

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for limited proceeding to approve 2021 settlement agreement, including general base rate increases, by Duke Energy Florida, LLC.

DOCKET NO. 20210016-EI

In re: Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricane Michael and approval of second implementation stipulation, by Duke Energy Florida, LLC.

DOCKET NO. 20190110-EI

In re: Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricane Dorian and Tropical Storm Nestor, by Duke Energy Florida, LLC.

DOCKET NO. 20190222-EI
ORDER NO. PSC-2021-0146-PCO-EI
ISSUED: April 21, 2021

SECOND PROCEDURAL ORDER

Duke Energy Florida, LLC (DEF), the Office of Public Counsel (OPC), Florida Industrial Power Users Group (FIPUG), Nucor Steel Florida, Inc. (NUCOR), and White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate (PCS Phosphate) (collectively, Signatories), filed a petition for limited proceeding to approve their 2021 Settlement Agreement on January 14, 2021. The Signatories assert that the 2021 Settlement Agreement is intended to completely resolve all matters contained within DEF's petition for base rates in Docket No. 20210016-EI, and the petitions to recover incremental storm restoration costs in Docket Nos. 20190110-EI and 20190222-EI. The petition and 2021 Settlement Agreement were filed pursuant to the provisions of the Second Revised and Restated 2017 Settlement Agreement, which the Commission approved by Order No. PSC-2017-0451-AS-EU. By Order No. PSC-2021-0101-PCO-EI, issued March 9, 2021, the dockets captioned above were consolidated, and these matters were scheduled for hearing on May 4, 2021. The purpose of the hearing is to consider whether it is in the public interest to approve the 2021 Settlement Agreement.

This Order is issued pursuant to the authority granted by Rule 28-106.211, Florida Administrative Code, 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.

Witnesses and Exhibits

As set forth in greater detail in Attachment A, all parties shall provide to the Commission Clerk, by close of business on Tuesday, April 27, 2021, the identity of each witness whose testimony they intend to sponsor, and all exhibits (including cross-examination and impeachment

exhibits) they intend to use at hearing. All testimony and exhibits remain subject to timely and appropriate objections.

The presiding officer will administer the testimonial oath to each witness, and each witness will be subject to cross-examination at the conclusion of their testimony. The order of presentation of witness testimony shall be established by the presiding officer at the commencement of the hearing. Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer. After all parties and staff have had the opportunity to cross-examine the witness, any exhibits sponsored by the witness may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

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

Therefore, it is

ORDERED by Commissioner Mike La Rosa, as Prehearing Officer, that the provisions of this Order shall govern this proceeding unless modified by the Commission. Order No. PSC-2021-0101-PCO-EI is reaffirmed to the extent not inconsistent with this Order.

By ORDER of Commissioner Mike La Rosa, as Prehearing Officer, this 21st day of April, 2021.



Mike La Rosa
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.

JSC

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

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

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

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

ATTACHMENT A

Requirements related to identifying witnesses and providing exhibits prior to hearing

By close of business on Tuesday, April 27, 2021, each party must provide to the Commission Clerk, in writing, the name, business address, and general scope of testimony for each witness the party intends to sponsor at hearing, if any.

Also by close of business on Tuesday, April 27, 2021, each party must provide to the Commission Clerk an electronic copy of all direct and cross-examination exhibits, including impeachment exhibits (collectively, “exhibits”), the party plans to use during the hearing, if any. All exhibits must be provided to the Clerk’s Office on either USB flash drives or CDs. Confidential documents must be placed on one USB flash drive or CD, and non-confidential exhibits must be placed on a different or separate USB flash drive or CD. This is because the Clerk’s Office will process the confidential exhibits, and will transmit all non-confidential exhibits to the General Counsel’s Office for processing. All USB flash drives or CDs provided to the Clerk’s Office must be clearly labeled as confidential or non-confidential, and the label must also include the Docket Number(s) and the name of the party providing the exhibits.

Each party must provide to the Clerk by close of business, April 27, 2021, a table listing the exhibit numbers and short titles of each exhibit provided to the Clerk. Pursuant to Rule 25-22.006(3), F.A.C., a notice of intent to request confidential classification must be filed for all confidential information.

Each party must pre-number each exhibit with the following sequential numbering system that clearly denotes confidential exhibits. For example, DEF will pre-identify its exhibits DEF-1, DEF-2, DEF-3, etc. All confidential exhibits must include the letter “C” placed after the number. Thus, if DEF’s third exhibit is confidential, it will be labeled DEF-3C.

Each exhibit must be saved as a separate electronic file, and each file must be labeled with the exhibit number that reflects the information contained in the exhibit. The exhibit number will serve as the filename in the virtual folder during the hearing. Each exhibit must also include a cover page that includes the exhibit number. In addition, each exhibit must include sequentially numbered pages. The page numbers must be placed in the upper right-hand corner of each page.

The confidential and non-confidential exhibits will be made available to the parties in virtual folders the day before the hearing. The exhibits will be made available to the parties for the sole purpose of providing the witnesses and their counsel with the opportunity to print the exhibits or download them to their electronic devices for use during the hearing.¹ The parties must not view or read the exhibits prior to the hearing. Parties will be provided usernames and passwords by Commission staff that will give them access to the confidential exhibits and any other confidential information that will be used during the hearing. By April 27, 2021, parties must provide the Commission Clerk with the list of names of those persons who should be given a user name and password to access confidential information.

¹ Google Chrome is the best internet browser to use to access the virtual folder.