer classes. Walmart contends that, on a going forward basis, DEF should be required to recover storm costs from demand-metered customers on a demand, or \$/kW, charge, not through an energy, or \$/kWh charge.

As set forth in Walmart's Comments, Walmart's issue in this Docket is an issue that Walmart raised before this Commission in relation to the Storm Protection Plan ("SPP") and Storm Protection Plan Cost Recovery Clause ("SPPCRC") Dockets as early as 2020.<sup>2</sup> Walmart's general concern is that recovering demand-related costs through an energy charge could result in a shift in demand cost responsibility from lower load factor customers to higher load factor customers.<sup>3</sup>

Walmart readily acknowledges that retroactive billing revisions would likely be administratively prohibitive, as expressed by DEF in the Rebuttal Testimony of Christopher A. Menendez<sup>4</sup>, Walmart notes that DEF's collection of costs in this Docket are not yet complete, and Walmart did, in fact, raise the issue in this Docket *before* DEF's storm costs began being recovered from its customers from April 2023, through December 2024.<sup>5</sup> Moreover, while Mr. Menendez points out

---

<sup>2</sup> See Walmart Comments, p. 2. Although both DEF and Florida Public Utility Company ("FPUC") originally sought recovery of SPP costs from demand-metered customers through an energy charge, each Utility ultimately entered into a Stipulation whereby each agreed to charge demand-metered customers a demand charge related to SPP costs. See Comments, p. 2, at n. 1, and p. 3.

<sup>3</sup> See Walmart Comments, p. 2, and Direct Testimony of Lisa V. Perry at Exhibit LVP-3 (Direct Testimony of Lisa V. Perry in the 2021 SPPCRC case, Docket No. 20210010-EI), p. 14, lines 6-21.

<sup>4</sup> Rebuttal Testimony of Christopher A. Menendez ("Menendez Rebuttal"), p. 4, lines 4-12.

<sup>5</sup> See Order No. PSC-2023-0375-PCO-EI (issued Dec. 19, 2023) ("December 2023 Order"), pp. 1-2, 4, noting that the originally approved recovery period was April 2023 through the last billing cycle of March 2024, and that DEF's supplemental petition requested an amended storm surcharge and extended cost recovery through December 2024.

that this Commission has approved the recovery of a utility's storm restoration costs via the energy charge since 2004,<sup>6</sup> it does not mean that the Commission, Staff, Utilities, and ratepayers cannot reevaluate the way the storm costs are recovered. In light of the fact that SPP costs are recovered from demand-metered customers for Tampa Electric Company ("TECO"), DEF, FPUC, and Florida Power & Light ("FPL") through a demand-charge, and the fact that both DEF and FPUC revised their respective cost recovery from demand-metered customers in SPPCRC Dockets, Walmart urges consideration of this issue in this Docket.

**PCS**

**Phosphate:** Only costs prudently incurred and legally authorized may be recovered by Duke Energy Florida, LLC (DEF) in its petition to recover storm restoration costs related to several hurricanes and a tropical storm as well as to replenish DEF's storm reserve. The Commission approved an initial storm restoration recovery charge for the period April 2023 through March 2024 in the *Order Approving Duke Energy Florida, LLC's Interim Storm Cost Recovery Charge*, Order No. PSC-2023-0111-PCO-EI, issued on March 23, 2023. After DEF filed for a revised interim storm restoration recovery surcharge due to Hurricane Idalia, the Commission approved the revised interim surcharge through December 2024 in its *Order Approving Duke Energy Florida, LLC's Interim Storm Cost Recovery Charge*, Order No. PSC-2023-0375-PCO-EI, issued on December 19, 2023. DEF must satisfy the burden of proving the reasonableness of any expenditures for which recovery or other relief is sought in this proceeding.

**STAFF:** Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

**VIII. ISSUES AND POSITIONS**

**ISSUE 1:** Proposed Type 2 Stipulation; see Section X.

**ISSUE 2:** Proposed Type 2 Stipulation; see Section X.

**ISSUE 3:** Proposed Type 2 Stipulation; see Section X.

**ISSUE 4:** Proposed Type 2 Stipulation; see Section X.

**ISSUE 5:** Proposed Type 2 Stipulation; see Section X.

---

The December 2023 Order states that the "disposition of any over or under recovery and associated interest, will be considered by us at a later date" and that this docket "shall remain open pending final reconciliation of actual recoverable storm costs with the amount collected pursuant to the interim storm restoration recovery charge and the calculation of a refund or additional charge, if warranted."; *see also* Order No. PSC-2023-0111-PCO-EI.

<sup>6</sup> Menendez Rebuttal, p. 3, line 1 through p. 4, line 2.

**ISSUE 6:** Proposed Type 2 Stipulation; see Section X.

**ISSUE 7:** Proposed Type 2 Stipulation; see Section X.

**ISSUE 8:** Proposed Type 2 Stipulation; see Section X.

**ISSUE 9:** Proposed Type 2 Stipulation; see Section X.

**ISSUE 10:** Proposed Type 2 Stipulation; see Section X.

**ISSUE 11:** Proposed Type 2 Stipulation; see Section X.

**ISSUE 12:** Proposed Type 2 Stipulation; see Section X.

**ISSUE 13:** Proposed Type 2 Stipulation; see Section X.

**ISSUE 14:** Proposed Type 2 Stipulation; see Section X.

**ISSUE 15:** Proposed Type 2 Stipulation; see Section X.

**ISSUE 16:** Should any cost recovery approved in this docket be recovered from demand-metered customers through the demand charge?<sup>7</sup>

**DEF:** No. The cost recovery approved in this docket should be recovered on an energy basis from all customers, as approved by the Commission in Order Nos. PSC-2023-0111-PCO-EI and PSC-2023-0375-PCO-EI.

**OPC:** No position; OPC is able to facilitate a Type 2 stipulation on this issue.

**WALMART:** Walmart recommends that any cost recovery approved in this Docket should be recovered from demand-metered customers through the demand charge, *i.e.*, on a \$/kW basis, and not through the energy charge, or on a \$/kWh basis, as proposed by the Company. As a compromise, Walmart is willing to limit this position to collection of costs going forward, and to further limit this position to collection of future costs from general service demand-metered customers via demand charges, not from all of DEF's demand-metered customers.

**PCS**

**Phosphate:** No.

**STAFF:** Staff has no position at this time.

---

<sup>7</sup> Formerly Walmart Issue A.



**ISSUE 17: If applicable, how should any under-recovery or over-recovery be handled?<sup>8</sup>**

**DEF:** DEF will compare the final storm recovery amount approved by the Commission to actual revenues from the storm restoration charge to determine any excess or shortfall. Interest will be applied to this amount at the 30-day commercial paper rate. Thereafter, DEF will collect or refund the excess or shortfall through the capacity cost recovery clause in the normal true-up process.

**OPC:** No position; OPC is able to facilitate a Type 2 stipulation on this issue.

**WALMART:** Walmart understands that DEF plans to collect any under-recovery or refund any over-recovery through the Capacity Charge in the Fuel Docket. To the extent collection of under-recovery is via demand charges for demand-metered customers, Walmart supports that methodology. To the extent any refunds of amounts collected by energy charges is also proposed to be handled via demand-charge rates for demand-metered customers, Walmart opposes that methodology. All refunds should be made by the method the overpaid costs were collected.

**PCS**

**Phosphate:** PCS supports the cost recovery methods that Duke Energy Florida, LLC proposed and the Commission approved in its two interim orders issued in March and December 2023. PCS does not support changing interim cost recovery addressed by those orders because there is no basis for re-visiting those determinations and no timely request for rehearing was filed. With respect to any final differential between estimated and actual costs, PCS does not oppose Walmart's suggestion that any demonstrated over-recovery be refunded in the same manner as those costs were collected (i.e., on an \$/kWh basis).

**STAFF:** Staff has no position at this time.

**ISSUE 18: Proposed Type 2 Stipulation; see Section X.**

**ISSUE 19: Proposed Type 2 Stipulation; see Section X.**

---

<sup>8</sup> Formerly Issue 16.

**IX. EXHIBIT LIST**

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
	<u>Direct</u>		
Christopher A. Menendez	DEF	(CAM-1)	Total recoverable restoration costs, along with monthly revenues and interest collected through July 2023.
Christopher A. Menendez	DEF	(CAM-2)	PWC Opinion and Examination Report
Shelly Ross	DEF	(SR-1)	Storm Costs Recovery Total
Shelly Ross	DEF	(SR-2)	Hurricane Nicole Cost Summary
Shelly Ross	DEF	(SR-3)	Hurricane Ian Cost Summary
Shelly Ross	DEF	(SR-4)	Tropical Storm Fred Cost Summary
Shelly Ross	DEF	(SR-5)	Hurricane Elsa Cost Summary
Shelly Ross	DEF	(SR-6)	Hurricane Isaias Cost Summary
Shelly Ross	DEF	(SR-7)	Hurricane Eta Cost Summary
Shelly Ross	DEF	(SR-8)	Storm Cost Recovery Interest Calculation
Lisa V. Perry	Walmart	(LVP-1)	Witness Qualification Statement
Lisa V. Perry	Walmart	(LVP-2)	Walmart's Comments filed March 7, 2023 (Comments)
Lisa V. Perry	Walmart	(LVP-3)	Direct Testimony of Exhibit of Lisa V. Perry on behalf of Walmart, Inc. Docket No. 20220010-EI filed September 2, 2022

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Lisa V. Perry	Walmart	(LVP-4)	DEF Tariff Sheet: One Hundred and Fourth Revised Sheet No. 6.105-Rate Schedule BA-1
Tomer Kopelovich	Staff	(TK-1)	Auditor Report dated Feb. 16, 2024

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

## **X. PROPOSED STIPULATIONS**

There are proposed Type 2 stipulations on Issues 1-15, 18, and 19.<sup>9</sup> 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. The proposed stipulations are as follows:

**ISSUE 1:** **Should the incremental cost and capitalization approach (ICCA) found in Rule 25-6.0143, F.A.C., be used to determine the reasonable and prudent amounts to be included in the restoration costs?**

**Type 2:** The ICCA approach in Rule 25-6.0143, F.A.C. and the terms of the 2019 Irma Settlement Agreement approved by Order No. PSC-2019-0232-AS-EI should be used to determine the reasonable and prudent amounts included in the restoration costs.

**ISSUE 2:** **Have the terms of DEF's 2019 Settlement Agreement, approved by Order No. PSC-2019-0232-AS-EI, issued June 13, 2019, been complied with? If not, why not?**

**Type 2:** Yes.

**ISSUE 3:** **What is the reasonable and prudent amount of regular payroll expense to be included in Total Storm Related Restoration Costs?**

**Type 2:** Below is the reasonable and prudent regular payroll expense for each storm.

---

<sup>9</sup> OPC has stated that it is willing to take a Type 1 stipulation on all of the stipulated issues since it agrees with the positions taken by DEF as stated above. However, because Walmart has taken "No position" on all of these issues, all of these issues fall into the Type 2 category.

Nicole - \$1,370,120  
Ian - \$4,674,377  
Fred - \$167,704  
Elsa - \$492,800  
Isaias - \$66,191  
Eta - \$347,959

The reasonable and prudent amount of regular payroll expense to be included in Total Storm Related Restoration Costs is \$7,119,151.

**ISSUE 4: What is the reasonable and prudent amount of overtime payroll expense to be included in Total Storm Related Restoration Costs?**

**Type 2:** Below is the reasonable and prudent overtime payroll expense for each storm.

Nicole - \$3,377,663  
Ian - \$9,965,271  
Fred - \$258,537  
Elsa - \$807,888  
Isaias - \$366,526  
Eta - \$962,313

The reasonable and prudent amount of overtime payroll expense to be included in Total Storm Related Restoration Costs is \$15,738,198.

**ISSUE 5: What is the reasonable and prudent amount of contractor costs, including vegetation and line clearing, to be included in Total Storm Related Restoration Costs?**

**Type 2:** Below are the reasonable and prudent contractor costs for each storm.

Nicole - \$29,149,136  
Ian - \$267,394,755  
Fred - \$108,304  
Elsa - \$8,257,533  
Isaias - \$279,861  
Eta - \$13,084,650

The reasonable and prudent amount of contractor costs, including vegetation and line clearing, to be included in Total Storm Related Restoration Costs is \$318,274,239.

**ISSUE 6: What is the reasonable and prudent amount of vehicle and fuel expense to be included in Total Storm Related Restoration Costs?**

**Type 2:** Below is the reasonable and prudent vehicle and fuel expense for each storm.

Nicole - \$1,526,358  
Ian - \$9,397,616  
Fred - \$40,969  
Elsa - \$426,169  
Isaias - \$37,817  
Eta - \$747,426

The reasonable and prudent amount of vehicle and fuel expense to be included in Total Storm Related Restoration Costs is \$12,176,355.

**ISSUE 7:** **What is the reasonable and prudent amount of employee expenses to be included in Total Storm Related Restoration Costs?**

**Type 2:** Below are the reasonable and prudent employee expenses for each storm.

Nicole - \$3,453,759  
Ian - \$16,510,677  
Fred - \$24,606  
Elsa - \$836,059  
Isaias - \$16,232  
Eta - \$800,782

The reasonable and prudent amount of employee expenses to be included in Total Storm Related Restoration Costs is \$21,642,115.

**ISSUE 8:** **What is the reasonable and prudent amount of materials and supplies expense to be included in Total Storm Related Restoration Costs?**

**Type 2:** Below is the reasonable and prudent materials and supplies expense for each storm.

Nicole - \$3,245,543  
Ian - \$18,603,008  
Fred - \$34,668  
Elsa - \$1,002,905  
Isaias - \$37,432  
Eta - \$1,003,640

The reasonable and prudent amount of materials and supplies expense to be included in Total Storm Related Restoration Costs is \$23,927,196.

**ISSUE 9:** **What is the reasonable and prudent amount of logistics costs to be included in Total Storm Related Restoration Costs?**

**Type 2:** Below are the reasonable and prudent logistics costs for each storm.

Nicole - \$4,917,493  
Ian - \$44,649,681  
Fred - \$59,127  
Elsa - \$3,403,957  
Isaias - \$12,301  
Eta - \$2,768,223

The reasonable and prudent amount of logistics costs to be included in Total Storm Related Restoration Costs is \$55,810,782.

**ISSUE 10:** **What is the reasonable and prudent amount of other costs to be included in Total Storm Related Restoration Costs?**

**Type 2:** Below are the reasonable and prudent other costs for each storm. These amounts include labor burdens/incentives, overhead allocations, external audit, insurance deductible and Irma settlement implementation costs.

Nicole - \$1,470,546  
Ian - \$10,083,533  
Fred - \$192,958  
Elsa - \$914,981  
Isaias - \$225,532  
Eta - \$1,357,418

The reasonable and prudent amount of other costs to be included in Total Storm Related Restoration Costs is \$14,244,968.

**ISSUE 11:** **What is the reasonable and prudent total amount of costs to be included in Total Storm Related Restoration Costs?**

**Type 2:** Below are the reasonable and prudent Total Storm Related Restoration Costs for each storm.

Nicole - \$48,510,617  
Ian - \$381,278,918  
Fred - \$886,874  
Elsa - \$16,142,291  
Isaias - \$1,041,892  
Eta - \$21,072,410

The reasonable and prudent total amount of costs to be included in Total Storm Related Restoration Costs is \$468,933,002.

**ISSUE 12:** **What is the reasonable and prudent amount of storm-related costs that should be capitalized?**

**Type 2:** Below are the reasonable and prudent storm-related costs that should be capitalized.

Nicole - \$3,992,784  
Ian - \$13,714,654  
Fred - \$31,017  
Elsa - \$171,265  
Isaias - \$0  
Eta - \$395,117

The reasonable and prudent amount of storm-related costs that should be capitalized is \$18,304,837.

**ISSUE 13:** **What is the reasonable and prudent amount of storm-related costs that should be ICCA non-incremental O&M adjustments?**

**Type 2:** Below are the reasonable and prudent storm-related costs that should be ICCA non-incremental O&M adjustments.

Nicole - \$1,274,876  
Ian - \$4,096,655  
Fred - \$690,427  
Elsa - \$688,770  
Isaias - \$760,300  
Eta - \$376,694

The reasonable and prudent amount of storm-related costs that should be ICCA non-incremental O&M adjustments is \$7,887,722.

**ISSUE 14:** **What is the reasonable and prudent total amount of retail Recoverable Storm Costs?**

**Type 2:** Below are the reasonable and prudent Recoverable Storm Costs including any true-up to prior storm recovery and estimated interest on the unamortized reserve deficiency balance, subject to true-up as stated in Issue 16.

Nicole - \$42,928,330 retail  
Ian - \$359,576,056 retail  
Fred - \$155,094 retail  
Elsa - \$14,608,576 retail  
Isaias - \$258,952 retail  
Eta - \$20,160,165 retail

Previous partial recovery of Storm Costs – (\$10,976,144)<sup>10</sup>

The prudent and reasonable retail Total Recoverable Storm Costs plus estimated interest of \$4,669,608 is \$431,380,637.

**ISSUE 15:** What is the appropriate accounting treatment associated with any storm costs found to have been imprudently incurred?

**Type 2:** Imprudently incurred storm costs should not be charged to the storm reserve or recovered through a storm restoration charge on customer bills. No storm restoration costs were imprudently incurred; therefore, no such adjustment is necessary.

**ISSUE 18:** What additional storm restoration process improvements, if any, should DEF follow in future storms?<sup>11</sup>

**Type 2:** DEF has fully implemented the Process Improvements approved in Order No. PSC-2019-0232-AS-EI. As part of DEF's process of continuous improvements, to the extent practicable without hindering safe and efficient storm restoration, DEF has agreed to work to implement the additional process refinements included in Attachment A.

**ISSUE 19:** Should this docket be closed?

**Type 2:** No. This docket should remain open so that DEF can file supplemental schedules that compare the final storm recovery amount approved by the Commission to actual revenues from the storm restoration charge and calculate the resulting excess or shortfall for recovery through the capacity cost recovery clause.

**XI. PENDING MOTIONS**

There are no pending motions at this time.

**XII. PENDING CONFIDENTIALITY MATTERS**

There are no pending confidentiality orders at this time.

---

<sup>10</sup> See: Order Nos. PSC-2021-027-PCO-EI (Hurricanes Eta and Isaias surcharge) and PSC-2021-0425-FOF-EI (Rate Mitigation Plan, temporarily ceasing recovery for Eta and Isaias costs).

<sup>11</sup> Formerly OPC Issue B.



### **XIII. POST-HEARING PROCEDURES**

If no bench decision is made, each party shall file a post-hearing statement of issues and positions. A summary of each position, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of this Prehearing Order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, F.A.C., a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages and shall be filed at the same time.

### **XIV. RULINGS**

#### Opening statements

Opening statements, if any, shall not exceed 3 minutes per party.

#### Consolidation of dockets

The storm replacement costs requested in Docket No. 20230020-EI are those of Hurricanes Elsa, Eta, Isaias, Ian, Nicole, and Tropical Storm Fred.<sup>12</sup> The storm replacement costs requested in Docket No. 20230116-EI are those of Hurricane Idalia. Both of these storm replacement costs were consolidated by Order No. PSC-2023-0375-PCO-EI, issued in Docket No. 20230116-EI on December 19, 2023, and the surcharge recovery period for the combined storm replacement costs was extended from March 2024 to December 30, 2024. Thus, all of the costs associated with both dockets are at issue in this proceeding. For administrative convenience, these dockets shall be combined and from the date this order is issued, Docket No. 20230020-EI shall be designated as the primary docket, and all future filings for these two dockets shall be filed in Docket No. 20230020-EI.

#### Walmart Issue A

Walmart proposed the following issue (Walmart Issue A) in its Prehearing Statement: "Should any cost recovery approved in this docket be recovered from demand-metered customers through the demand charge?" Walmart argues that the issue should be included because the surcharges approved by Order No. PSC-0111-PCO-EI and continued by Order No. PSC-0375-PCO-EI are interim, not permanent charges. Walmart points to the fact that it filed for intervention in Docket No. 20230020-EI on March 6, the day before the March 7 Agenda Conference approving the surcharge, and raised this rate design issue. Walmart also filed written comments on March 7 which questioned the use of an energy rather than demand charges for

---

<sup>12</sup> Order No. PSC-0111-PCO-EI, issued March 23, 2023, in Docket No. 20230020-EI, *In re: Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricanes Elsa, Eta, Isaias, Ian, Nicole, and Tropical Storm Fred, by Duke Energy Florida, LLC.*

demand customers. Additionally, Walmart timely filed testimony on the rate design issue to which DEF has filed rebuttal testimony.

DEF has objected to the inclusion of this issue on the grounds that surcharge cost recovery through an energy charge was approved originally for storm restoration costs associated with Hurricanes Elsa, Eta, Isaias, Ian, Nicole, and Tropical Storm Fred by Order No. PSC-0111-PCO-EI, issued March 23, 2023, and continued by Order No. PSC-0375-PCO-EI, issued December 19, 2023, adding storm restoration costs for Hurricane Idalia and extending the surcharge payment period until December 30, 2024. Order No. PSC-0375-PCO-EI also stated that any over/under recovery would be recovered through DEF's capacity cost recovery clause, which is a demand charge. Basically, DEF argues that it is too late for Walmart to raise this rate design issue with regard to surcharge monies already collected, monies to be collected from now until the end of 2024, or any over/under recovery to be determined in the first quarter of next year.

PCS Phosphate agrees with DEF that it is too late for Walmart to raise this issue with regard to surcharge monies already collected or to be collected from now until the end of 2024 since Walmart did not file motions for reconsideration of either Order No. PSC-0111-PCO-EI or PSC-0375-PCO-EI. However, PCS Phosphate does think it appropriate to allow litigation on what type of rate design should be used for any over/under recovery of storm replacement costs which will be determined in the first quarter of next year. OPC took no position on this issue.

The basis for the storm replacement cost surcharges at issue here is DEF's 2017 and 2021 Settlement Agreements.<sup>13</sup> Section 38(c) of the 2017 Settlement Agreement creates the surcharge but does not state how the surcharge costs will be billed on either an interim or final basis. Likewise, Section 30(c) of the 2021 Settlement Agreement renews the surcharge but does not state how the storm replacement costs will be billed either on an interim or final basis. DEF argues that it, and the other investor-owned utilities, have always billed storm replacement surcharge costs on an energy basis, not a demand basis.

Having considered the arguments of the parties, I find that Walmart's Issue A should be included in this docket as renumbered Issue 16. This is the point of entry for parties to raise all issues dealing with the replacement storm costs collected through the surcharge. If DEF's position were to be adopted, this docket would be limited only to the appropriate amount of replacement storm costs to be recovered by DEF. There is no specific language in the 2017 or 2021 Settlement Agreements so limiting the surcharge final hearing to just the determination of recoverable storm replacement costs. The fact that the Commission has to date approved all storm replacement surcharges requested by any of the investor-owned utilities on an energy basis is not persuasive. That is so because it does not appear that any party to those dockets contested the use of an energy charge for the collection of the storm replacement costs.

---

<sup>13</sup> Order Nos. PSC-2017-0451-AS-EU, issued November 20, 2017, in Docket No. 20170183-EI, *In re: Application for limited proceeding to approve 2017 second revised and restated settlement agreement, including certain rate adjustments, by Duke Energy Florida, LLC*; Order No. PSC-2021-0202A-AS-EI, issued June 28, 2021, *In re: Petition for limited proceeding to approve 2021 settlement agreement, including general base rate increases, by Duke Energy Florida, LLC*.

OPC Issue B

OPC has proposed the following Issue B: “What additional storm restoration process improvements, if any, should DEF follow in future storms?” At the Prehearing all parties agreed to include OPC’s Issue B in this docket. That being the case, I find that OPC’s Issue B shall be renumbered as Issue 18 and included in this docket.

It is therefore,

ORDERED by Commissioner Art Graham, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Art Graham, as Prehearing Officer, this 14th day of May, 2024.



ART GRAHAM  
Commissioner and Prehearing Officer  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

SBr

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in

the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

Duke Energy Florida's Prehearing Statement Ongoing,  
Continuous Storm Restoration Process Improvements

Duke Energy Florida ("DEF" or the "company") 2019 Storm Cost Settlement Agreement includes several "Future Process Improvements" covering a broad range of storm cost recovery issues, including: (1) contracting and vendor engagement; (2) travel and work policies; (3) cost documentation; (4) auditing and regulatory recovery processes; and (5) a methodology for determining incremental costs. *See* Order No. PSC-2019-0232-AS-EI, issued June 13, 2019, in Docket No. 20170172-EI.

Since that time, DEF has continued to document lessons learned from storm restoration efforts and has as a part of the ongoing, continuous improvement process implemented several additional process improvements.

DEF commits that it will continue to apply the 2019 storm process improvements, as well as the additional new process improvements listed below, whenever such implementation does not interfere with safe, timely, and prudent restoration of service following a storm, and that they will remain in effect until modified by an order of the Florida Public Service Commission. The company will meet with OPC to discuss the company's storm restoration processes in the first quarter of 2025 and every two years thereafter.

In addition to these process improvements that are already in place, DEF has also identified other additional, ongoing improvements that the company commits to work towards implementing in future storms, when practical to do so:

1. DEF has adopted digital platforms to assist with: 1) crew rostering and tracking during mobilization and on-boarding; and 2) time sheet review and approval, tracking expenses, and documenting exceptions from the 2019 process improvements, respectively. DEF will continue monitoring alternative platforms available in the market, as well as internally developed solutions, to streamline or improve this process, including but not limited to, potentially combining the two applications.
2. DEF will also continue evaluating the functionality and utility of adding lodging management functions to the suite of services offered by the existing digital platforms or as part of any potential transition to alternative platform(s).
3. DEF has instituted a formal process for documenting all exceptions to the 2019 Storm Process Improvements in real time, or as close thereto as practical without impeding restoration efforts.
4. DEF will continue to work with vendor partners to identify, address, and mitigate performance issues, including any issues complying with the

process improvements adopted in 2019 or herein.

5. Standardized Rate Schedules. To the extent possible given existing contracts and willingness of contractual partners, recognizing that resource acquisition is of paramount importance, DEF will continue working to implement a standardized rate schedule for contracts with line restoration crews. The company also commits to continue to negotiate for and implement standardized rate schedules for contracts with vegetation management crews in future storms, where possible. In addition to current contractual provisions intended to manage mobilization time and expense, DEF will focus increased emphasis on standardized terms for all vendors with the goal of minimizing the usage of “sit-down” meals, especially for large traveling convoys.
5. Logistics Support. DEF commits to continuing to enhance its process of logistical support for large vendor crews in the form of providing accessible staging and lodging locations as well as continuity in liaison support between the crews and DEF.