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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 2240010-EI

In re: Storm protection plan
cost recovery clause.

_____ /

PROCEEDINGS: PREHEARING CONFERENCE

COMMISSIONERS
PARTICIPATING: COMMISSIONER GABRIELLA PASSIDOMO

DATE: Monday, September 9, 2024

TIME: Commenced: 1:00 p.m.
Concluded: 1:15 p.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: DEBRA R. KRICK
Court Reporter and
Notary Public in and for
the State of Florida at Large

PREMIER REPORTING
TALLAHASSEE, FLORIDA
(850) 894-0828

1 APPEARANCES:

2 J. JEFFREY WAHLEN and MALCOLM N. MEANS,
3 ESQUIRES, Tampa Electric Company, 123 South Calhoun
4 Street, Tallahassee, Florida 32301; appearing on behalf
5 of Tampa Electric Company (TECO).

6 BETH KEATING, ESQUIRE, Gunster Law Firm, 215
7 South Monroe Street, Suite 601, Tallahassee, Florida
8 32301; appearing on behalf of Florida Public Utilities
9 Company (FPUC).

10 CHRISTOPHER T. WRIGHT and DAVID M. LEE,
11 ESQUIRES, 700 Universe Boulevard, Juno Beach, Florida
12 33408-0420; appearing on behalf of Florida Power & Light
13 Company (FPL).

14 DIANNE TRIPLETT, MATTHEW R. BERNIER and
15 STEPHANIE A. CUELLO, ESQUIRES, 106 E. College Avenue,
16 Suite 800, Tallahassee, Florida 32301; appearing on
17 behalf of Duke Energy Florida, LLC (DEF).

18 WALT TRIERWEILER, PUBLIC COUNSEL; CHARLES
19 REHWINKEL, DEPUTY PUBLIC COUNSEL; PATRICIA CHRISTENSEN,
20 OCTAVIO PONCE and AUSTIN WATROUS, ESQUIRES, OFFICE OF
21 PUBLIC COUNSEL, c/o The Florida Legislature, 111 West
22 Madison Street, Room 812, Tallahassee, Florida
23 32399-1400, appearing on behalf of the Citizens of the
24 State of Florida (OPC.).

25

1 APPEARANCES CONTINUED:

2 JON C. MOYLE and KAREN PUTNAL, ESQUIRES, Moyle
3 Law Firm, 118 North Gadsden Street, Tallahassee, Florida
4 32301; appearing on behalf of Florida Industrial Power
5 Users Group (FIPUG).

6 PETER J. MATTHEIS, MICHAEL K. LAVANGA and
7 JOSEPH R. BRISCAR, ESQUIRES, Stone Mattheis, Xenopoulos
8 & Brew, 1025 Thomas Jefferson Street, NW, Suite 800
9 West, Washington, DC 20007; appearing on behalf of Nucor
10 Steel (NUCOR).

11 JAMES W. BREW, LAURA W. BAKER and SARAH B.
12 NEWMAN, ESQUIRES, Stone Law Firm, 1025 Thomas Jefferson
13 Street NW, Suite 800 West Washington, DC 20007;
14 appearing on behalf of Florida White Springs
15 Agricultural Chemicals, Inc., d/b/a PCS Phosphate -
16 White Springs (PCS).

17 SHAW STILLER and DANIEL DOSE, ESQUIRES, FPSC
18 General Counsel's Office, 2540 Shumard Oak Boulevard,
19 Tallahassee, Florida 32399-0850, appearing on behalf of
20 the Florida Public Service Commission (Staff).

21 KEITH HETRICK, GENERAL COUNSEL; MARY ANNE
22 HELTON, DEPUTY GENERAL COUNSEL, Florida Public Service
23 Commission, 2540 Shumard Oak Boulevard, Tallahassee,
24 Florida 32399-0850, Advisor to the Florida Public
25 Service Commission.

1 P R O C E E D I N G S

2 COMMISSIONER PASSIDOMO: All right. Good
3 afternoon, everyone. Today is September 9th, 2024.
4 It is 1:00 p.m., and I will now call this
5 Prehearing Conference to order.

6 Staff, will you please read the notice?

7 MR. DOSE: By notice issued on August 28th,
8 2024, this time and place has been set for a
9 Prehearing Conference in Docket No. 20240010-EI.
10 The purpose of the Prehearing is set out more fully
11 in the notice.

12 COMMISSIONER PASSIDOMO: Thank you.

13 Let's move to appearances. Florida Power &
14 Light.

15 MR. WRIGHT: Good afternoon, Commissioner.
16 Christopher Wright on behalf of Florida Power &
17 Light. I would also like to enter an appearance
18 for David Lee.

19 MR. BERNIER: Good afternoon, Commissioner.
20 Matt Bernier for Duke Energy, and I would also like
21 to enter an appearance for Stephanie Cuello and
22 Dianne Triplett.

23 Thank you.

24 MR. MEANS: Good afternoon. Malcolm Means
25 with the Ausley McMullen Law Firm for Tampa

1 Electric, and I would also like to enter
2 appearances for Jeff Wahlen and Virginia Ponder.

3 Thank you.

4 MS. KEATING: Good afternoon, Commissioner.
5 Beth Keating with the Gunster Law Firm here this
6 afternoon on behalf of Florida Public Utilities.

7 MR. MOYLE: Good afternoon, Jon Moyle for the
8 Florida Industrial Power Users Group. I would also
9 like to enter an appearance for Karen Putnal.

10 Thank you.

11 MR. BAKER: Good afternoon, Commissioner.
12 Laura Baker with Stone Mattheis Xenopoulos & Brew
13 on behalf of White Springs Agricultural Chemicals,
14 Incorporated, doing business as PCS Phosphate-White
15 Springs. I would also like to do -- enter an
16 appearance for James Brew and Sarah Newman.

17 MR. BRISCAR: Good afternoon, Commissioner.
18 Joseph Briscar on behalf of Nucor Steel Florida. I
19 would like to also enter an appearance for Peter
20 Mattheis and Michael Lavanga.

21 Thank you.

22 MR. REHWINKEL: Good afternoon, Commissioner.
23 Charles Rehwinkel and Ali Wessling with the Office
24 of Public Counsel. We would also like to enter an
25 appearance for Walt Trierweiler, the Public

1 Counsel, Patty Christensen, Octavio Ponce and
2 Austin Watrous.

3 Thank you.

4 COMMISSIONER PASSIDOMO: Staff.

5 MR. DOSE: For Commission staff, Daniel Dose
6 and Shaw Stiller.

7 MS. HELTON: And Mary Anne Helton is here as
8 your Advisor. I would also like to enter an
9 appearance for your General Counsel, Keith Hetrick.

10 COMMISSIONER PASSIDOMO: Thank you.

11 All right. Preliminary matters. Staff, are
12 there any preliminary matters we need to address
13 before we get to the Prehearing Order?

14 MR. DOSE: Staff is unaware of any preliminary
15 matters at this time.

16 COMMISSIONER PASSIDOMO: Do any of the parties
17 have any preliminary matters?

18 MR. MEANS: Commissioner, I would just --
19 sorry.

20 COMMISSIONER PASSIDOMO: Yes.

21 MR. MEANS: I would just note that we have
22 executed a stipulation with Public Counsel similar
23 to the other parties, but we haven't had a chance
24 to file in the docket yet.

25 COMMISSIONER PASSIDOMO: Thank you. Yeah, I

1 think we will -- we will get to that a little bit
2 later, but I appreciate you guys getting that in.

3 Okay. We are going to go through the draft
4 prehearing order now. I am going to identify
5 sections, and the parties can let me know if there
6 is any corrections or changes that need to be made.
7 And if we move kind of quickly, just, you know,
8 shout out to me and we will fix it.

9 So Section I, Case Background.

10 Section II, Conduct of Proceedings.

11 Section III, Jurisdiction.

12 Section IV, Procedure for Handling
13 Confidential Information.

14 MR. DOSE: Any confidential cross-examination
15 exhibits a party intends to offer will be in paper
16 copies in red folders in the course of the hearing.

17 COMMISSIONER PASSIDOMO: Okay. Thank you.

18 Does any party have any other matters related
19 to confidential information that they would like to
20 address? All right. We'll keep moving.

21 Section V, prefiled testimony and exhibits and
22 witnesses.

23 MR. DOSE: Staff suggests that the witness
24 summary testimony be no longer than three minutes.

25 COMMISSIONER PASSIDOMO: Are parties okay with

1 the three-minute summaries? Yep, okay.

2 Section VI, Provision of Exhibits for Hearing.

3 Section VII, Order of Witnesses.

4 Are there any -- I am sorry, staff. Are there
5 any changes to the order of witnesses?

6 MR. DOSE: Staff is unaware of any changes at
7 this time.

8 COMMISSIONER PASSIDOMO: Are there any
9 witnesses that can be stipulated?

10 MR. DOSE: The parties have stipulated to the
11 three PSC staff witnesses, Tomer Kopelvich, Ron
12 Mavrides and Donna Brown.

13 The only other witnesses are those listed by
14 the four utilities. It is staff's understanding
15 that the utilities and intervenors have been
16 working on stipulations for witnesses. The parties
17 would be best suited to speak to the status of
18 those stipulations.

19 COMMISSIONER PASSIDOMO: Now, if any parties
20 would like to speak to this witness stipulations.

21 MR. WRIGHT: This is Chris Wright on behalf of
22 Florida Power & Light.

23 So Florida Power & Light, similar to the other
24 utilities, has entered into Type 2 stipulations
25 with Public Counsel. Included in those

1 stipulations is a stipulation to the witnesses and
2 their testimony and exhibits being admitted into
3 the record and, upon Commission approval, those
4 witnesses being excused.

5 COMMISSIONER PASSIDOMO: Okay. And that seems
6 across the board, okay.

7 I think -- well, I will let staff speak to
8 this.

9 MR. DOSE: If the parties advise staff of any
10 witness stipulations, staff will confirm with each
11 Commissioner that any identified witness can be
12 excused. If Commissioners don't have any questions
13 of these witnesses, the witnesses may be excused
14 from the hearing and their testimony and exhibits
15 entered into the record at the hearing as though
16 read.

17 COMMISSIONER PASSIDOMO: Pretty standard, so
18 I'll keep moving if everyone is okay.

19 All right. So we are going to move to Section
20 VIII, Basic Positions. Do any of the parties have
21 any changes to their basic positions? No changes.
22 Okay.

23 Okay. Section IX, Issues and Positions.
24 Staff, do you have any additional comments before
25 we get started with the issues?

1 MR. DOSE: We have received stipulations from
2 Florida Power & Light, Duke and FPUC. We have not
3 heard position statements on these stipulations
4 from FIPUG, Nucor or PCS Phosphate.

5 COMMISSIONER PASSIDOMO: I understand that
6 we've gotten some, you know, some that are, you
7 know, that are taking no position, and things like
8 that. So the way I was thinking about going
9 through, because we do have these stipulations,
10 just kind of taking, with respect to all the
11 issues, kind of taking them as a lump chunk, and
12 then we will kind of go from there for any issues
13 that, you know, comments that you might have
14 regarding one specific issue.

15 MR. BRISCAR: Commissioner?

16 COMMISSIONER PASSIDOMO: Yes.

17 MR. BRISCAR: We've -- Nucor, we've spoken
18 with Duke and OPC, and at least in regards to Duke,
19 we are willing to agree to the Type 2 stipulations
20 that OPC and Duke have entered into. So I think
21 all of our issues, except for 3D, are agree with
22 OPC, so we will change that one to agree with OPC,
23 and that will be how we handle that.

24 COMMISSIONER PASSIDOMO: Okay. And I think
25 the way -- yes, Mr. Rehwinkel.

1 MR. REHWINKEL: Thank you, Commissioner.

2 The Public Counsel has appreciated working
3 with counsel for all four companies to reach the
4 resolution that we have -- Mr. Trierweiler has
5 signed. I just -- it's important for the record to
6 state that we are facilitating a Type 2
7 stipulation, which would mean that the company and
8 the staff would be in agreement on numbers, and we,
9 as it's laid out in the documents, we won't object
10 and we won't -- we wave all of our post-hearing
11 rights, et cetera.

12 So it's just important that we not use the
13 term entered into a stipulation, that's not what
14 we've done.

15 COMMISSIONER PASSIDOMO: Yeah.

16 MR. REHWINKEL: And there is a footnote that
17 we have been, for the last couple of years,
18 including in these orders, if such an arrangement
19 is approved by the Commission, that we would ask be
20 included.

21 So just to clarify, that's -- that's the
22 posture I think that we are in. And we are -- we
23 worked diligently with these folks to make -- put
24 us in this posture, and I think that's what the
25 other parties would be agreeing to.

1 COMMISSIONER PASSIDOMO: Right. And I
2 appreciate you clarifying for that -- for the
3 record, and for all the work that you guys have
4 done to come to those Type 2 stipulations.

5 So from that, I mean, with respect to all
6 issues, any other comments on any --

7 MR. MOYLE: I would -- I would just confirm
8 that what Mr. Rehwinkel represented on behalf of
9 OPC is also the position of FIPUG. We will -- we
10 will facilitate a Type 2 stipulation. We are not
11 entering affirmatively into a stipulation. And if
12 we could be reflected on the -- on the footnote,
13 the stipulation footnote --

14 COMMISSIONER PASSIDOMO: Sure.

15 MR. MOYLE: -- that would be appreciated.

16 COMMISSIONER PASSIDOMO: Yeah. And I think
17 while staff, we'll work towards that. And I think
18 we are -- we are kind of -- staff, you can
19 interject here, but if we can have all of those
20 changes by close of business. I know we have been
21 kind of moving -- by close of business tomorrow.
22 Sorry, you have -- just so that we can get that all
23 finalized for the Prehearing Order.

24 Staff, please add anything.

25 MR. DOSE: That works. And is this for all

1 the utilities' stipulations?

2 MR. MOYLE: It is for FIPUG, yes.

3 MR. BAKER: And just for the record,
4 Commissioner, I wanted to say, likewise, for PCS,
5 but only for Duke, obviously.

6 COMMISSIONER PASSIDOMO: Yes.

7 MR. BAKER: Thank you.

8 COMMISSIONER PASSIDOMO: Okay. Well, with
9 that, any -- anything additional, staff, or should
10 I --

11 MR. DOSE: Nothing further on that.

12 COMMISSIONER PASSIDOMO: Okay. Okay. So --
13 okay, like I said, close of business tomorrow, if
14 we can have all of that so that we can synthesize
15 everything. I am going to keep moving on then.

16 Section X, Exhibit List. Staff.

17 MR. DOSE: Staff has prepared a Comprehensive
18 Exhibit List which lists all prefiled exhibits and
19 those exhibits staff wishes to include in the
20 record. The draft list was provided to the parties
21 to see if there were any changes or objections to
22 the CEL, or to the introduction of any of staff's
23 exhibits being entered into the record.

24 At this time, we would like to see if there
25 are any known changes that need to be made to the

1 parties' prefiled exhibits, and if there are any
2 known objections to the entry of staff's proposed
3 exhibits into the record.

4 Staff will continue to work with the parties
5 to work towards stipulating the exhibit list prior
6 to the hearing.

7 COMMISSIONER PASSIDOMO: Thank you.

8 Are there any changes to the parties' prefiled
9 exhibits?

10 Are the parties willing to stipulate to
11 staff's cross-examination exhibits listed on the
12 CEL? Is that -- for the record, yeah, I am getting
13 nods yes for the record.

14 Okay. Thank you, everyone. Let's move to
15 proposed stipulations. Staff, are there any
16 stipulations? I know we've gone over this but --

17 MR. DOSE: As mentioned, we received
18 stipulations from Florida Power & Light, Duke
19 Energy and FPUC.

20 MR. MEANS: And, Commissioner, as I mentioned
21 earlier, we have exchanged the signed document with
22 OPC. We just have to file it in the docket, and we
23 will do that today.

24 COMMISSIONER PASSIDOMO: Okay. Great. Thank
25 you.

1 Section XII, Pending Motions.

2 MR. DOSE: There are no pending motions at
3 this time.

4 COMMISSIONER PASSIDOMO: Okay. Pending
5 confidentiality orders, are there any?

6 MR. DOSE: There are no pending -- there are
7 no pending confidentiality matters at this time.

8 COMMISSIONER PASSIDOMO: All right.
9 Post-hearing procedures.

10 MR. DOSE: Staff recommends that post-hearing
11 briefs be limited to 40 pages should briefs be
12 necessary. Staff recommends that a summary of each
13 position should be included in each post-hearing
14 statement. And if a bench decision is not made,
15 post-hearing briefs will be due on October 25th,
16 2024.

17 COMMISSIONER PASSIDOMO: Are all parties in
18 agreement?

19 MR. REHWINKEL: I think, based on the executed
20 documents with all four, and the stipulations and
21 facilitations, that there should not be any
22 post-hearing --

23 COMMISSIONER PASSIDOMO: Great. Yeah.

24 MR. REHWINKEL: -- filings.

25 COMMISSIONER PASSIDOMO: Okay. Sounds good.

1 All right. So Section XV would be rulings.
2 Staff.

3 MR. DOSE: Staff recommends that the
4 Prehearing Officer make a ruling that all parties
5 shall be provided three minutes for opening
6 statements.

7 COMMISSIONER PASSIDOMO: All right. We -- we
8 -- we all agreed on that earlier. Okay.

9 Okay. Other matters. Are there any other
10 matters to address in this Prehearing Conference?

11 MR. DOSE: Staff has just a few items to
12 address.

13 As we have previously discussed with the
14 parties, prior to the hearing, all nonconfidential
15 prefiled exhibits and testimony will be uploaded
16 onto Case Center. At the hearing, the parties,
17 Commissioners and staff will then have access to
18 those items on Case Center. Staff will also have,
19 in red folders, paper copies of all confidential
20 prefiled testimony and confidential prefiled
21 exhibits. Parties do not have to bring copies of
22 those items.

23 Parties will need to upload nonconfidential
24 cross-examination exhibits in Case Center prior to
25 the hearing by September 13th; we have discussed

1 that process with the parties. However, all
2 confidential cross-examination exhibits or
3 depositions the parties wish to use at the hearing
4 must be provided in the following manner: For each
5 exhibit you intend to sponsor, you must bring 20
6 paper copies. If the exhibit is confidential, each
7 copy will need to be in a red folder.

8 COMMISSIONER PASSIDOMO: All right. Does any
9 party have any additional matters that need to be
10 addressed it?

11 I think the only thing I am going to formally
12 make a ruling that opening statements are -- are
13 limited to three minutes, because I kind of did
14 that casually, so, okay, for the record.

15 Okay. Well, with that --

16 MR. BAKER: Yes, Commissioner. I -- I
17 apologize. I have not actually conferred with all
18 the parties, but if -- if we -- I would ask if PCS
19 could be excused from the hearing, since given that
20 we've facilitated all these Type 2 stipulations,
21 and to avoid travel and -- but I don't need to
22 take -- I can file something formal if you need a
23 request.

24 COMMISSIONER PASSIDOMO: Right. I think -- we
25 talked about that earlier. I think that will come

1 through the Chair's office, but I anticipate that
2 that shouldn't be an issue, but we will let -- let
3 the Chair rule on that. So if you -- staff, can
4 you --

5 MR. DOSE: Staff will contact the Chair for
6 that.

7 COMMISSIONER PASSIDOMO: Okay.

8 MR. BAKER: Okay. I will work through the
9 staff and the Chair. I apologize.

10 COMMISSIONER PASSIDOMO: No. No. Thank you
11 for bringing it to my attention.

12 MR. REHWINKEL: For the record, no -- no
13 objection to any excusals that are requested.

14 COMMISSIONER PASSIDOMO: Okay.

15 MR. MOYLE: And FIPUG will probably also ask
16 to be excused, given that it seems like it will be
17 an introduction of evidence without a lot of
18 consternation or cross-examination.

19 COMMISSIONER PASSIDOMO: Right. Yeah.

20 MR. MOYLE: Thank you.

21 COMMISSIONER PASSIDOMO: All right. Sounds
22 good.

23 Okay. Any additional matters?

24 All right. Seeing none, this Prehearing
25 Conference is adjourned. Thank you.

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(Proceedings concluded.)

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CERTIFICATE OF REPORTER

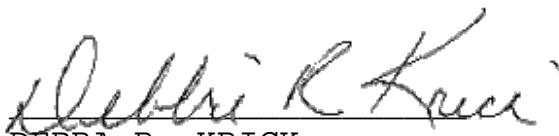
STATE OF FLORIDA)
COUNTY OF LEON)

I, DEBRA KRICK, Court Reporter, do hereby
certify that the foregoing proceeding was heard at the
time and place herein stated.

IT IS FURTHER CERTIFIED that I
stenographically reported the said proceedings; that the
same has been transcribed under my direct supervision;
and that this transcript constitutes a true
transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative,
employee, attorney or counsel of any of the parties, nor
am I a relative or employee of any of the parties'
attorney or counsel connected with the action, nor am I
financially interested in the action.

DATED this 11th day of September, 2024.


DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #HH575054
EXPIRES AUGUST 13, 2028