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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20200069-EI

Review of 2020-2029 Storm
Protection Plan pursuant to
Rule 25-6.030, F.A.C., Duke
Energy Florida, LLC.

_____ /

DOCKET NO. 20200092-EI

Storm Protection Plan Cost
Recovery Clause.

_____ /

VOLUME 1

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PROCEEDINGS: HEARING

COMMISSIONERS
PARTICIPATING: CHAIRMAN GARY F. CLARK
COMMISSIONER ART GRAHAM
COMMISSIONER JULIE I. BROWN
COMMISSIONER DONALD J. POLMANN
COMMISSIONER ANDREW GILES FAY

DATE: Tuesday, September 1, 2020

TIME: Commenced: 12:30 p.m.
Concluded: 2:15 p.m.

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

REPORTED BY: DEBRA R. KRICK
Court Reporter

PREMIER REPORTING
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23

24

25

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

2 CHAIRMAN CLARK: We are going to go ahead and
3 call this hearing to order. I am going to ask
4 staff, if they would, to please read the notice.

5 MR. STILLER: Good afternoon, Chair. Shaw
6 Stiller with the Office of General Counsel.

7 Pursuant to notice, this time and place has
8 been set for hearing in Docket Nos. 20200069-EI and
9 20200092-EI. The purpose of the hearing is set out
10 in the notice.

11 CHAIRMAN CLARK: Thank you, sir.

12 All right. Let's take appearances, beginning
13 with Duke.

14 MR. BERNIER: Good afternoon, Commissioners.
15 Matt Bernier for Duke Energy.

16 CHAIRMAN CLARK: OPC.

17 MR. REHWINKEL: Good afternoon, Commissioners.
18 Charles Rehwinkel and J.R. Kelly for the Office of
19 Public Counsel and customers of Duke.

20 CHAIRMAN CLARK: Thank you.

21 PCS Phosphate.

22 MR. BREW: Yes, Commissioner. For White
23 Springs Agricultural Chemicals, James Brew.

24 CHAIRMAN CLARK: FIPUG. Unmute, Mr. Moyle.
25 We can't hear you, Mr. Moyle. Changing ears

1 doesn't work.

2 MR. MOYLE: My weakness.

3 Jon Moyle on behalf of the Florida Industrial
4 Power Users Group.

5 CHAIRMAN CLARK: Thank you, Mr. Moyle.
6 Walmart.

7 MS. EATON: Good morning -- good afternoon.
8 This is Stephanie Eaton for Walmart.

9 CHAIRMAN CLARK: Thank you, Ms. Eaton.
10 Staff.

11 MR. STILLER: Good afternoon, Chair. Shaw
12 Stiller and Jennifer Crawford for staff.

13 MS. HELTON: And Mary Anne Helton here as your
14 advisor, along with your General Counsel, Keith
15 Hetrick.

16 CHAIRMAN CLARK: All right. Did we get
17 everybody?

18 Okay. Let's before into preliminary matters.
19 Before we begin preliminary matters, Mr. Stiller, I
20 understand that there is some discussion about
21 taking up the two settlement agreements. Are we
22 going to take them up together, separately, and if
23 so, when?

24 MR. STILLER: Thank you, Mr. Chair.

25 There are two agreements. There is a July

1 agreement and there is an August agreement. There
2 is no opposition to the July agreement, so we
3 suggest that the July agreement be taken up first
4 and moved on -- or acted on by the Commission, and
5 then the August agreement can be taken up to which
6 there is opposition.

7 CHAIRMAN CLARK: Okay. So before opening
8 statements, we will take up the July agreement,
9 which was the Storm Protection Plan, is that a fair
10 place to put that, Mary Anne?

11 MS. HELTON: That works for me, unless the
12 parties had something to say about the July
13 agreement in their opening statements, but I think
14 the -- the issues surround the second settlement.

15 CHAIRMAN CLARK: Right. There is no
16 opposition to the -- to the July settlement
17 agreement.

18 Anybody -- Mr. Futrell.

19 MR. FUTRELL: Yeah. I was just going to
20 offer, Mr. Chairman, that that agreement deals
21 primarily with storm protection plan cost recovery.

22 CHAIRMAN CLARK: Okay. Are we all in
23 agreement to take it up then before we beginning
24 the opening statements?

25 MR. BREW: Mr. Chairman.

1 CHAIRMAN CLARK: Yes.

2 MR. BREW: This is Jay Brew. I do want to
3 note that the July 17th stipulation, while it
4 primarily concerns the plan, is in both dockets.

5 CHAIRMAN CLARK: I am sorry, say that again,
6 Mr. Brew.

7 MR. BREW: The July 17th stipulation, which
8 there is no opposition, and PSC is a signatory, I
9 just wanted to note that it does cover both
10 dockets, and so I am not sure that it is entirely
11 restricted to the plan docket.

12 CHAIRMAN CLARK: Okay. Any concerns with that
13 from staff?

14 MS. HELTON: The one thing I wanted -- would
15 want to make sure, Mr. Chairman, is if we were to
16 take up the July agreement prior to the opening
17 statements, do we have a sufficient record for if
18 the Commission were to decide that it was in the
19 public interest to do so?

20 CHAIRMAN CLARK: All right. Let me back up
21 and start over. I asked this question earlier and
22 never got an answer.

23 Where is the best place to put the approval of
24 the July settlement agreement?

25 MS. HELTON: Well, maybe after the opening --

1 on reflection, Mr. Chairman, maybe after the
2 opening statements but before we hear -- and after
3 the exhibits are put into the record, but before we
4 hear from the witnesses.

5 CHAIRMAN CLARK: Okay. After the exhibits,
6 prior to hearing from the witnesses, we will vote
7 on the July settlement agreement.

8 MS. HELTON: Yes, sir.

9 CHAIRMAN CLARK: Okay. Parties, is that in
10 agreement with everyone?

11 MR. BREW: Yes. Yes, sir.

12 CHAIRMAN CLARK: All right. Very good.

13 Okay. Mr. Stiller, begin with preliminary
14 matters.

15 MR. STILLER: Thank you, Mr. Chair.

16 Staff notes for the record that State
17 buildings are currently closed to the public, and
18 other restrictions on gatherings remain in place
19 due to COVID-19. Accordingly, this hearing is
20 being conducted remotely, and all parties and
21 witnesses will present argument and testimony by
22 communications media technology.

23 Members of the public who want to observe or
24 listen to this hearing may do so by accessing the
25 live video broadcast, which is available from the

1 Commission website. Upon completion of the
2 hearing, the archived video will also be available.

3 Staff additionally notes that each person
4 participating today needs to keep their phone or
5 device muted when they are not speaking, and only
6 unmute when they are called upon to speak. If they
7 do not keep their phone muted, or put their phone
8 on hold, they may be disconnected from the
9 proceeding and will need to call back in. Also,
10 telephonic participants should speak directly into
11 their phone and not use the speaker function.

12 Staff is not aware of any of further
13 preliminary matters.

14 CHAIRMAN CLARK: Okay. Let's move on to the
15 status update.

16 What's the current status of the proceeding?

17 MR. STILLER: Thank you, Mr. Chair.

18 As mentioned previously, there were two joint
19 settlement agreements that were filed and are
20 before the Commission today, both of which were
21 filed by Duke Energy Florida in Docket No.
22 20200069-EI, Duke's Storm Protection Plan, and
23 Docket No. 20200092-EI, the Storm Protection Plan
24 Cost Recovery Clause.

25 One agreement was filed in July and the other

1 in August, so I will refer to them individually as
2 the July and August agreements.

3 The purpose of today's hearing is to address
4 whether it is in the public interest for the
5 Commission to approve the July and August
6 agreements.

7 The signatories to both agreements were Duke,
8 OPC and PCS phosphate. FIPUG is a party to both
9 dockets, but did not sign and takes no position
10 regarding either agreement. Walmart is a party to
11 both dockets, takes no position to the July
12 agreement and objects to the August agreement.

13 On August 10th, 2020, after the settlement
14 agreements were executed and filed, the Commission
15 approved a settlement in Docket No. 20200069-EI.
16 Based on that prior approval, that docket was
17 closed this past Friday, August 28th, 2020.

18 Its closing is an a ministerial act and does
19 not affect the substance of the two agreements
20 being considered today. All matters in both
21 agreements and any objections thereto may be
22 considered at this public hearing as part of Docket
23 No. 20200092-EI.

24 CHAIRMAN CLARK: Mr. Stiller.

25 MR. STILLER: Yes, sir.

1 CHAIRMAN CLARK: Let me interrupt you two
2 seconds.

3 We are having an audio problem, I think, so
4 let's just pause for two seconds and let's see if
5 we can get this resolved. My apologies for
6 interrupting you.

7 Okay. We are going to -- we are having a
8 connection problem. We are going to ask that all
9 parties please disconnect your connection for five
10 minutes. Disconnect for five minutes and call back
11 in, if you would. We are having some problems. So
12 all parties, please disconnect, stay off for five
13 minutes and then log back in.

14 Thank you.

15 (Recess due to technical difficulties.)

16 CHAIRMAN CLARK: I am going to assume all the
17 parties are back on the line and ready to go.
18 We've come a long way the last six months in terms
19 of technology. We've seen an incredible change in
20 the way we do business, and we have made maximum
21 undertakings to make these hearings and our
22 meetings convenient and accessible, but there are
23 still going to be technological glitches
24 occasionally, and we just had one of those small
25 ones, but I appreciate staff that really stays on

1 top of this and is able to solve these problems in
2 a very, very fast manner. I apologize for any
3 inconvenience that this may cause, but I think that
4 we are all ready to go.

5 Are all the parties on the line? I do need to
6 do a quick -- David, are all the parties on the
7 line? We can always try the method, if you are not
8 on the line, speak up. Okay. It appears that we
9 have everyone on the line.

10 Mr. Stiller, would you continue where you left
11 off?

12 MR. STILLER: Yes, Mr. Chair.

13 The July agreement contains a series of
14 stipulations regarding the reasonable costs Duke
15 should be permitted to recover through the Storm
16 Protection Plan Cost Recovery Clause in 2021. Duke
17 contends that the July agreement is in the public
18 interest for a number of reasons, foremost of which
19 are promoting efficiency and transparency, and
20 avoiding the expense and delay of litigating the
21 contentious issues of whether costs are incremental
22 and whether there is double recovery. And again,
23 there is no opposition to this agreement.

24 The August agreement also contains a series of
25 stipulations, and was submitted under joint motion

1 by OPC, DEF and PCS. Specifically, the signatories
2 agreed that the prefiled testimony provides the
3 Commission with a record basis to approve the
4 reasonableness of Duke's 2021 SPPCRC costs and
5 revenue requirements.

6 The signatories further agree that the Storm
7 Protection Plan Cost Recovery Clause rate factors
8 should be approved, but that such rates should not
9 have precedential value in future SPPCRC
10 proceedings.

11 Finally, the signatories agree that Duke
12 should be permitted to seek recovery of its initial
13 2020-2029 Storm Protection Plan development costs
14 through the Cost Recovery Clause, where Duke will
15 bear the burden of proving reasonableness and
16 prudence.

17 Duke contends that the approval of both
18 agreements promotes regulatory economy and
19 administrative efficiency, and avoids the time and
20 expense associated with litigating the settled
21 issues in the various existing and continuing
22 Commission dockets. The signatories request
23 approval of the agreements without modification.

24 Walmart opposes the August agreement, and
25 contends it is not in the public interest.

1 CHAIRMAN CLARK: All right. Thank you, Mr.
2 Stiller.

3 Next we will hear opening statements.

4 I am going to ask each party to limit their
5 opening statements to five minutes. The order that
6 we are going to in, Duke will speak first, followed
7 by PCS Phosphate, then the Office of Public Counsel
8 and then Walmart.

9 I do not have FIPUG in my notes as planning to
10 make an opening statement. Is that correct, Mr.
11 Moyle?

12 MR. MOYLE: Yes. Yes, that's correct, Mr.
13 Chair. We are taking no position on both
14 settlements, so we don't need to burden the record
15 with saying anything on the opening statements.

16 CHAIRMAN CLARK: Okay. Very good. Thank you
17 very much.

18 All right, Mr. Bernier, you may begin.

19 MR. BERNIER: Thank you, Mr. Chairman.

20 And I want to start by I appreciate the
21 summation Mr. Stiller cope gave. That's going to
22 help me be nice and short today.

23 Before you are two settlement agreements. DEF
24 and the other signatories do agree that they are in
25 the public interest, and we urge your approval.

1 By way of a little background. Our recently
2 approved storm protection plan includes programs
3 and activities that are recovered from base rates,
4 and some net new programs and incremental
5 activities to existing programs that are
6 appropriately recovered through the clause.

7 The July 10th agreement, at a high level, is
8 essentially designed to identify which programs and
9 activities will be recovered through each of the
10 two buckets. The agreement confirmed there are two
11 programs for which DEF is seeking to recover costs
12 through the clause in 2021, and that's our
13 distribution feeder hardening program, which is a
14 net new program, and the transmission structure
15 hardening program.

16 Now, the transmission structure hardening
17 program includes four activities: The wood to
18 non-wood pole replacements, cathodic protection,
19 glass tower replacements and drone inspections.

20 Of these four activities, the wood to non-wood
21 pole replacement is an existing activity, and
22 therefore, the July agreement includes the parties'
23 stipulation as to the amount of related costs that
24 are included in base rates, and therefore, the
25 amount of incremental spend above which would go

1 through the clause.

2 Again, the July we believe that the July
3 agreement is in the public interest and should be
4 approved.

5 The August agreement establishes the cost
6 revenue requirements be collected through the
7 clause in 2021, which given, again, your recent
8 approval of our SPP without modification, would be
9 the full revenue requirements presented in the
10 clause 2021 projection petition and the supporting
11 testimony and exhibits of Mr. Foster. The
12 signatories to this agreement retain their right to
13 challenge the prudence of those costs at the
14 appropriate time.

15 This agreement is also between DEF, OPC and
16 PCS, as we've heard so far today.

17 Walmart has objected to the agreement. Our
18 understanding is that Walmart's objection relates
19 to the method of billing of net metered customers.
20 And DEF has proposed billing all of the customers
21 on an energy basis, which is consistent with the
22 billing methodology DEF uses in the storm cost
23 recovery mechanism associated with major storms.
24 These are the very costs the SPP is designed to
25 avoid. And we also use the same billing

1 determination in the fuel and ECRC clauses.

2 This agreement would permit that billing
3 methodology for costs recovered in 2021, but it
4 then allows for that issue to be revisited again
5 next year. It's also noteworthy that the
6 agreement, on its face, has no precedential value,
7 as Mr. Stiller indicated.

8 Thus, approval of this agreement does not
9 determine this issue forever more. It simply
10 permits the recovery of the 2021 revenue
11 requirements, which are relatively modest, as we
12 have proposed, recognizing that this agreement
13 remains on this issue, DEF does not believe it is a
14 significant enough issue to hold up approval of the
15 remainder of the agreement and the resolution of
16 all the other issues in this docket.

17 The two agreements, if approved, would resolve
18 all outstanding issues pertaining to DEF in this
19 docket. Again, we believe they are in the public
20 interest and should be approved.

21 I would like to thank just real quickly, if I
22 may, the other parties for all the conversations
23 and work that went into reaching these two
24 agreements; and of course staff for getting us in
25 front of you today. Myself, Mr. Foster and Mr.

1 Oliver, if necessary, are here for any questions.
2 And then I would only add that at the appropriate
3 time, I would offer their testimonies into the
4 record.

5 Other than that, that's all I have got. Thank
6 you.

7 CHAIRMAN CLARK: Thank you, Mr. Bernier.
8 Mr. Brew.

9 MR. BREW: Thank you, Commissioner.

10 PCS is a signatory to both of the stipulations
11 that are before you today. We consider them to be
12 a fair and prudent response to a wide number of
13 issues that the storm protection plans and clause
14 filings have presented, and we urge you to approve
15 the stipulations as filed.

16 I won't repeat what Mr. Bernier went into in
17 terms of the nature of the stipulations, other than
18 to note that the real focus of the July agreement
19 was to try to get a handle on potential duplication
20 of cost recovery, and I think it does a reasonable
21 job of doing that.

22 We also recognize that there was work to do on
23 cost allocation, and the intent of the stipulation
24 was to get through the 2019-2020 issues so that we
25 could bring all of these up at the same time that

1 we are dealing with the rate case, because there
2 are qualified SPP costs that Duke plans to move
3 from base rates to clause recovery then.

4 The -- we also support the August stipulation,
5 which looks to initially establish the SPP Cost
6 Recovery Clause, and believe, again, that it takes
7 a measured view how to address these issues
8 effectively on an interim basis.

9 I would note that the rate factors themselves
10 proposed for 2021 on testimony are relatively small
11 for all customer classes. And so the combination
12 of the work that needs to be done -- and I would
13 like to tip my hat to both the company and OPC for
14 the work that they've done this spring to try to
15 get a handle on these issues so that we could bring
16 these stipulations to you.

17 I would note finally that in the hearing
18 today, we have just seen Walmart's testimony filed
19 last Friday. And I don't believe it was any of the
20 signatories' intentions to waive any rights they
21 might have under the Order Establishing Procedure
22 to the extent that the stipulation is not approved
23 as filed.

24 Thank you very much.

25 CHAIRMAN CLARK: All right. Thank you, Mr.

1 Brew.

2 Mr. Rehwinkel.

3 MR. REHWINKEL: Good afternoon, Commissioners,
4 and thank you for this opportunity.

5 The Public Counsel supports both stipulations.
6 I am here today, Commissioners, not to conduct
7 cross-examination, but only to represent to you
8 that we believe that the stipulations are in the
9 public interest. If, because of unusual procedural
10 nature of this docket, things change, my role
11 really is here to support and represent the
12 interest of the Public Counsel in whatever
13 transpires.

14 I would note that in this docket there are
15 literally hundreds of discovery requests,
16 interrogatories and PODs included. We worked to
17 hammer out provisions that present our concern
18 about double recovery occurring. And I think these
19 agreements make sure that doesn't happen, and they
20 give the Public Counsel the ability to see a
21 refreshed SPP in two years instead of three. As
22 soon as we get through the rate case that we expect
23 to be filed next year, we will see kind of the
24 results of that, and we think that is a good thing.

25 We don't want all this effort to be flushed

1 away by any, I guess, unanticipated issues that
2 arise in this docket. So we urge you to approve
3 both stipulations. As Mr. Brew has indicated, the
4 impacts are very minor. No one is harmed by
5 adoption of the proceedings -- of the stipulations
6 here today, and we will have proceedings in the
7 coming months and years that will allow everyone to
8 get to the point they need with full hearing, and
9 without impacting anyone's rights. So we urge
10 again for the proceeding to be -- for the
11 stipulations to be approved.

12 Thank you.

13 COMMISSIONER GRAHAM: Thank you, Mr.
14 Rehwinkel.

15 Ms. Eaton.

16 MS. EATON: Good afternoon, Chairman and
17 Commissioners.

18 On behalf of Walmart, Inc., I am making an
19 opening statement in relation to Docket 20200092,
20 and in particular in relation to the two motions
21 for approval with Duke's settlement agreements
22 filed in that docket.

23 Walmart does appreciate the opportunity to
24 provide testimony at this hearing from the
25 perspective of a large energy customer that provides

1 critical services and supplies during extreme
2 weather events in the state of Florida.

3 I think it's important to have a little bit of
4 background on the SPP dockets in which Walmart
5 participated in those dockets.

6 As the Commission knows, August 10th was a
7 hearing. Walmart had entered into three settlement
8 agreements, two of which resolved contested issues
9 in the SPP docket, and the SPP Cost Recovery Clause
10 docket that we are here for today. Walmart joined
11 FPL, Gulf and OPC in settling contested issues in
12 both dockets -- or all three dockets on July 27th,
13 2020, and Walmart joined TECO, OPC and FIPUG in
14 settling all issues in those contested dockets on
15 August 3rd, 2020.

16 Further, Walmart entered into a settlement
17 agreement with Duke, OPC and PCS on July 31st,
18 2020, in relation to Duke's 20200069 docket, and
19 that resolved issues in the SPP docket for
20 Duke-Florida. However, Walmart was unable to
21 resolve one key issue originally raised by Walmart
22 witness Steve Chriss in that SPP clause docket.

23 Originally, we raised the issue in the SPP
24 docket. And by stipulation entered on July 28th,
25 2020, among Walmart, Duke, TECO, Gulf and FPL, we

1 have agreed to push our issue into the clause
2 docket.

3 That issue is ripe for discussion today, and
4 it is whether or not the Commission should reject
5 Duke's settlement based rate design which recovers
6 SPP costs from demand meter customers through a
7 dollar per kilowatt hour energy charge instead of
8 through a dollar per kilowatt demand charge.

9 Walmart asserts that the Commission should
10 reject cost recovery from demand meter customers
11 through an energy charge, which issue is raised by
12 Duke's August 10th, 2020, settlement agreement in
13 this docket.

14 Now, we realize that the settlement is
15 pertaining to the year 2021. Nevertheless, the
16 issue is important enough that Walmart wishes to be
17 heard on that issue by the Commission.

18 Walmart notes that it has no position as to
19 Duke's July 17, 2020, settlement agreement, for
20 which we are also here today.

21 As I believe Mr. Rehwinkel might have been the
22 one that noted it. Walmart did file the direct
23 testimony and exhibits of Mr. Steve Chriss on
24 August 28th, 2020. As the Commission may know, the
25 actual hearing -- or the deadline for our filing

1 intervenor testimony in Docket 20200092 is not
2 until September 4th, 2020. However, in advance of
3 this hearing, we wanted to go ahead and provide
4 this Commission with Mr. Chriss' testimony and
5 exhibits so that the Commission could hear the
6 testimony on this contested issue today.

7 Mr. Chriss is participating in the hearing,
8 and will be available for cross-examination by the
9 parties and by the Commission.

10 Walmart appreciates the opportunity to
11 participate in these proceedings, and the time and
12 effort staff and the other parties in the hearing.

13 Thank you.

14 CHAIRMAN CLARK: All right. Thank you, Ms.
15 Eaton.

16 All right. Let's move into public testimony.
17 As part of this hearing, we provided notice, an
18 opportunity for members of the public who wish to
19 testify to do so, either telephonically or by
20 written comments. I would like to note for the
21 record that there were no requests made for public
22 comment, and no written comments have been filed.

23 All right. Let's move into exhibits, Mr.
24 Stiller.

25 MR. STILLER: Thank you, Mr. Chair.

1 Staff has prepared a Comprehensive Exhibit
2 List which includes Exhibits 1 through 8. The list
3 and the identified exhibits have been provided to
4 the parties, Commissioners and the court reporter.

5 Staff requests that the Comprehensive Exhibit
6 List itself be marked as Exhibit 1, with all
7 subsequent exhibits marked as identified on the
8 list.

9 CHAIRMAN CLARK: All right. Exhibits are so
10 marked.

11 (Whereupon, Exhibit Nos. 1-8 were marked for
12 identification.)

13 MR. STILLER: It is staff's understanding that
14 the parties do not object to the entry of Exhibits
15 1 through 8. Staff requests that Exhibits 1
16 through 8 be entered into the record at this time.

17 CHAIRMAN CLARK: Without objection, they are
18 moved into the record.

19 (Whereupon, Exhibit Nos. 1-8 were received
20 into evidence.)

21 CHAIRMAN CLARK: Okay. It is at this point in
22 time that Ms. Helton suggests that we take up the
23 consideration of the July agreement, that would be
24 the 20200069 docket.

25 Commissioners, what's your pleasure?

1 COMMISSIONER FAY: Mr. Chairman, I would be
2 prepared to make a motion to move the July
3 settlement and note it's in the public interest.

4 CHAIRMAN CLARK: I have a motion. Do I have a
5 second?

6 COMMISSIONER GRAHAM: Second.

7 CHAIRMAN CLARK: I have a motion and a second
8 to approve the July settlement agreement.

9 Is there any discussion?

10 On the motion, all in favor say aye.

11 (Chorus of ayes.)

12 CHAIRMAN CLARK: Opposed?

13 (No response.)

14 CHAIRMAN CLARK: The motion is approved.

15 All right. That takes care of that one.

16 Okay, let's move into witnesses, Mr. Stiller.

17 MR. STILLER: Duke witnesses Thomas G. Foster
18 and Jay W. Oliver are available to speak in support
19 of the agreements and to answer any questions by
20 the Commissioners.

21 CHAIRMAN CLARK: All right. If I could have
22 those two witnesses, I would like to swear you in
23 prior to your testimony.

24 Mr. Oliver and Mr. Foster, would you raise
25 your right hand and repeat after me, please?

1 Whereupon,

2 THOMAS G. FOSTER

3 JAY W. OLIVER

4 were called as a witness, having been first duly sworn
5 to speak the truth, the whole truth, and nothing but the
6 truth, was examined and testified as follows:

7 CHAIRMAN CLARK: Okay. Consider yourselves
8 sworn in.

9 All right. I would like for Duke counsel to
10 introduce your witnesses, and indicate the parts of
11 the agreement that they are going to address, and
12 then each of our witnesses, we would ask that you
13 please allocate your time to three minutes to
14 provide a summary of the proposed agreement,
15 please.

16 MR. BERNIER: Thank you, Mr. Chairman.

17 The two witnesses you see before you,
18 Mr. Foster and Mr. Oliver, have filed prefiled
19 direct testimony in this docket. The issues
20 regarding the joint stipulation, which has been
21 raised by Walmart, would be for them to handle.
22 Neither of the witnesses have prepared an opening.
23 They are just available for questions should
24 anybody have any.

25 CHAIRMAN CLARK: Okay. Great. We will move

1 right into questions.

2 Are there any questions from any other counsel
3 for the other parties?

4 MS. EATON: Yes, Commissioner. I have some
5 questions for Mr. Foster.

6 EXAMINATION

7 BY MS. EATON:

8 Q Thank you, Mr. Foster. Can you hear me okay?

9 A I can. Thank you.

10 Q All right. Great.

11 It's my understanding that you prepared
12 Exhibit TGF-1?

13 A Yes, it was prepared under my direction.

14 Q Okay. Do you have that handy?

15 A I do.

16 MS. EATON: All right. What I am going to try
17 to do to so that everybody can see it, is I am
18 going to try to share my screen, because I have the
19 exhibit as well. I am not sure which computer
20 screen I need to put it on, so bear with me for a
21 second. Let's see here. Actually, who ever is the
22 organizer has to let me do that.

23 MS. HELTON: Mr. Chairman, if I could just --

24 CHAIRMAN CLARK: Ms. Helton.

25 MS. HELTON: -- clarify. It the exhibit that

1 Ms. Eaton is directing her questions to, is that
2 Exhibit 1 through -- one of the Exhibits 1 through
3 8, or do we need to mark this separately so that it
4 will become part of the record?

5 MS. EATON: It's Exhibit 8 on the
6 comprehensive exhibit list.

7 MS. HELTON: Thank you.

8 CHAIRMAN CLARK: Thanks.

9 MS. EATON: Okay. Yes, so I am not able to
10 show that you exhibit on my screen unless, like,
11 the --

12 CHAIRMAN CLARK: Give us one second --

13 MS. EATON: -- organizer --

14 CHAIRMAN CLARK: Ms. Eaton, give us one second
15 and we --

16 MS. EATON: Okay, sir.

17 CHAIRMAN CLARK: -- can make that shareable.

18 THE WITNESS: Is there a specific part you
19 want me to look at?

20 BY MS. EATON:

21 Q Yes. Okay. Can you see that?

22 A Yes, I can.

23 Q All right. The first question that I have for
24 you is on page one of your exhibit.

25 A All right.

1 Q And is your Exhibit 15 pages, just to make
2 sure we are looking at the same thing?

3 A Yes, it is.

4 Q Okay. All right. On page one of 15 is a
5 summary of projected period recovery amount in dollars.
6 Do you see that? That's the title of it.

7 A Yes.

8 Q And then there are three columns. One column
9 says energy, one column says demand, and one column says
10 total; do you see that?

11 A I do.

12 Q And what dollar amount is shown in the energy
13 column?

14 A There are no dollars shown in the energy
15 column.

16 Q Okay. And what dollar amounts are shown in
17 the demand column?

18 A \$9,986,027.

19 Q Okay. And are those the same dollar amounts
20 from the demand column that are also shown in the total
21 column?

22 A That is correct.

23 Q All right. And so is -- on page one of
24 Exhibit TGF-1, does that show that all costs projected
25 to be recovered are demand related costs?

1 A They are -- yes, as far as who they will be
2 allocated to the rate classes.

3 Q Okay. And then the total for January 2021
4 through December of 2021 is \$9,986,027, is that right?

5 A Yes.

6 Q Okay. All right. And then is it -- is it --
7 am I correct to understand that the pages that follow in
8 your Exhibit TGF-1 are providing the breakdown of how
9 the total on page one is calculated?

10 A Yeah. For the most part, there are just
11 support pages as to how you get to those numbers.
12 That's correct.

13 Q Okay. So on -- just for a minute or two, I
14 want to ask you a couple of examples. If you can go to
15 page two of 15 for me. Let me see here. I am going to
16 go to the next page.

17 All right. Can you see page two of 15 okay?

18 A I can see it okay, although I might have to
19 squint for some numbers.

20 Q All right. I was hoping that I could make it
21 really bigger.

22 A I think I can see it though.

23 Q All right. Okay. So on page two of 15, I am
24 going to go down to page -- or to lines 6B and 6D. Can
25 you see those?

1 A I can.

2 Q Okay. And page two is actually titled
3 **Calculation of Annual Revenue Requirements for O&M**
4 **Programs; is that correct?**

5 A That's correct.

6 Q And then on line 6B, you have a distribution
7 **O&M allocated to demand; is that correct?**

8 A That's correct.

9 Q And then you also have, at 6B, a transmission
10 **O&M allocated to demand; is that correct?**

11 A That is correct.

12 Q And what are those numbers?

13 A Do you want me to read them?

14 Q Yes, if you can. I want to make sure I am
15 **following your chart just fine.**

16 A How about I read the total for each?

17 Q Okay.

18 A Which is 2,383,525 for the distribution line,
19 or 6B, and 2,243,881 for the transmission --
20 transmission line, which is 6D.

21 Q Okay. And are there any allocations to energy
22 **in -- in part six of page two?**

23 A Not in the schedule, no.

24 Q Okay. Can you go with me to page five of 15?
25 **And I am going to move down as well.**

1 A Okay. I have it in front of me.

2 Q All right. And on page five of 15, I want to
3 call your attention to lines 4A and 4B. And before
4 that, I want to clarify, page five of your exhibit is
5 called Calculation of Annual Revenue Requirements for
6 Capital Investment Programs; is that right?

7 A That's correct. And I think -- I mean, what
8 you are going to see, as the summary page showed, is
9 that all of the costs are being allocated to the rate
10 classes based on demand.

11 Q Okay. And that --

12 A -- or as we see here.

13 Q Right. So -- so for example here on -- on
14 lines 4A and B, we show a jurisdictional energy revenue
15 requirement of zero, is that right?

16 A Which one were you on? I apologize.

17 Q I believe that's going to be in line 4A.

18 A That's correct. 4A has a zero amount, zero
19 dollar amount.

20 Q And then 4B, I guess at the -- at the end of
21 it is \$6,000,030 -- or \$30,509, right -- \$6,030,509?

22 A That is what line four says, yes.

23 Q Okay. And then let's see, I want to go to
24 page seven real quick.

25 A I am there.

1 Q Okay. And then on page seven, that -- that
2 page is titled Return on Capital Investment Depreciation
3 and Taxes, is that right?

4 A Yes, it is.

5 Q Okay. So on page seven, if you look at lines
6 13 and 14, are all -- again, are all of these demand
7 related recoverable costs?

8 A Yes. All these costs are being allocated to
9 the rate classes based on a demand basis.

10 Q Okay. And finally, if we go to page -- the
11 very last page is page 15 of this exhibit. That is a
12 Calculation Rate Factors by Rate Class, is that what
13 that's titled?

14 A I think you are looking for page 14.

15 Q Oh, I am sorry. Page 14. Yes.

16 A That's all right.

17 Q And that's why I keep asking to make sure I am
18 looking at the same page your.

19 Okay. So on -- on page 14, again, that's
20 calculation rate factors by rate class. And then if we
21 go down to -- let's see, if we go to the very end, you
22 will see a whole column that's titled SPP Factors; is
23 that correct?

24 A Oh, the last one. That's correct.

25 Q Yeah. So that's column 11, that kind of goes

1 from top to bottom on page 14?

2 A That's correct. Yes.

3 Q And here again, does that show that every rate
4 schedule pays energy charges, not demand charges?

5 A It shows that -- well, it shows that the costs
6 are being billed on an energy basis. Costs are
7 allocated on a demand basis, which is consistent with
8 how, one, costs are done in -- in both environmental and
9 fuel, but also how storm -- if we have major storms, how
10 those costs are being collected.

11 Q But you said just then, and I am sorry,
12 something is a little echoey, but that costs are billed
13 on an energy basis; is that what you said?

14 A It does show that the costs are being billed
15 on an energy basis.

16 Q Okay. Great. Thank you for clarifying.
17 That's all the questions I have for you.

18 A Thank you.

19 CHAIRMAN CLARK: All right. Thank you, Ms.
20 Eaton.

21 That's all your questions, Ms. Eaton?

22 MS. EATON: Yes.

23 CHAIRMAN CLARK: All right.

24 MS. EATON: Yes.

25 CHAIRMAN CLARK: Commissioners, witnesses are

1 available for your questions.

2 MS. HELTON: Mr. Chairman, could we stop for
3 one minute? The court reporter has reached out to
4 me, and there is a bad echo she says on
5 GoToMeeting, so maybe if we could just --

6 CHAIRMAN CLARK: Okay, we are going to take
7 just another brief moment and see if we can fix an
8 echo problem for our court reporter.

9 (Discussion off the record.)

10 CHAIRMAN CLARK: Commissioners, the witness is
11 available for your questions. Questions from any
12 Commissioners?

13 Can we get the screen changed, David, so I can
14 see the Commissioners?

15 UNIDENTIFIED SPEAKER: Is she done?

16 CHAIRMAN CLARK: Yes, she's done.

17 There they are. Great.

18 Okay. No questions.

19 Mr. Bernier, would you like your witnesses
20 excused at this time?

21 MR. BERNIER: Yes, sir, I sure would.

22 CHAIRMAN CLARK: All right. The witnesses are
23 excused.

24 (Witnesses excused.)

25 CHAIRMAN CLARK: Mr. Stiller.

1 MR. STILLER: Thank you, Mr. Chair.

2 Walmart witness Steve W. Chriss is available
3 to speak in opposition to the agreement, and to
4 answer any questions by the Commissioners.

5 CHAIRMAN CLARK: All right. Mr. Chriss, are
6 you available?

7 MR. CHRISS: I am. Can you hear me?

8 CHAIRMAN CLARK: Yes.

9 Would you raise your right hand and repeat
10 after me, please?

11 Whereupon,

12 STEVE W. CHRISS

13 was called as a witness, having been first duly sworn to
14 speak the truth, the whole truth, and nothing but the
15 truth, was examined and testified as follows:

16 THE WITNESS: Yes.

17 CHAIRMAN CLARK: All right. Thank you very
18 much.

19 I would ask Ms. Eaton, if she would, to
20 introduce your witnesses, and indicate the parts of
21 the agreement they are going to address, and three
22 minutes to summary in opposition to the August
23 agreement.

24 MR. BREW: Excuse me, Mr. Chairman.

25 CHAIRMAN CLARK: Yeah, Mr. Brew.

1 MR. BREW: Yes, I would like to note that to
2 the extent that Mr. Chriss is tes-- is using his
3 testimony filed Friday, that there as been
4 absolutely no opportunity to perform discovery or
5 follow-up on that testimony, and if this is the
6 only opportunity that we might have to
7 cross-examine Mr. Chriss, I strongly object.

8 CHAIRMAN CLARK: All right. Let me confer
9 with my legal counsel just one moment.

10 Mr. Hetrick, Ms. Helton, I need to -- I see
11 you thinking. I am sorry. I didn't want to
12 interrupt.

13 MS. HELTON: Mr. Chairman, I know we entered a
14 procedural order. Did that -- and I have to -- I
15 have to confess that I don't think I have that
16 order in front of me. Did -- and Mr. Stiller may
17 be better to answer this question. Did that order
18 contemplate prefiling testimony with respect to any
19 witness on the stipulation?

20 MR. STILLER: This is Shaw.

21 There is no OEP for this hearing. There is an
22 OEP for the case for the docket, pursuant to which
23 intervenor testimony is due this coming Friday.
24 Due to this settlement agreement being filed and
25 scheduled for consideration, it's my understanding

1 that Walmart wished to, and of course Ms. Eaton can
2 speak to this, submit something in prior to this
3 hearing, being either comments or testimony, and on
4 Friday the testimony was filed. So it's, in
5 essence, early prefiled testimony in the docket by
6 a week.

7 MR. BREW: Mr. Chairman, this is Jay Brew
8 again. I have no objection to Walmart putting in
9 its position. I just don't want to be prejudiced.
10 I do have some questions for Mr. Chriss now, but to
11 the extent that the stipulation is not approved
12 today, I do not want to have foregone the ability
13 to file rebuttal testimony, which was due on
14 September 18th under the established OEP for this
15 docket.

16 CHAIRMAN CLARK: Okay.

17 MS. HELTON: I guess -- let me understand,
18 then, Mr. Chairman.

19 So is -- is Mr. Brew asking for us to defer
20 and continue this proceeding to give him an
21 opportunity to -- to conduct discovery?

22 CHAIRMAN CLARK: No. He is saying that he was
23 okay with proceeding as long as he could file
24 rebuttal testimony by September 18th. He wanted
25 acknowledgment of that; is that correct, Mr. Brew?

1 MR. BREW: To be clear, Mr. Chairman, if the
2 stipulation is approved as filed, as a signatory,
3 we totally support that. To the extent that any
4 modifications are made based on testimony that was
5 submitted Friday, we would like the opportunity to
6 respond, and we would suggest those be brought --
7 those issues be brought up at the October hearing,
8 which is scheduled for this docket.

9 CHAIRMAN CLARK: Which the Commission can't
10 modify the agreement. That's not within our
11 prerogative, so I don't see a problem. Is there --

12 MS. HELTON: No. I can think you can either
13 approve or -- or deny the agreement.

14 CHAIRMAN CLARK: That's the only two options
15 we have, yes.

16 MR. BREW: Right. So if the Commission
17 determines to not approve the stipulation, then I
18 would suggest that those limited issues that remain
19 be addressed at the October 13th hearing.

20 MS. HELTON: I think we are good to proceed at
21 this point in time, Mr. Chairman --

22 CHAIRMAN CLARK: All right. We are going
23 to --

24 MS. HELTON: -- unless there is anyone else
25 that wants to address the Commission on that.

1 CHAIRMAN CLARK: The objection is noted. We
2 are going to proceed under that guidance.

3 Thank you, Mr. Brew.

4 MR. REHWINKEL: Mr-- Mr. Chairman.

5 CHAIRMAN CLARK: Mr. Rehwinkel.

6 MR. REHWINKEL: Yes, and I don't -- I don't
7 have a dog in the -- in the hunt between, and the
8 race is on, but just to be clear, in our opening
9 remarks we sort of were concerned about this
10 happening, we -- we support the agreement as filed.
11 The only position we don't want to find ourselves
12 in is, at the end of the day here, the Commission
13 votes the -- votes the stipulation down because you
14 can't resolve this issue here.

15 So we would -- we want to make it clear that
16 if there is any concern about this issue, that
17 adjudication on the second stipulation, the August
18 stipulation, we would urge you to hold it over to
19 October to preserve the ability to have the
20 stipulation be approved. We -- we just don't want
21 it to go down today based on what we think is sort
22 of a frailty in the procedural aspect of this, but
23 we have no objection to -- to proceeding. We just
24 don't want to get in a position where we are
25 painted into a corner and -- and --

1 CHAIRMAN CLARK: I agree -- I agree with that
2 wholeheartedly, Mr. Rehwinkel. I am looking for
3 legal concurrence over here.

4 MR. HETRICK: Yeah. I mean, I concur with
5 that. I don't think anything changes if we move on
6 right now with the questioning. And as Mary Anne
7 suggested, that point is of concern --

8 CHAIRMAN CLARK: Turn your mic on. There we
9 go. You got a bad microphone right there.

10 MR. HETRICK: Yes. So we can proceed, Mr.
11 Chairman, as according to understanding what both
12 Charles and the other parties have said.

13 CHAIRMAN CLARK: Okay. All right. Are we all
14 in agreement? Everyone is good with that?

15 Okay. Where were we, Ms. Eaton?

16 MS. EATON: Thank you, Mr. Chairman.

17 I would clarify for all of the parties here
18 that the testimony that was filed on the 28th
19 was -- was very much similar to testimony that this
20 we had filed on behalf of Mr. Chriss, I think maybe
21 in May or June, in relation to the SPP docket.

22 This particular testimony is narrowed to focus
23 on Duke as the remaining party that has -- has the,
24 you know, energy charge versus demand charge issue,
25 and so the testimony itself, aside from referring

1 to the stipulation that was entered, and aside from
2 including Duke's discovery response that was
3 responded weeks ago, is essentially verbatim of the
4 prior testimony in terms of the discussion on the
5 issue. And -- and just like Mr. Brew and Mr.
6 Rehwinkel noted, we, too, didn't want to get put
7 into a corner with the issue of the settlement
8 agreement approval being put before the Commission
9 without this issue being resolved.

10 So I will defer to however the Commission
11 would like to handle it, and do appreciate the
12 opportunity to present Mr. Chriss today and his
13 testimony.

14 CHAIRMAN CLARK: Thank you. Noted for the
15 record.

16 EXAMINATION

17 BY MS. EATON:

18 Q All right. Mr. Chriss, can you hear me? You
19 might have to take your mic -- yeah there, you go. Can
20 you hear me now?

21 A I can hear you.

22 Q All right. Great.

23 Can you state your name and business address?

24 A My name is Steve W. Chriss. Last name is
25 spelled C-H-R-I-S-S. Business address is 2608 SE J

1 Street, Bentonville, Arkansas, 72716.

2 Q And by whom are you employed, and in what
3 capacity?

4 A I am Director of Energy Services for Wal-Mart,
5 Inc.

6 Q And have you prepared and caused to be filed
7 on August 28th, 2020, 12 pages of direct testimony in
8 Docket 20200092-EI?

9 A Yes.

10 Q Did you say yes?

11 A Yes.

12 Q Okay. Thank you.

13 Do you have any changes to your direct
14 testimony?

15 A No.

16 Q And if I asked you the same questions on
17 direct examination, would your answers be the same
18 today?

19 A Yes.

20 MS. EATON: And I believe, Mr. Chairman, that
21 we have already entered the direct testimony of Mr.
22 Chriss into the record as though read as the
23 Exhibit No. 7 to the comprehensive exhibit list,
24 but if not, I would like to do that now.

25 CHAIRMAN CLARK: Okay. I think that's on the

1 comprehensive exhibit list.

2 One quick reminder, if you are having a
3 discussion back and forth between the counsel and
4 the witness, pause just a second after the question
5 is asked before you answer. Also, Mr. Chriss,
6 having a little bit of trouble hearing you. Your
7 microphone is not picking up real good from where
8 it's at. When you moved it up, I could hear you
9 much better, so we are probably going to -- yeah,
10 something in that nature. So if you could speak a
11 little bit louder for us, please.

12 Okay. Ms. Eaton, your witness.

13 THE WITNESS: Sure thing.

14 MS. EATON: Sure. Thank you.

15 BY MS. EATON:

16 Q Do you also have Exhibits SWC-1, SWC-2 and
17 SWC-3 prepared under your direction and supervision?

18 A Yes.

19 Q And do you have any changes to your exhibits?

20 A No.

21 MS. EATON: Madam Court Reporter, Mr. Chriss'
22 direct and all three exhibits are together Exhibit
23 No. 7 to staff's comprehensive exhibit list, which
24 was Exhibit 1 to this proceeding.

25 BY MS. EATON:

1 **Q Mr. Chriss, have you prepared a summary of**
2 **your direct testimony?**

3 A I have.

4 **Q Would you please read your summary?**

5 A Good afternoon, Mr. Chairman and
6 Commissioners. My name is Steve Chriss, and I am
7 Director of Energy Services for Wal-Mart, Inc.

8 Walmart does not take a position on the
9 utility's proposed SPP cost allocation methodologies,
10 however, to the extent that alternative costs of service
11 models or modifications to the models for each utility
12 are proposed by the either parties, Walmart reserves the
13 right to address any such proposals.

14 Walmart does not oppose the proposed rate
15 designs for SPP cost recovery put forth by FPL, Gulf and
16 TECO, which recover SPP costs from demand metered
17 customers through a dollar per kW charge.

18 The Commission should reject the proposed rate
19 design of Duke Energy Florida which proposes to recover
20 SPP costs from demand metered customers through a dollar
21 per kilowatt energy charge. Instead, the Commission
22 should require Duke to charge demand metered customers
23 on a demand or dollars per kW charge. This is because
24 recovering demand related costs from per -- from per kW
25 demand charges -- I am sorry, I have a typo in my -- my

1 summary.

2 This is because this change shifting demand
3 related cost recovery from a demand charge to an energy
4 charge doesn't reflect cost of service, and results in a
5 shift in demand cost responsibility from lower load
6 factor customers to higher load factor customers. And
7 then -- and the result of this is that higher load
8 factor customers overpay for the demand related costs
9 incurred by the utilities that serve them, and so it
10 creates an interclass subsidy within rates.

11 Additionally, from a cost of service
12 standpoint, costs should be recovered in -- in a way
13 that reflects how they were incurred and allocated,
14 which in this case is on the demand basis.

15 And that concludes my summary.

16 **Q Thank you.**

17 **Mr. Chriss, in preparing for the hearing**
18 **today, did you review any additional documents relevant**
19 **to your direct testimony?**

20 **A I did. I reviewed Duke's Exhibit TGF-1.**

21 **Q Okay.**

22 **MS. EATON:** And that, Madam Court Reporter, is
23 Exhibit 8 on staff's final comprehensive list.

24 **BY MS. EATON:**

25 **Q Mr. Chriss, did TGF-1 confirm DEF's rate**

1 **design for 2021?**

2 A That's correct.

3 **Q And what is it?**

4 A So the company proposes to recover SPP costs
5 through a dollar per kilowatt hour factor, even though
6 those costs were incurred on the demand, or kW basis.

7 **Q And in your opinion, does DEF's proposed cost**
8 **recovery on a demand related cost through an energy**
9 **charge, as set forth in TGF-1, violate cost causation**
10 **principles?**

11 A Yes, because of what I said earlier in terms
12 of costs should be recovered in the manner that reflects
13 how they were incurred and how they were allocated, and
14 it creates an interclass subsidy for those demand
15 classes.

16 **Q Thank you, Mr. Chriss.**

17 MS. EATON: Mr. Chairman, Mr. Chriss is
18 available for cross-examination.

19 CHAIRMAN CLARK: Thank you very much.

20 All right. Let's begin with, I believe,
21 Mr. Brew.

22 MR. BREW: Yes. Thank you, Mr. Chairman.

23 I was wondering if I could prevail upon Ms.
24 Eaton to repost TGF-1?

25 MS. EATON: I am if I can still share my

1 screen.

2 CHAIRMAN CLARK: We will make that happen.

3 Give us just a second.

4 MS. EATON: Sure. Okay. And you just have to
5 tell me what page you want to go to. I will go
6 back to page one.

7 MR. BREW: Could you please scroll down to
8 page 13 of 15?

9 MS. EATON: Yes. Okay. Can you see that
10 okay?

11 MR. BREW: It's easy -- it's really -- it's
12 tough on the eyes but it will work.

13 EXAMINATION

14 BY MR. BREW:

15 Q Mr. Chriss, are you familiar with this
16 document?

17 A Yes.

18 Q Okay. And you reviewed it as part of what you
19 filed on Friday?

20 A Correct.

21 Q Okay. I want to distinguish allocating costs
22 from designing rates.

23 Do you disagree with any of the allocation
24 factors on this page?

25 A Define disagree.

1 **Q** Do you accept all -- every single one of the
2 **allocation factors shown on this page?**

3 A I accept that Duke has correctly calculated
4 its allocation factors.

5 **Q** Okay. So you don't oppose the allocation of
6 **the dollars at all, is that right?**

7 A Correct.

8 MR. BREW: Okay. Can I -- would you scroll
9 down to the bottom of the page where it shows the
10 notes?

11 MS. EATON: Sure. Can you see that?

12 BY MR. BREW:

13 **Q** I -- Mr. Chriss, can you see the notes that
14 **are shown?**

15 A Yes.

16 **Q** Can you read the first two notes, please,
17 **aloud?**

18 A So note number one is: Average 12CP load
19 factor based on load research study filed July 31st,
20 2018. The second note is: Non-coincident peak load
21 factor based on load research study filed July 31st,
22 2018.

23 **Q** Okay. Thank you.

24 Have you reserved -- reviewed the Duke load
25 **research study that was filed on July 31, 2018?**

1 A No.

2 Q Okay. Have you ever seen it?

3 A Not to my recollection.

4 Q Do you know if it was submitted in a rate
5 case?

6 A My understanding is Duke's last rate case was,
7 I believe, in 2017, so probably not, but that's subject
8 to check.

9 Q Okay. Would you accept that there was no
10 rate -- base rate case in 2018?

11 A Yes.

12 Q Okay. Do you know if there is any Commission
13 order approving the load research study filed July 31,
14 2018?

15 A Not to my knowledge.

16 Q Okay. Could you look down to notes three and
17 four and read them aloud, please?

18 A Okay. No. 3: Projected kWh sales for period
19 January 2021 to December 2021. And No. 4 is: Projected
20 kWh sales for the period January 2020 -- 2021 to
21 December of 2021, excluding transmission service.

22 Q Okay. Have you reviewed the Duke sales
23 forecast that's referenced there?

24 A No.

25 Q Okay. So would you agree that Duke developed

1 its allocation factors based on a load research study
2 you haven't seen, based on forecast of sales for the
3 period 2021 that you haven't seen?

4 A That's correct.

5 Q Okay. Do you know if the sales forecast for
6 the period 2021 that Duke uses aligns with the load
7 research study filed in 2018?

8 A No.

9 Q Okay. In a base rate case that's expected to
10 be filed next year, would you normally expect the
11 company's sales to forecast to be subject to testimony,
12 cross-examination and -- and critical scrutiny?

13 A Yes.

14 Q Okay. Do you have your testimony with you?

15 A I do.

16 Q Wait a second because now I have to find it
17 myself.

18 On page seven of your testimony, beginning
19 with a question on line 13, let me know when you are
20 there.

21 A Go ahead.

22 Q Okay. You say that FPL, Gulf and TECO
23 designed the rates for their recovery clause on a demand
24 basis, is that right?

25 A That's correct, based on -- based upon the

1 settlements that we entered into with them.

2 Q Now, do FPL, Gulf, TECO and Duke all design
3 their rates exactly the same way?

4 A No. However, this goes to --

5 Q That's my question.

6 Well, Duke -- Duke and FPL both have
7 interruptible rates. Is the Duke interruptible service
8 rates and the FPL CILC rates designed the same way?

9 A No.

10 Q Okay. So the fact that another utility might
11 propose to recover costs isn't particularly indicative
12 of whether or not Duke is going doing it properly?

13 A Again, this goes to is the cost based -- is
14 the rate based on cost of service. They look at how the
15 costs are incurred, how the costs are allocated, and
16 then how they should be charged based on those two
17 things.

18 Q Okay.

19 A So at this point, FPL, Duke, Gulf and TECO
20 have aligned those things, and Duke has not.

21 Q Okay. Can I go to your -- your example that
22 you show on pages nine and 10?

23 A Okay.

24 Q Okay. And you give an example of customer one
25 with a 20 kW and a 60 percent load fact, and a customer

1 two with a 20 percent -- a 20 kW load and a load factor
2 of 30 percent; right?

3 A Correct.

4 Q Okay. You are assuming everything else is
5 exactly the same for the two customers, right?

6 A Yes. It assumes that they would -- they
7 basically -- well, their two peak demands would total 40
8 kW, so they peak at the same time.

9 Q Okay. So they peak at the same time. They
10 have their state load factors. Are they served at the
11 same voltage?

12 A Yeah, for the purposes of the example,
13 everything else would be the same.

14 Q Everything else would be the same.

15 If Duke's system average load factor for that
16 particular class was 45 percent, would Duke be
17 recovering the dollars it needs to recover from the
18 class adequately?

19 A Ask that again.

20 Q Okay. For the customer class that your two
21 customers are in in this example, say there are -- there
22 are 100 customers in the class. They could have load
23 factors all over the line, correct?

24 A That's correct.

25 Q Okay. And if Duke is designing the rates to

1 recover the costs that have been properly allocated to
2 that rate, is there a problem with that?

3 A I am not quite understanding your question.
4 Could you ask it one more time?

5 Q I am trying to get to -- your example tends to
6 illustrate that if you use more energy and you are
7 billed more energy, you will pay more dollars. But my
8 point from a rate design perspective is the -- well,
9 let's -- let's go back to the exhibit again, may be the
10 easiest way to get to this.

11 MR. BREW: And, Stephanie, can you scroll to
12 page 14, please? Thank you.

13 BY MR. BREW:

14 Q Mr. Chriss, do you see the column labeled No.
15 9?

16 A Yes.

17 Q And -- and that shows a total SPP costs
18 allocated to each of the customer classes, correct?

19 A That's correct.

20 Q And then column 10 shows the projected sales
21 at the meter level, assuming that the 2021 forecast is
22 reasonable, right?

23 A That's correct.

24 Q Okay. And column 11 is simply arithmetic
25 between those two columns, right?

1 A Yeah. That's the resulting math.

2 Q Okay. And so the -- in each case, the rates
3 that Duke has designed is designed to recover the proper
4 revenues assigned to each class, right?

5 A That's correct.

6 MR. BREW: All right. That's all I have.

7 CHAIRMAN CLARK: All right. Thank you, Mr.
8 Brew.

9 Mr. Rehwinkel.

10 MR. REHWINKEL: No questions from the Public
11 Counsel. Thank you.

12 CHAIRMAN CLARK: All right. Any other
13 parties? I think that's all of you.

14 All right. Let's go to Commissioners --
15 staff. First staff. Any questions? No questions
16 from staff.

17 Commissioners, any questions for Mr. Chriss?

18 I see no requests.

19 All right. Counsel, Walmart, anything else?

20 MS. EATON: No thank you. All done.

21 CHAIRMAN CLARK: All right. Would you like to
22 have your witness excused?

23 MS. EATON: Yes, I would.

24 CHAIRMAN CLARK: All right. The witness is
25 excused.

1 (Witness excused.)

2 CHAIRMAN CLARK: Okay. Do the parties have
3 any other matters that need to be addressed?

4 MR. BERNIER: Mr. Chairman.

5 CHAIRMAN CLARK: Yes, Mr. Bernier.

6 MR. BERNIER: I apologize. I do believe I
7 need to enter the direct testimony of Mr. Foster
8 and Mr. Oliver into the record. I don't think we
9 got to that point, but other than that, that's it
10 for me.

11 CHAIRMAN CLARK: All right. Isn't their
12 testimony part of the exhibits?

13 MR. BERNIER: I don't believe so.

14 CHAIRMAN CLARK: Okay.

15 MR. BERNIER: If it is, I apologize.

16 MS. HELTON: Mr. Stiller.

17 MR. STILLER: This is Shaw.

18 The direct -- the prefiled testimony of the
19 Duke witnesses is not -- was not identified on the
20 comprehensive exhibit list. It is not presently
21 there.

22 CHAIRMAN CLARK: Okay. Without objection, we
23 will move this testimony into the record.

24 MR. BERNIER: Thank you.

25 (Whereupon, prefiled direct testimony of

1 Thomas G. Foster was inserted.)

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**IN RE: STORM PROTECTION PLAN COST RECOVERY CLAUSE PURSUANT
TO RULE 25-6.031, F.A.C., DUKE ENERGY FLORIDA, LLC**

**FPSC DOCKET NO. 20200092-EI
DIRECT TESTIMONY OF THOMAS G. FOSTER
JULY 24, 2020**

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

2 A. My name is Thomas G. Foster. My business address is Duke Energy Florida, LLC, 299
3 1st Avenue North, St. Petersburg, Florida 33701.

4

5 **Q. By whom are you employed and what is your position?**

6 A. I am employed by Duke Energy Florida, LLC (“DEF” or the “Company”) as Director
7 of Rates and Regulatory Planning.

8

9 **Q. Please describe your duties and responsibilities in that position.**

10 A. I am responsible for the Company’s regulatory planning and cost recovery, including
11 the Company’s Storm Protection Plan Cost Recovery Clause (“SPPCRC”) filing.

12

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

14 A. I joined the Company on October 31, 2005 in the Regulatory group. In 2012, following
15 the merger with Duke Energy Corporation (“Duke Energy”), I was promoted to my
16 current position. I have 6 years of experience related to the operation and maintenance
17 of power plants obtained while serving in the United States Navy as a Nuclear Operator.

1 I received a Bachelors of Science degree in Nuclear Engineering Technology from
2 Thomas Edison State College. I received a Masters of Business Administration with a
3 focus on finance from the University of South Florida and I am a Certified Public
4 Accountant in the State of Florida.

5
6 **Q. What is the purpose of your testimony?**

7 A. The purpose of my testimony is to present, for Commission review and approval, Duke
8 Energy Florida, LLC's ("DEF" or "Company") calculation of revenue requirements
9 and SPPCRC factors for customer billings for the period January 2021 through
10 December 2021 as permitted by Rule 25-6.031, F.A.C.. My testimony also addresses
11 implementation activities, associated capital and O&M costs, and how these activities
12 and costs are consistent with DEF's filed Storm Protection Plan ("SPP") for the year
13 2021.

14

15 **Q. Have you prepared, or caused to be prepared under your direction, supervision,
16 or control, exhibits in this proceeding?**

17 A. Yes. I am sponsoring Exhibit No. __ (TGF-1) attached to my direct testimony; Mr.
18 Oliver is co-sponsoring the schedules and forms identified in his direct testimony. This
19 is true and accurate to the best of my knowledge and belief.

20

21 **Q. Please summarize your testimony.**

22 A. My testimony supports the approval of an average SPPCRC billing factor of 0.025
23 cents per kWh which includes projected jurisdictional capital and O&M revenue

1 requirements for the period January 2021 through December 2021 of approximately
2 \$10 million associated with a total of two (2) SPP Programs, as shown on Form 1P line
3 5 of Exhibit No. __ (TGF-1). My testimony also supports that the projected SPP
4 expenditures for 2021 are appropriate for recovery through the SPPCRC.

5

6 **Q. Has DEF complied with the requirements of Rule 25-6.031(6)(a) such that this**
7 **filing only includes costs incurred after the filing of DEF's SPP?**

8 A. Yes. DEF is only requesting recovery of costs projected to be incurred after the filing
9 of its Storm Protection Plan on April 10, 2020.

10

11 **Q. Has DEF complied with the requirements of Rule 25-6.031(6)(b) such that the SPP**
12 **costs sought for recovery through this clause do not include costs recovered**
13 **through DEF's base rates or any other clause mechanism?**

14 A. Yes. As discussed below and in Witness Oliver's testimony, the costs being requested
15 for recovery are not being recovered in DEF's base rates or any other clause
16 mechanism.

17

18 **Q. Are costs associated with all Programs previously submitted to the Commission**
19 **in DEF's SPP filed on April 10, 2020, being sought for recovery through the**
20 **SPPCRC in 2021?**

21 A. No, only costs for 2021 activities associated with two of DEF's SPP Programs, Feeder
22 Hardening - Distribution System and Structure Hardening – Transmission System, are
23 included in DEF's SPPCRC filing for cost recovery.

1

2 **Q. Please describe the SPP activities and costs that are associated with the Feeder**
3 **Hardening - Distribution System Program?**

4 A. As more fully described by Witness Oliver, the Feeder Hardening Program is new and
5 will enable the feeder backbone to better withstand extreme weather events. DEF has
6 never had a proactive Program like this before and as such has never budgeted spend
7 for these proactive activities. The \$62M of capital costs and \$2.4M of associated O&M
8 presented for recovery in the SPPCRC filing are all incremental activities whose costs
9 are not currently recovered through base rates or any other clause mechanism.

10

11 **Q. Please describe the SPP activities and costs that are associated with the Structure**
12 **Hardening – Transmission System Program - Cathodic Protection?**

13 A. DEF will install passive cathodic protection (“CP”) systems comprised of anodes on
14 each leg of lattice towers. As described more fully by Witness Oliver, the anodes serve
15 as sacrificial assets that corrode in place of structural steel, preventing loss of structure
16 strength to corrosion. This is a new activity and has never been included in base rates
17 or any other clause mechanism. As such, the \$1M of capital costs and \$0.2M of
18 associated O&M presented for recovery in the SPPCRC filing are all incremental and
19 properly recoverable through the SPPCRC.

20

21 **Q. Please describe the SPP activities and costs that are associated with the Structure**
22 **Hardening – Transmission System Program - Tower Upgrade?**

1 A. As more fully described by Witness Oliver, this is a new activity and focuses on the
2 replacement of towers identified through enhanced engineering inspections of similar
3 towers in age and vicinity as the towers that failed during Hurricane Irma. This is a new
4 activity and has never been included in base rates or any other clause mechanism. As
5 such, the \$2.2M of capital costs and \$20K of associated O&M presented for recovery
6 in the SPPCRC filing is incremental and properly recoverable through the SPPCRC.

7

8 **Q. Please describe the SPP activities and costs that are associated with the Structure
9 Hardening – Transmission System Program - Drone Inspections?**

10 A. As more fully described in the testimony of Witness Oliver, beginning in 2021, DEF
11 will conduct drone inspections on targeted lattice tower lines. The intent of this
12 additional inspection is to identify otherwise difficult to see structure, hardware, or
13 insulation vulnerabilities through high resolution imagery.

14 This is a new activity and has never been included in base rates or any other clause
15 mechanism. As such, the \$0.1M of associated O&M presented for recovery in the
16 SPPCRC filing is incremental and properly recoverable through the SPPCRC.

17

18 **Q. Please describe the SPP activities and costs that are associated with the Structure
19 Hardening – Transmission System Program Wood to Non-Wood Pole Upgrade?**

20 A. As more fully described in the testimony of Witness Oliver, this program will upgrade
21 wood poles to non-wood material such as steel or concrete. The new structures will be
22 more resistant to damage from extreme weather events. The \$70.5M of capital costs
23 and \$3.8M of associated O&M presented in the SPPCRC filing are not all incremental

1 expenses - approximately half of the costs for this activity will be recovered through
2 base rates in 2021.

3 DEF is seeking to increase its investment in the wood pole replacement activities
4 associated with its Transmission Structure Hardening program. DEF has averaged
5 \$34.8M of Transmission wood pole replacement spend over the 2017-2019 period,
6 which is a reasonable estimate of what is currently included in base rates. In 2021,
7 DEF will include an adjustment in the SPPCRC to remove the revenue requirements
8 associated with \$34.8 million of pole replacement costs; any amount in excess of \$34.8
9 million will be eligible for recovery through the SPPCRC. For purposes of developing
10 this credit, DEF will reflect the spend evenly over the 12-month period where the total
11 YTD adjustment amount used to develop the credit cannot exceed YTD total spend in
12 the activity in any month. In addition, for ease of accounting, any wood to non-wood
13 pole projects expected to go in service in 2021 will be tracked using SPPCRC
14 accounting. To ensure amounts incurred in 2020 related to these projects are not
15 included for recovery through the SPPCRC in 2021, an adjustment will be made in the
16 SPPCRC filing to zero out the 2021 SPPCRC wood to non-wood beginning balance
17 SPPCRC Rate Base. The two adjustments mentioned above will not be necessary once
18 base rates are reset after expiration of the 2017 Settlement Agreement.

19
20 **Q. Would you please explain why there are beginning balances in your 2021 cost**
21 **schedules, although DEF did not file for cost recovery in 2020 and how these**
22 **balances will be treated in 2021?**

1 A. The Distribution Feeder Hardening Program and the transmission cathodic protection
2 and lattice tower replacement activities (incorporated within DEF's Transmission
3 Structure Hardening Program in its proposed SPP) are new activities. For any of these
4 activities approved by the Commission in DEF's SPP in 2020, any dollars prudently
5 spent on these activities are eligible for recovery through the SPPCRC in 2021. To the
6 extent such Program/activity-related costs are incurred in 2020, DEF will not request
7 recovery of any revenue requirements associated with these costs incurred in 2020.
8 DEF will include the CWIP balances in 2021 as the beginning SPPCRC Rate Base
9 balances and calculate a return on these costs from January 1, 2021 forward for cost
10 recovery through the SPPCRC.

11

12 **Q. Have you prepared schedules showing the calculation of the SPPCRC recoverable**
13 **O&M project costs for 2021?**

14 A. Yes. Form 2P of Exhibit No. __ (TGF-1) summarizes recoverable jurisdictional O&M
15 cost estimates for these projects of approximately \$4.0 million, shown on Line 10.

16

17 **Q. Has DEF included any cost estimates related to Administrative costs associated**
18 **with the SPP and/or SPPCRC filings for 2021?**

19 A. No. It is likely that DEF will incur some level of incremental costs related to things like
20 IT, billing, legal, regulatory, and accounting costs in 2021 but it is hard to quantify
21 these costs at this time. As such, rather than speculating, DEF will record those cost to
22 the deferred account for SPPCRC and will submit those costs in future filings.

23

1 **Q. Have you prepared schedules showing the calculation of the recoverable capital**
2 **project costs for 2021?**

3 A. Yes. Form 3P of Exhibit No. __ (TGF-1) summarizes recoverable jurisdictional capital
4 cost estimates for these projects of approximately \$6 million, shown on Line 4b. Form
5 4P pages 1 through 6 show detailed calculations of these costs.

6

7 **Q. What are the total projected jurisdictional costs for SPPCRC recovery for the**
8 **year 2021?**

9 A. The total jurisdictional capital and O&M costs to be recovered through the SPPCRC
10 are approximately \$10 million, shown on Form 1P line 5 of Exhibit No. __ (TGF-1).

11

12 **Q. Please describe how the proposed SPPCRC factors are developed.**

13 A. The SPPCRC factors are calculated on Forms 5P and 6P of Exhibit No. __ (TGF-1). The
14 demand component of class allocation factors is calculated by determining the percentage
15 each rate class contributes to monthly system peaks adjusted for losses for each rate class
16 which is obtained from DEF's load research study filed with the Commission in July
17 2018. The energy allocation factors are calculated by determining the percentage each
18 rate class contributes to total kilowatt-hour sales adjusted for losses for each rate class.
19 Form 6P presents the calculation of the proposed SPPCRC billing factors by rate class.

20

21 **Q. Please explain why DEF is showing the estimated rate impacts with rates collected**
22 **on an energy basis?**

1 A. This is consistent both with what DEF had proposed in the Rule development
2 workshops and with Staff's draft SPP schedules that were discussed at an informal
3 meeting held on February 26, 2020, noticed in Docket 20200000-OT. On page
4 SPPCRC Form 5P of Staff's draft SPP cost recovery clause schedules, the rates were
5 shown on a per kWh basis. Additionally, three recent examples of collecting on a kWh
6 basis are: FPL's recovery of costs associated with Hurricane Matthew, Gulf's recovery
7 of costs associated with Hurricane Michael, and DEF's recovery of costs associated
8 with Hurricane Dorian. These examples illustrate that the Commission has recently
9 found it appropriate to bill customers for the types of costs the SPPs are designed to
10 prevent on an energy basis.

11

12 **Q. When is DEF requesting that the proposed SPPCRC billing factors be**
13 **effective?**

14 A. DEF is requesting that its proposed SPPCRC billing factors be effective with the first
15 bill group for January 2021 and continue through the last bill group for December 2021.

16

17 **Q. What capital structure and cost rates did DEF rely on to calculate the revenue**
18 **requirement rate of return for the period January 2021 through December 2021?**

19 A. DEF used the capital structure and cost rates consistent with the language in Order No.
20 PSC-2020-0165-PAA-EU. As such, DEF used the projected mid-point ROE 13-month
21 average Weighted Average Cost of Capital for 2021 and applied a proration adjustment
22 to the depreciation-related accumulated deferred federal income tax (ADFIT). These
23 calculations are shown on Form 7P, Exhibit No. ___(TGF-1). Form 7P includes the

1 derivation of debt and equity components used in the Return on Average Net
2 Investment, Form 4P lines 7a and b.

3

4 **Q. How is DEF treating cost of removal and depreciation related to existing assets**
5 **retired as a result of implementing SPP programs?**

6 A. For assets being retired and replaced with new assets as part of a program approved by
7 the Commission in the Company's proposed SPP, the Company will not seek to recover
8 the cost of removal net of salvage associated with the related assets to be retired through
9 the SPPCRC. Rather, such net cost of removal will be debited to the Company's
10 accumulated depreciation reserve according to normal regulatory plant accounting
11 procedures.

12 For SPP capital projects, any depreciation expense from the SPP asset additions will
13 be reduced by the depreciation expense savings that result from the retirement of assets
14 removed from service during the SPP project. Only the net of the two depreciation
15 amounts will be included for recovery through the SPPCRC.

16

17 **Q. Is DEF's SPPCRC filing and requested recovery consistent with the SPP/SPPCRC**
18 **Settlement filed July 17, 2020 in Docket No. 20200069?**

19 A. Yes.

20

21 **Q. Does that conclude your testimony?**

22 A. Yes.

1 (Whereupon, prefiled direct testimony of Jay
2 W. Oliver was inserted.)

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**IN RE: STORM PROTECTION PLAN COST RECOVERY CLAUSE PURSUANT TO
RULE 25-6.031, F.A.C., DUKE ENERGY FLORIDA, LLC**

**FPSC DOCKET NO. 20200092-EI
DIRECT TESTIMONY OF JAY W. OLIVER
JULY 24, 2020**

1 **I. INTRODUCTION AND QUALIFICATIONS.**

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

3 A. My name is Jay W. Oliver. My current business address is 400 South Tryon Street,
4 Charlotte, NC 28202.

5

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

7 A. I am employed by Duke Energy Business Services, LLC (“DEBS”) as General Manager,
8 Grid Strategy and Asset Management Governance. DEBS is a wholly-owned subsidiary
9 of Duke Energy Corporation (“Duke Energy”) that provides various administrative and
10 other services to Duke Energy Florida, LLC (“DEF” or the “Company”) and other affiliated
11 companies of Duke Energy.

12

13 **Q. What are your responsibilities as General Manager, Grid Strategy and Asset
14 Management Governance?**

15 A. My duties and responsibilities include planning for grid upgrades, system planning, and
16 overall Distribution asset management strategy across Duke Energy.

1 **Q. Please summarize your educational background and work experience.**

2 **A.** I have a Bachelor of Science degree in Electrical Engineering from the Georgia Institute of
3 Technology and a Master's degree in Business Administration from the University of
4 South Florida. I am a licensed Electrical Engineer and a registered Professional Engineer
5 in Florida. From 30 years working in the electric utility business, I have experience in
6 electric transmission, distribution, and information technology and telecommunications
7 systems that support utility transmission and distribution networks. I began working at
8 Duke Energy in 1996, joining one of its predecessor companies, Florida Progress. Over
9 the past 10 years, I have held the positions of General Manager Grid Strategy and Asset
10 Management Governance, General Manager Engineering and Technology, Director
11 Distribution Services, Major Projects Manager, and Director, Grid Automation. I have
12 been in my current role since January 2020.

13

14 **II. PURPOSE AND SUMMARY OF TESTIMONY.**

15 **Q. What is the purpose of your direct testimony?**

16 **A.** The purpose of my direct testimony is to support the Company's request for recovery of
17 costs through the Storm Protection Plan Cost Recovery Clause ("SPPCRC") associated
18 with DEF's Storm Protection Plan ("SPP"). My testimony supports the Company's
19 projected costs, details the Company's SPP implementation activities, and explains how
20 those activities and costs are consistent with DEF's SPP.

21

22 **Q. Do you have any exhibits to your testimony?**

1 A. No, but I am co-sponsoring portions of the schedules attached to Mr. Foster's direct
2 testimony, included as part of Exhibit No. ____(TGF-1). Specifically, I am sponsoring the
3 project level information shown on Schedule Form 2P Projects and Form 3P and the cost
4 portions of Schedule:

- 5 • Form 2P (Page 1 of 3, Lines 1 through 2b); and
- 6 • Form 4P (Pages 1 through 6, Lines 1a and 1b).

7

8 **Q. Please summarize your testimony.**

9 A. DEF will incur reasonable costs in 2020 and 2021 to complete work presented in its SPP
10 filed with the Commission on April 10, 2020. Both the Distribution Feeder Hardening
11 Program and Transmission Structure Hardening-Pole Replacement activities are expected
12 to incur costs to procure material and equipment and perform analytical and engineering
13 work later in 2020 for the work to be completed in 2021; these investment balances are
14 shown in the beginning balances on Schedule Forms 4P (Line 1a). DEF is not requesting
15 recovery of any of the 2020 revenue requirements associated with this spend but is
16 including in the SPPCRC rate base beginning in 2021 and recovering associated revenue
17 requirements from that point forward. The costs presented are consistent with the estimates
18 filed as part of DEF's SPP on April 10, 2020. The costs are also not being recovered
19 through base rates or any other clause mechanism. As such, if the Commission approves
20 DEF's SPP, these costs should be approved for recovery through the SPPCRC.

21

22 **III. OVERVIEW OF SPP PROGRAMS SOUGHT FOR CURRENT COST RECOVERY**

23

1 **Q. Please identify what SPP Programs and activities you are seeking cost recovery for**
2 **during 2021?**

3 A. DEF is seeking cost recovery for the Distribution Feeder Hardening and Transmission
4 Structure Hardening Programs. Within the Transmission Structure Hardening Program,
5 DEF is seeking recovery for Pole Replacement, Tower Replacement, Cathodic Protection,
6 and Drone Inspection activities. These programs and activities are explained in further
7 detail in Exhibit JWO-2 of DEF's SPP filing made on April 10, 2020, in Docket No.
8 20200069.

9
10 **Q. Describe the activities that will be performed for Distribution Feeder Hardening and**
11 **its related costs?**

12 A. The Feeder Hardening program will enable the feeder backbone to better withstand
13 extreme weather events. This includes increasing pole sizes, reducing span lengths,
14 updating the basic insulation level ("BIL"), updating the conductor, relocating difficult to
15 access facilities, and replacing equipment to align with current standards, as appropriate.
16 The existing backbone is approximately 6,300 miles on 1,325 feeders.
17 DEF expects to incur approximately \$62M of total capital costs related to this Program in
18 2021, as shown on Schedule Form 4P, pages 1-3, Line 1a, and an associated amount of
19 O&M totaling approximately \$2.4M related to this Program, shown on Schedule Form 2P,
20 page 1 of 3, Line 1b in Exhibit No. __ (TGF-1). The beginning balance for engineering
21 work performed in 2020 for 2021 has been included in the SPPCRC rate base used to
22 calculate 2021 revenue requirements.

23

1 **Q. Describe the activities that will be performed for Transmission Structure Hardening-**
2 **Wood Pole Replacements and its related costs?**

3 A. The Structure Hardening program focuses on DEF's Transmission structures throughout
4 the state. As part of the program, all wood poles on the Florida Transmission system will
5 be replaced with non-wood structures within 15 years. Wood pole failure has been the
6 predominate structure damage to the transmission system during extreme weather. This
7 activity will upgrade wood poles to non-wood material such as steel or concrete. The new
8 structures will be more resistant to damage from extreme weather events. Other related
9 hardware upgrades will occur simultaneously, such as insulators, crossarms, switches, and
10 down guys.

11 DEF expects to incur approximately \$70.5M of total capital costs related to this Program
12 in 2021, as shown on Schedule Form 4P, page 4 of 6, Line 1a, and an associated amount
13 of O&M totaling approximately \$3.8M related to this activity, shown on Schedule Form
14 2P, page 1 of 3, Line 2.1, in Exhibit No. __ (TGF-1). As more fully described by DEF
15 Witness Foster, there is some amount of recovery for this activity currently included in
16 base rates; however, only the amount in excess of what is currently being recovered through
17 base rates is included in the requested SPPCRC recovery. The Beginning balance for
18 engineering work performed in 2020 to prepare for 2021 work will not be incorporated into
19 the 2021 SPPCRC revenue requirement. Please refer to Mr. Foster's testimony for details
20 regarding the calculation of the 2021 SPPCRC revenue requirement for this activity.

21
22 **Q. Describe the activities that will be performed for Transmission Structure Hardening-**
23 **Tower Replacements and its related costs?**

1 A. The Tower Replacement activities within the Structure Hardening Program will prioritize
2 towers based on visual ground inspections, aerial drone inspections, and data from cathodic
3 protection installations. This will improve the ability of the transmission grid to sustain
4 operations during extreme weather events by reducing outages and improving restoration
5 times.

6 DEF expects to incur approximately \$2.2M of total capital costs related to this activity in
7 2021, as shown in the on Schedule Form 4P, page 5 of 6, Line 1a, and an associated amount
8 of O&M totaling approximately \$21k to this activity, shown on Schedule Form 2P, page 1
9 of 3, Line 2.2, in Exhibit No. __ (TGF-1).

10

11 **Q. Describe the activities that will be performed for Transmission Structure Hardening-**
12 **Cathodic Protection and its related costs?**

13 A. The Cathodic Protection activities included in the Structure Hardening Program will
14 mitigate active groundline corrosion on the lattice tower system and produce site and soil
15 corrosion classification. The site and soil classification will be used to aid in condition-
16 based maintenance and prioritization for proactive tower replacements (as part of the
17 Tower Replacement activity). This activity installs passive cathodic protection systems
18 which are comprised of anodes on each leg of lattice towers. The anodes serve as sacrificial
19 assets that corrode in place of structural steel, thereby preventing loss of structure strength
20 to corrosion. This will help reduce outages during extreme weather events by limiting the
21 loss of base metal and protecting leg strength on aged assets with protective zinc coatings
22 that are approaching their end of life.

1 DEF expects to incur approximately \$1M of total capital costs related to this activity in
2 2021, as shown in the on Schedule Form 4P, page 6 of 6, Line 1a, and an associated amount
3 of O&M totaling approximately \$0.2M related to this program, shown on Schedule Form
4 2P, page 1 of 3, Line 2.3 in Exhibit No. __ (TGF-1).

5
6 **Q. Describe the activities that will be performed for Transmission Structure Hardening-
7 Drone Inspections and its related costs?**

8 A. The Drone Inspection activities included in the Structure Hardening Program will identify
9 otherwise difficult to see structure, hardware, or insulation vulnerabilities through high
10 resolution imagery. DEF is incorporating drone patrols into the inspections because drones
11 have the unique ability to provide a close vantage point with multiple angles on structures
12 that is unattainable through aerial or ground patrols with binoculars.

13 DEF does not expect to incur any capital costs related to this activity in 2021, however, an
14 amount of O&M totaling approximately \$0.1M related to this activity is shown on
15 Schedule Form 2P, page 1 of 3, Line 2.4, in Exhibit No. __ (TGF-1).

16
17 **Q. Are the Programs and activities discussed above consistent with DEF's SPP?**

18 A. Yes, the planned activities are consistent with the Programs described in detail in DEF's
19 SPP, specifically JWO-2.

20
21 **Q. Are there any activities related to the Transmission Structure Hardening Program
22 included in the Exhibits which you are not seeking recovery for through the
23 SPPCRC?**

1 A. Yes. As reflected in Schedule Form 4P, of Mr. Foster's Exhibit No. __ (TGF-1), the total
2 2021 Transmission Structure Hardening – Pole replacement wood to non-wood activity
3 will incur costs of approximately \$70.5M, of which the revenue requirements on
4 approximaetly \$34.8M will not be included for recovery through the SPPCRC. This is a
5 reasonable estimate of what is currently included in base rates, based on DEF's actual
6 average annual expense over the 3-year period 2017-2019. O&M incurred as part of this
7 activity is directly tied to the amount of capital work done in a given year. As such, DEF
8 has also adjusted out a portion of the O&M costs consistent with the amount of capital
9 costs being removed from the SPPCRC recovery request. This equates to removing
10 approximately \$1.8M, or about 49%, of the total O&M costs. The 49% was derived by
11 dividing the base level of capital (\$34.8M) by the total capital (\$70.5M). This adjustment
12 can be seen on Schedule Form 2P, page 1 of 3, Line 2a, in Exhibit No. __ (TGF-1).

13

14 **Q. In total, how much SPPCRC eligible Capital investment are you planning to incur**
15 **related to these Programs?**

16 A. As reflected in Schedule Form 4P, of Mr. Foster's Exhibit No. __ (TGF-1), the total 2021
17 projected costs for the two Programs DEF is seeking SPPCRC recovery for in 2021 are:
18 Distribution Feeder Hardening cost of \$62 million; and Transmission Structure Hardening
19 costs of \$38.9 million, broken down into three activities: \$35.7 million for Wood to Non-
20 wood Pole Replacement (\$34.8M of the total \$70.5M 2021 investment is characterized as
21 Base spend); \$2.2 million for Tower Replacement; and \$1 million Cathodic Protection.

22

1 **Q. In total, how much SPPCRC eligible O&M costs are you planning to incur related to**
2 **these Programs?**

3 A. As reflected in Schedule Form 2P, of Mr. Foster's Exhibit No. __ (TGF-1), the total 2021
4 projected costs for the two Programs DEF is seeking SPPCRC recovery for in 2021 are:
5 Distribution Feeder Hardening cost of \$2.4 million; and Transmission Structure Hardening
6 costs of \$2.2 million, broken down into four activities: \$1.9 million for Wood to Non-wood
7 Pole Replacement (\$1.8M of the total \$3.7M 2021 investment is characterized as Base
8 spend); \$0.2 million for Cathodic Protection; \$0.1 million for Drone Inspections; and \$21k
9 for Tower Replacements.

10

11 **Q. Please explain how the costs associated with these Programs are consistent with DEF's**
12 **SPP filing made on April 10, 2020?**

13 A. Projected capital investments in 2021 of \$60M for Feeder Hardening and \$40M for
14 Structure Hardening were included in DEF's SPP based on average unit costs. The current
15 request includes a total of approximately \$100M capital for the same activities included in
16 the SPP filing, but incorporates additional knowledge gained as projects have been
17 identified and further reviewed by DEF's subject matter experts.

18

19 **Q. Have your cost estimates for 2021 investments changed from the filing in DEF's SPP**
20 **Filing on April 10, 2020?**

21 A. Yes, in some instances, DEF's estimates have changed for the work expected to be
22 performed in 2021. In fact, DEF estimates that it will be able to complete more units of
23 work than originally estimated for some activities. For example, in Exhibit JWO-2 in the
24 SPP filing, the assumption of the number of wood-to-non-wood pole changeouts in the

1 Transmission Structure Hardening Program was predicated on the assumption that all work
2 was to be performed by contractors. However, further alignment and refinement of the
3 2021 plan concluded that DEF expects to undertake some of this work using internal labor.
4 The inclusion of internal crews to complete this work increased the total number of
5 estimated pole replacements for 2021, while keeping overall capital costs the same.
6 Further, O&M was originally estimated with the assumption that O&M costs would be
7 consistent regardless of crew mix and work methods (de-energized versus hot work).
8 However, this cost was further refined and aligned more closely with the anticipated crew
9 mix and work methods for 2021. Additionally, an increase in units completed overall
10 results in a corresponding increase in overall O&M costs.

11

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

13 A. Yes, it does.

1 CHAIRMAN CLARK: Anything else, Mr. Bernier?

2 MR. BERNIER: No, sir. Thank you.

3 CHAIRMAN CLARK: All right. Any other matters
4 that need to be addressed, staff?

5 MR. BREW: Mr. Chairman, this is -- this is
6 Jay Brew. I just want to thank Ms. Eaton for
7 posting that document to make it easier for
8 everyone to follow.

9 CHAIRMAN CLARK: Thank you, Mr. Brew.
10 Mr. Stiller.

11 MR. STILLER: Yes. Thank you, Mr. Chair.

12 Staff was informed that Walmart reserved its
13 position on whether to waive the filing of
14 post-hearing briefs until the conclusion of this
15 hearing.

16 CHAIRMAN CLARK: Okay. Walmart, do you wish
17 to file a post-hearing brief?

18 MS. EATON: We were going to file a
19 post-hearing brief if the Commission was inclined
20 to vote on the settlement agreement today. If the
21 Commission is, as I think -- my understanding was
22 perhaps delaying, or deferring the decision on it
23 until either the hearing that's already scheduled
24 in the 92 docket, or after conferring after this
25 hearing is over, we wouldn't necessarily need one.

1 CHAIRMAN CLARK: Okay. So with that in mind,
2 we -- we can go either way. We can make a bench
3 decision. If you are not going to file one, if the
4 Commissioners are good with postponing this
5 decision until the Agenda Conference, they will all
6 waive filing briefs. So are we good to wait?
7 Everyone is good to wait? I see no objections, so
8 is there any reason --

9 MR. BERNIER: Mr. Chairman.

10 CHAIRMAN CLARK: Yes.

11 MR. BERNIER: I am sorry. I just want to make
12 sure that I understand that we are -- we are not
13 going to have a bench decision today, but we are
14 going to take -- wait until October, is that
15 correct?

16 CHAIRMAN CLARK: That is the options that we
17 have, or we vote today, bench decision. And in
18 that case, Ms. Eaton wants to file briefs.

19 MS. EATON: That's right.

20 CHAIRMAN CLARK: And I am asking the
21 Commissioners for their consensus on this matter.
22 Is there a major holdup why -- why this couldn't be
23 held until October, Mr. Bernier, from your
24 perspective?

25 MR. BERNIER: Well, certainly it give us the

1 security in having the docket -- the docket
2 concluded, no more opportunity for discovery or
3 anything.

4 I would also note that we are here today
5 actually on, you know, a motion to approve two
6 settlement agreements. These motions were filed a
7 couple of weeks ago. I don't believe there were
8 any written responses to the motion, so I think --
9 personally, I think it's properly tuned up for you
10 to make a bench decision today regardless.

11 CHAIRMAN CLARK: No question. You are
12 correct, it is teed up that way.

13 MS. HELTON: Well, Mr. Chairman, if I could
14 just point out --

15 CHAIRMAN CLARK: Ms. Helton.

16 MS. HELTON: -- one thing that Chapter 120
17 provides the opportunity to file post-hearing
18 filings. So if Ms. Eaton wants to file a brief --

19 CHAIRMAN CLARK: Correct.

20 MS. HELTON: -- I -- I do think, because we've
21 had a hearing today, I do think that we need to
22 provide that opportunity.

23 CHAIRMAN CLARK: And we are giving her that
24 opportunity. If she would like to file a brief,
25 she may.

1 Ms. Eaton.

2 MS. EATON: Yes.

3 CHAIRMAN CLARK: Your decision?

4 MS. EATON: Yes, I -- I believe that if the
5 Commission is inclined to make a bench decision
6 today, we would want to file a post-hearing brief.

7 CHAIRMAN CLARK: Commissioner Polmann.

8 COMMISSIONER POLMANN: Mr. Chairman, this
9 perhaps is a question for our legal advisor.

10 The issue of a post-hearing brief, does that
11 come before or after the bench decision? If there
12 is going to be a post-hearing brief, is it that we
13 do not have a bench decision and, in fact, we --

14 CHAIRMAN CLARK: Correct. If there's --

15 COMMISSIONER POLMANN: -- we have staff come
16 back with a recommendation?

17 CHAIRMAN CLARK: That is correct.

18 COMMISSIONER POLMANN: Well, I am a little bit
19 confused on the language that's being used here
20 by -- by Ms. Eaton, and -- and I would just like
21 some clarification here.

22 MS. EATON: I am sorry for being confusing.

23 I will say that the procedure that we have --
24 that we have addressed this hearing is unusual. We
25 were planning on presenting Mr. Chriss and his

1 testimony for the Commission in October when the
2 clause docket was scheduled for hearing. We were
3 planning filing our testimony on the 4th when it
4 was due, and -- and when it had -- and in order to
5 be more efficient for the Commission, and for Duke,
6 and for the parties that did settle, to try to
7 present our testimony for -- for the Commission's
8 consideration today, so we didn't have to repeat
9 all of this in October. We certainly don't want to
10 have to do that; but at the same time, I don't want
11 Walmart's rights to file any sort of post-hearing
12 filing to be waived.

13 CHAIRMAN CLARK: So the Commission --

14 MS. CRAWFORD: Mr. Chairman. I apologize,
15 this is Jennifer Crawford.

16 CHAIRMAN CLARK: I am sorry who? Jennifer,
17 yes.

18 MS. CRAWFORD: Jennifer Crawford.

19 CHAIRMAN CLARK: Go ahead. I am sorry.

20 MS. CRAWFORD: I just want to make sure I am
21 clear on -- on the process.

22 My understanding is if Ms. -- if Walmart wants
23 to file briefs, then the motion on the settlement
24 is not going to be ripe for a bench vote, and we
25 will need to afford the opportunity for her to file

1 briefs and for whoever else might also want to file
2 briefs. If she is willing today to -- to waive
3 briefs, then the Commission is in the posture to
4 make a bench vote if it wishes to do so.

5 I just want to make sure that is the correct
6 posture we are in today.

7 CHAIRMAN CLARK: Yes, ma'am. That's what I
8 have been trying to clarify.

9 What I wanted to ask the Commissioners, if you
10 are inclined to go ahead and make a bench decision
11 today, and I could get some head noddings, then Ms.
12 Eaton is going to file a brief, and that negates
13 that, and this comes to us in October. It's not
14 that complicated. Even I get it, so it's got to be
15 easy.

16 All right. So is that where we are?
17 Commissioners? Were you inclined to make a bench
18 decision today?

19 COMMISSIONER BROWN: Yes, sir.

20 COMMISSIONER FAY: Yes.

21 CHAIRMAN CLARK: Yes, I have the head nods.

22 Ms. Eaton, will you file a brief, yes or no?

23 MS. EATON: Yes.

24 CHAIRMAN CLARK: Okay. That concludes all of
25 the matters, I believe, that we have here today.

1 Anything else, Ms. Helton?

2 Briefs are due on September 11th, 2020.

3 MR. BERNIER: If I could ask a question. What
4 are we briefing?

5 I am -- I am kind of unclear. We filed a
6 motion, and I understand that we had -- we took
7 some evidence regarding the substance of the
8 motion, but we don't have -- for example, we don't
9 have issues identified in this docket for -- for
10 the Commission consideration.

11 Again, the time for filing a response to a
12 motion has passed, which I think would have been
13 the brief that we are talking about here. This has
14 not been the full clause hearing.

15 Again, I am just not -- I guess I disagree
16 with the procedural posture that we are we are in.
17 I think if the Commission wants to vote on our
18 motion, which we have presented today, the
19 Commission is free to do that, notwithstanding a
20 party's desire to file a brief.

21 CHAIRMAN CLARK: Okay. Ms. Helton, would you
22 address that?

23 MS. HELTON: Mr. Chairman, first of all, let
24 me say, unfortunately, our appellate counsel, for
25 whatever reason, is not able to hear what's -- the

1 discussion today, so I am saying this without
2 having the benefit of having been able to discuss
3 it with her. But it's my understanding that
4 when -- in taking up the settlement, even though
5 there was a motion attached to that, that we must
6 provide due process. And in my mind, due process
7 is the opportunity for a hearing.

8 We have given Ms. Eaton that opportunity by
9 allowing her to present testimony with respect to
10 the settlement, just as Duke presented testimony
11 with respect to the settlement. And under Chapter
12 120, which governs our process on hearings, if
13 there is any party to the proceeding that wishes to
14 file a post-hearing statement, and we call those
15 briefs here, then we must provide that opportunity.

16 And so I believe that what Ms. Eaton is asking
17 for is appropriate, and I believe the question that
18 is before the Commission, and the issue that is
19 before the Commission, is whether the Commission
20 should a proffer the settlement.

21 CHAIRMAN CLARK: Correct.

22 Okay. Commissioners, I will indulge your
23 thoughts on this matter.

24 Commissioner Brown.

25 COMMISSIONER BROWN: Mr. Chairman, thank you.

1 I -- unfortunately, I was ready to move
2 forward, but I think that what legal counsel has
3 said is probably accurate here, that because
4 Walmart wants to brief the item, it doesn't mean
5 that all the parties necessarily have to elect to
6 brief it as well, but I think that we do have to
7 give them the due process right and then vote on it
8 after the briefs are turned in.

9 CHAIRMAN CLARK: Well stated, Commissioner
10 Brown.

11 Okay. With that being said, post-hearing
12 briefs will be due any party that wishes to file
13 one on September 12th -- 12th, and --

14 MS. HELTON: I think it was the 11th, Mr.
15 Chairman.

16 CHAIRMAN CLARK: 11th. I am sorry. 21 was
17 the next date that's on this note.

18 Okay. Briefs will be due on September 11th.
19 Any further matters to discuss here today?
20 Seeing none, this hearing stands adjourned.
21 (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 16th day of September, 2020.



DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #HH31926
EXPIRES AUGUST 13, 2024