

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for establishment of regulatory assets for expenses not recovered during restoration for Hurricane Michael, by Florida Public Utilities Company.

DOCKET NO. 20190155-EI

In re: Petition for a limited proceeding to recover incremental storm restoration costs, capital costs, revenue reduction for permanently lost customers, and regulatory assets related to Hurricane Michael, by Florida Public Utilities Company.

DOCKET NO. 20190156-EI

In re: Petition for approval of 2019 depreciation study by Florida Public Utilities Company.

DOCKET NO. 20190174-EI
ORDER NO. PSC-2020-0313-PCO-EI
ISSUED: September 16, 2020

PROCEDURAL ORDER

Order No. PSC-2020-0121-PCO-EI (Procedural Order) issued on April 21, 2020, established hearing procedures to govern the above-referenced dockets, including controlling dates. The Procedural Order was subsequently modified on June 2, 2020, by Order No. PSC-2020-0174-PCO-EI. The Procedural Order was again modified on August 28, 2020, by Order No. PSC-2020-0290-PCO-EI, to cancel the prehearing conference, at the request of the Office of Public Counsel (OPC), the sole intervenor in the above-referenced dockets, and Florida Public Utilities Company (FPUC).

On August 31, 2020, FPUC and OPC (the Parties) filed a Joint Motion for Approval of Stipulation and Settlement (Joint Motion), and attached the Stipulation and Settlement Agreement (Settlement Agreement). On September 3, 2020, by Order No. PSC-2020-0297-PCO-EI, the Procedural Order was modified a third time to change the hearing and post-hearing brief dates in light of the Settlement Agreement.

The Parties have agreed that the Settlement Agreement resolves all matters contained in Docket Nos. 20190155-EI, 20190156-EI, and 20190174-EI. The key terms of the Settlement Agreement include the establishment of two regulatory assets for portions of the costs FPUC incurred due to system restoration activities following Hurricanes Michael and Dorian. The amount of the first regulatory asset is approximately \$6.8 million, to be recovered over 10 years by an increase to base rates, and the amount of the second regulatory asset is approximately \$45.8 million, to be recovered over 5 years by a surcharge.¹ Further, FPUC would be permitted to recover an additional \$2.2 million in annual revenue associated with new plant investment,

¹ As indicated in Revised Tariff Sheet No. 68, attached to Exhibit B of the Settlement Agreement (*see* Document No. 05344-2020), the surcharge will be recovered from November 2020 through December 2025.

also by an increase to base rates. If approved, the changes to base rates and the surcharge would be effective November 1, 2020, and the interim rates approved by the Commission by Order No. PSC-2019-0501-PCO-EI, issued on November 22, 2019, would cease on October 31, 2020. In addition, FPUC agreed to implement the Storm Restoration Cost Improvements consistent with those approved by settlement in Docket Nos. 20170271-EI and 20170272-EI (prior storm-cost recovery dockets for Tampa Electric Company and Duke Energy Florida, LLC, respectively). FPUC further agreed to implement OPC's adjusted asset lives and resulting depreciation rates related to FPUC's 2019 Depreciation Study.

In consideration of the Parties' request, and to afford sufficient time for the Commission and its staff to review the proposed Settlement Agreement, the hearing in this matter was rescheduled to September 21, 2020, by Order No. PSC-2020-0297-PCO-EI, issued on September 3, 2020. The purpose of the hearing will be to consider whether it is in the public interest to approve the Settlement Agreement. This Order is issued pursuant to the authority granted by Rule 28-106.211, Florida Administrative Code (F.A.C.), which provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case.

Use of Confidential Information at Hearing

While it is the Commission's policy to have all Commission hearings open to the public at all times, the Commission also recognizes its obligation pursuant to Section 366.093, Florida Statutes (F.S.), to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information² shall adhere to the following:

- (1) When confidential information is used in the hearing, parties must have copies for the Commissioners, counsel, necessary staff, and the court reporter, clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- (2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

All copies of confidential exhibits that are not admitted into evidence shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Office of Commission Clerk's confidential files. If

² Section 366.093(3), F.S.

such information is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidentiality filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C., if continued confidentiality of the information is to be maintained.

Special Considerations Due to the COVID-19 Pandemic

State buildings are currently closed to the public and other restrictions on gatherings remain in place due to COVID-19. Accordingly, the hearing will be conducted remotely, and all parties and witnesses shall be prepared to present argument and testimony by communications media technology.

Any member of the public who wants to observe or listen to the proceedings may do so by accessing the live video broadcast the day of the hearing, which is available from the Commission website. Upon completion of the hearing, the archived video will also be available.

Hearing Procedures

Section 120.57(4), F.S., permits the Commission to informally dispose of any proceeding by stipulation, agreed settlement, or consent order. Pursuant to Rule 28-106.302(2), F.A.C., the purpose of this hearing is for the Commission to take oral and written evidence or argument regarding the Joint Motion for approval of the Settlement Agreement as being in the public interest.

The hearing agenda for September 21, 2020, will include the following:

- Parties present Opening Statements of no more than five minutes per party;
- Parties present evidence and respond to questions from Commissioners regarding the Settlement Agreement.

Upon the admission of all testimony and evidence, and completion of the Commission's questions at hearing, the hearing record will be closed. At that time, the Commission may render a bench decision, provided all parties are willing to waive filing of post-hearing briefs. If a bench decision is not made, the Commission will render a decision during an Agenda Conference; date and time to be determined. Briefs, if any, will be due October 30, 2020.

The Commission has jurisdiction in this matter pursuant to Chapters 120, and 366, F.S., and is proceeding under its authority under Sections 366.04, 366.05, 366.06, and 120.57, F.S.

Based on the foregoing, it is

ORDERED by Commissioner Andrew Giles Fay, as Prehearing Officer, that Order Nos. PSC-2020-0121-PCO-EI, PSC-2020-0174-PCO-EI, PSC-2020-0290-PCO-EI, and PSC-2020-0297-PCO-EI are modified as set forth in the body of this order. It is further

ORDERED that Order Nos. PSC-2020-0121-PCO-EI, PSC-2020-0174-PCO-EI, PSC-2020-0290-PCO-EI, and PSC-2020-0297-PCO-EI are reaffirmed in all other respects.

By ORDER of Commissioner Andrew Giles Fay, as Prehearing Officer, this 15th day of September, 2020.



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

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

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

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

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review

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of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.