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July 1, 2020

**VIA ELECTRONIC FILING**

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

Re: *Environmental Cost Recovery Clause; Docket No. 20200007-EI*

Dear Mr. Teitzman:

On behalf of Duke Energy Florida, LLC (“DEF”), please find enclosed for electronic filing in the above-referenced docket, DEF’s errata to the April 1 Direct Testimony of Kim McDaniel. Page 6, lines 8-17, have been reworded.

Thank you for your assistance in this matter. Please feel free to call me at (850) 521-1428 should you have any questions concerning this filing.

Respectfully,

*s/Matthew R. Bernier*

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MRB/cmw  
Enclosures

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DIRECT TESTIMONY OF

KIM SPENCE McDANIEL

ON BEHALF OF

DUKE ENERGY FLORIDA, LLC

DOCKET NO. 20200007-EI

April 1, 2020

**Q. Please state your name and business address.**

A. My name is Kim S. McDaniel. My business address is 299 First Avenue North, St. Petersburg, FL 33701.

**Q. By whom are you employed and in what capacity?**

A. I am employed by Duke Energy Florida, LLC (“DEF” or the “Company”) as Manager of Environmental Services.

**Q. What are your responsibilities in that position?**

A. My responsibilities include managing the work of environmental professionals who are responsible for environmental, technical, and regulatory support during the development and implementation of environmental compliance strategies for regulated power generation facilities and electrical transmission and distribution facilities in Florida.

1 **Q. Please describe your educational background and professional experience.**

2 A. I obtained my Bachelor of Science degree in Wildlife and Fisheries Sciences  
3 from Texas A&M University, College Station, Texas. I was employed by the  
4 Arizona Department of Environmental Quality (“ADEQ”) between 1996 and  
5 2007. At the ADEQ, I managed compliance and enforcement efforts associated  
6 with water quality and waste handling activities. During my tenure there I was  
7 also responsible for managing the site investigations under state superfund  
8 program and writing new regulations governing the management of wastes. I  
9 joined Progress Energy, now DEF, in 2008 as the manager of Florida Permitting  
10 and Compliance and am currently in this role.

11  
12 **Q. What is the purpose of your testimony?**

13 A. The purpose of my testimony is to explain material variances between actual and  
14 actual/estimated project expenditures for environmental compliance costs  
15 associated with FPSC-approved programs under my responsibility. These  
16 programs include the T&D Substation Environmental Investigation,  
17 Remediation and Pollution Prevention Program (Project 1 & 1a), Distribution  
18 System Environmental Investigation, Remediation and Pollution Prevention  
19 Program (Project 2), Pipeline Integrity Management (“PIM”) (Project 3), Above  
20 Ground Secondary Containment (Project 4), Phase II Cooling Water Intake –  
21 316(b) (Projects 6 & 6a), CAIR/CAMR - Peaking (Project 7.2), Best Available  
22 Retrofit Technology (“BART”) (Project 7.5), Arsenic Groundwater Standard  
23 (Project 8), Sea Turtle Coastal Street Lighting Program (Project 9),

1           Underground Storage Tanks (Project 10), Modular Cooling Towers (Project 11),  
2           Thermal Discharge Permanent Cooling Tower (Project 11.1), Greenhouse Gas  
3           Inventory and Reporting (Project 12), Mercury Total Daily Maximum Loads  
4           Monitoring (Project 13), Hazardous Air Pollutants Information Collection  
5           Request (“ICR”) Program (Project 14), Effluent Limitation Guidelines Program  
6           (Project 15.1), National Pollutant Discharge Elimination System (“NPDES”)  
7           (Project 16) and Mercury and Air Toxics Standards (“MATS”) – Crystal River  
8           (“CR”) Units 4&5 (Project 17) for the period January 2018 through December  
9           2018.

10

11   **Q.    How did actual O&M expenditures for January 2019 - December 2019**  
12   **compare with DEF’s actual/estimated projections for the Transmission &**  
13   **Distribution Substation Environmental Investigation, Remediation, and**  
14   **Pollution Prevention Projects (Projects 1 & 1a)?**

15   A.    The Substation System Program variance is \$118,903 or 19% higher than  
16    projected. The Transmission portion (Project 1) is \$113k or 18% higher than  
17    forecasted primarily due to costs associated with the East Clearwater, Central  
18    Florida, Holder, Tarpon Springs, and Windermere Substations. These costs are  
19    for final remediation, additional groundwater testing, final reports preparation  
20    and submittals. Additional costs were also incurred due to a new request by  
21    FDEP to collect two additional groundwater samples for two consecutive clean  
22    test results for every well at the remaining sites with groundwater impacts.

1 A Declaration of Restrictive Covenant was prepared and submitted for Central  
2 Florida Substation.

3 The Distribution portion (Project 1a) is \$6k or 46% higher than forecasted  
4 primarily due to final remediation work, additional groundwater testing, report  
5 preparation and submittal for the Wekiva Substation.

6

7 **Q. How did actual O&M expenditures for January 2019 - December 2019**  
8 **compare with DEF's actual/estimated projections for the Distribution**  
9 **System Environmental Investigation, Remediation, and Pollution**  
10 **Prevention Project (Project 2)?**

11 A. The Distribution System Environmental Investigation, Remediation, and  
12 Pollution Prevention Project variance is \$2,461 or 33% higher than projected.  
13 This is due to the delayed receipt of invoices for final report and closure  
14 document preparation that occurred in 2018; causing charges for the work to hit  
15 in 2019.

16

17 **Q. How did actual O&M expenditures for January 2019 - December 2019**  
18 **compare with DEF's actual/estimated projections for the Cooling Water**  
19 **Intake - 316(b) Project (Projects 6 & 6a)?**

20 A. The Cooling Water Intake - 316(b) (Projects 6 & 6a) O&M variance is \$98,231  
21 or 14% higher than projected. Cooling Water Intake 316(b) – Base (Project 6),  
22 which had a \$68k or 21% higher than projected variance primarily due to

1 expanded analysis and 316(b) modeling requirements associated with the  
2 Bartow Station.

3

4 **Q. How did actual O&M expenditures for January 2019 - December 2019**  
5 **compare with DEF's actual/estimated projections for the Arsenic**  
6 **Groundwater Standard – Base - Project (Project 8)?**

7 A. The Arsenic Groundwater Standard O&M variance is \$50,085 or 33% lower  
8 than projected primarily due to the installation of two additional monitoring  
9 wells which, following FDEP comments, resulted in a schedule and cost shift for  
10 some tasks originally scheduled for 2019 into 2020.

11

12 **Q. How did actual Capital expenditures for January 2019 - December 2019**  
13 **compare with DEF's actual/estimated projections for the Sea Turtle –**  
14 **Coastal Street Lighting Project (Project 9)?**

15 A. The Sea Turtle – Coastal Street Lighting Project capital variance is \$400, or  
16 100% lower than forecasted. No municipalities requested Sea-Turtle Lighting in  
17 2019.

18

19 **Q. How did actual Capital expenditures for January 2019 - December 2019**  
20 **compare with DEF's actual/estimated projections for the Effluent**  
21 **Limitations Guideline Project (Project 15.1)?**

22 A. The ELG Capital variance is \$235,602, or 13% higher than originally forecasted.  
23 This is primarily due to actual bids that came in higher than originally estimated,

1 and additional costs due to several storms passing through as new trenches were  
2 being constructed, causing work to be expedited to meet year-end FDEP  
3 compliance requirements.

4  
5 **Q. How did actual O&M expenditures for January 2019 - December 2019**  
6 **compare with DEF's actual/estimated projections for the National Pollutant**  
7 **Discharge Elimination System (NPDES) Project (Project 16)?**

8 A. The NPDES variance is \$3,529 or 13% higher than forecasted, primarily due to  
9 a charge inadvertently hitting the project in 2019, which was caught and  
10 reversed February 2020. Bartow WET testing was conducted in early 2019 in  
11 order to obtain FDEP approval for the use of an antifouling agent. These costs  
12 totaling \$7,733 were charged to ECRC in 2019. It was subsequently determined  
13 that the initial WET tests costs of \$7,733 required to obtain approval for the use  
14 of the antifouling agent should not have been charged to ECRC due to the fact  
15 that they were not part of the routine annual WET testing. DEF identified the  
16 erroneous charge in February 2020 and a credit of \$7,733 was applied to  
17 NPDES Project (Project 16).

18  
19 **Q. How did actual O&M expenditures for January 2019 - December 2019**  
20 **compare with DEF's actual/estimated projections for the MATS – CR 4&5**  
21 **Project (Project 17)?**

1 A. The MATS – CR 4&5 O&M variance is \$153,628 or 94% lower than  
2 forecasted, primarily due to units running less than projected.

3

4 **Q. In Order No. PSC-2010-0683-FOF-EI issued in Docket No. 20100007-EI on**  
5 **November 15, 2010, the Commission directed DEF to file as part of its**  
6 **ECRC true-up testimony a yearly review of the efficacy of its Plan D and**  
7 **the cost-effectiveness of DEF’s retrofit options for each generating unit in**  
8 **relation to expected changes in environmental regulations. Has DEF**  
9 **conducted such a review?**

10 A. Yes. DEF’s yearly review of the Integrated Clean Air Compliance Plan is  
11 provided as Exhibit No. \_\_ (KSM-1).

12

13 **Q. Please summarize the conclusions of DEF’s review of its Integrated Clean**  
14 **Air Compliance Plan.**

15 A. DEF installed emission controls contemplated in its Integrated Clean Air  
16 Compliance Plan on time and within budget. The Flue Gas Desulfurization (wet  
17 scrubbers) and Selective Catalytic Reduction systems on CR 4&5 have enabled  
18 DEF to comply with Clean Air Interstate Rule (“CAIR”) requirements and will  
19 continue to be the cornerstone of DEF’s integrated air quality compliance  
20 strategy. DEF is confident that the Integrated Clean Air Compliance Plan, along  
21 with compliance strategies under development, will enable it to achieve and  
22 maintain compliance with applicable regulations, including MATS, in a cost-  
23 effective manner.



1

2 **Q. What is the status of the ELG (Project 15.1)?**

3 A. On November 23, 2015, the Environmental Protection Agency (“EPA”)  
4 published the final revision to the ELG establishing technology-based national  
5 standards for effluent waste streams. The rule went into effect on January 4,  
6 2016 and applies to all steam electric generating stations. The new limits were  
7 to have been incorporated into affected stations’ NPDES permits with a  
8 compliance timeframe between November 1, 2018 and December 31, 2023;  
9 however, on September 18, 2017, EPA issued a final rule postponing the  
10 compliance deadlines of FGD wastewater and bottom ash transport water for  
11 two years. On November 22, 2019, EPA published a revised ELG rule with  
12 proposed changes to the FGD effluent and bottom ash transport water limits.  
13 EPA is in the process of reviewing comments received. DEF continues to work  
14 with the FDEP to address these ELG requirements in its Crystal River Units 4  
15 and 5 as part of the NPDES permit renewal process. Modifications to address  
16 discharges of demineralization reject water into the Bottom Ash Dewatering  
17 System Surge Tanks and directing draining of the system for maintenance to the  
18 flue gas desulfurization (“FGD”) scrubbers as the primary flow path, with  
19 backup/emergency discharge to Percolation Pond 5 as approved by the  
20 Conditions of Certification, was initiated in 2019 and it is scheduled to be  
21 completed August 2020.

22

23 **Q. What is the status of the Clean Water Rule?**

1 A. On June 29, 2015 the EPA and the Army Corps of Engineers (“Corps”)  
2 published the final Clean Water Rule that significantly expanded the definition  
3 of the Waters of the United States (“WOTUS”). On October 9, 2015 the U.S.  
4 Court of Appeals for the Sixth Circuit granted a nationwide stay of the rule  
5 effective through the conclusion of the judicial review process. On February 22,  
6 2016 the Sixth Circuit issued an opinion that it has jurisdiction and is the  
7 appropriate venue to hear the merits of legal challenges to the rule; however,  
8 that decision was contested, and on January 13, 2017 the U.S. Supreme Court  
9 decided to review the jurisdictional question. Oral arguments in the U.S.  
10 Supreme Court case were conducted in October 2017. On January 22, 2018, the  
11 U.S. Supreme Court issued its decision stating federal district courts, instead of  
12 federal appellate courts, have jurisdiction over challenges to the rule defining  
13 waters of the United States Consistent with the U.S. Supreme Court decision,  
14 the U.S. Court of Appeals for the Sixth Circuit lifted its nationwide stay on  
15 February 28, 2018. The stay issued by the North Dakota District Court remains  
16 in effect, but only within the thirteen states within the North Dakota District. On  
17 February 28, 2017, President Trump signed an executive order laying out a new  
18 policy direction for how “Waters of the United States” should be defined and  
19 directing EPA and the Corps to initiate a rulemaking to either rescind or revise  
20 the 2015 Clean Water Rule developed by the Obama administration.  
21 Subsequently, the EPA Administrator signed a pre-publication notice reflecting  
22 the intent to move forward with rulemaking in response to this directive. In  
23 addition, the executive order seeks to have the Department of Justice determine

1 the path forward on the Clean Water Rule litigation in light of the new policy  
2 direction.

3 On January 31, 2018, the EPA and Corps announced a final rule adding  
4 an applicability date to the 2015 rule defining “waters of the United States,”  
5 thereby deferring implementation of the 2015 WOTUS Rule until early 2020.  
6 This rule has no immediate impact to Duke Energy, and the agencies will  
7 continue to apply the pre-existing WOTUS definition in place prior to the 2015  
8 rule until 2020.

9 On February 14, 2019, EPA and Corps published in the Federal Register,  
10 the “Revised Definition of ‘Waters of the United States,’” which proposes to  
11 narrow the extent of Clean Water Act jurisdiction as compared to the 2015  
12 definition adopted by the Obama Administration (Proposed Rule). On January  
13 23, 2020, EPA and Corps released a pre-publication version of *The Navigable*  
14 *Waters Protection Rule: Definition of “Waters of the United States.”* The final  
15 rule has not yet been published in the Federal Register.

16

17 **Q. Does this conclude your testimony?**

18 A. Yes.