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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20200241-EI

PETITION FOR LIMITED PROCEEDING
FOR RECOVERY OF INCREMENTAL STORM
RESTORATION COSTS RELATED TO HURRICANE
SALLY, BY GULF POWER COMPANY.

_____ /

DOCKET NO. 20210178-EI

PETITION FOR EVALUATION OF HURRICANE
ISAIAS AND TROPICAL STORM ETA STORM
COSTS, BY FLORIDA POWER & LIGHT COMPANY.

_____ /

DOCKET NO. 20210179-EI

PETITION FOR LIMITED PROCEEDING FOR
RECOVERY OF INCREMENTAL STORM RESTORATION
COSTS AND ASSOCIATED TRUE-UP PROCESS RELATED
TO HURRICANE ZETA, BY GULF POWER COMPANY.

_____ /

PROCEEDINGS: PREHEARING CONFERENCE

COMMISSIONERS
PARTICIPATING:

COMMISSIONER ART GRAHAM
PREHEARING OFFICER

DATE: Tuesday, June 21, 2022

TIME: Commenced: 10:17 a.m.
Concluded: 10:45 a.m.

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

REPORTED BY: DEBRA R. KRICK
Court Reporter

PREMIER REPORTING
112 W. 5TH AVENUE
TALLAHASSEE, FLORIDA
(850) 894-0828

1 APPEARANCES:

2 RUSSEL BADDERS and KATE COTNER, ESQUIRES,
3 Florida Power & Light Company, 700 Universe Boulevard,
4 Juno Beach, Florida 33408, appearing on behalf of
5 Florida Power & Light Company (FPL).

6 RICHARD GENTRY, PUBLIC COUNSEL; PATRICIA A.
7 CHRISTENSEN, ESQUIRE, OFFICE OF PUBLIC COUNSEL, c/o The
8 Florida Legislature, 111 West Madison Street, Room 812,
9 Tallahassee, Florida 32399-1400, appearing on behalf of
10 the Citizens of the State of Florida (OPC).

11 SHAW STILLER and JENNIFER CRAWFORD, ESQUIRES,
12 FPSC General Counsel's Office, 2540 Shumard Oak
13 Boulevard, Tallahassee, Florida 32399-0850, appearing on
14 behalf of the Florida Public Service Commission (Staff).

15 KEITH HETRICK, GENERAL COUNSEL; MARY ANNE
16 HELTON, DEPUTY GENERAL COUNSEL, Florida Public Service
17 Commission, 2540 Shumard Oak Boulevard, Tallahassee,
18 Florida 32399-0850, Advisor to the Florida Public
19 Service Commission.

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I N D E X

WITNESSES

NAME :

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

2 COMMISSIONER GRAHAM: Okay, let the record
3 show it is Monday, June 21st, it is 10:17 in the
4 morning, and we are going to call this prehearing
5 order to order.

6 Staff, if I can get you to read the notice,
7 please. Staff, if I can get you to read the
8 notice, please.

9 MR. STILLER: By notice issued on June 3rd,
10 2022, this time and place has been set for a
11 prehearing conference in Docket Nos. 2020241-EI,
12 20210178-EI and 20210179-EI. The purpose of the
13 prehearing is set out more fully in the notice.

14 COMMISSIONER GRAHAM: Thank you.

15 Let's take appearances.

16 MR. BADDERS: Yes, good morning,
17 Commissioners, Russell Badders and Kate Cotner on
18 behalf of FPL.

19 MS. CHRISTENSEN: Patty Christensen on behalf
20 of the Office of Public Counsel. Richard Gentry,
21 the Public Counsel is also present.

22 MR. STILLER: Charles Stiller and Jennifer
23 Crawford for Commission staff.

24 MR. HETRICK: Mr. Chairman, Keith Hetrick,
25 your General Counsel, and your Deputy General

1 Counsel, Mary Anne Helton.

2 COMMISSIONER GRAHAM: Okay. Preliminary
3 matters. Mr. Stiller, is there any preliminary
4 matters?

5 MR. STILLER: Staff notes that there is one
6 contested issue that will need to be addressed at
7 today's prehearing conference. I recommend we take
8 issue up when we come to the issues and positions
9 section of the prehearing order.

10 Staff is aware of no other issues at this
11 time.

12 COMMISSIONER GRAHAM: Okay, are there any
13 other prehearings other than the one that staff
14 mentioned? Any other preliminary matters other
15 than the ones that staff mentioned?

16 Okay. Let's -- we are going to go through the
17 prehearing order. We are going to go through it
18 pretty quickly. As I call the different sections,
19 if you have any corrections or anything you want to
20 speak about, please wave your hands or speak out
21 and we will stop and address those issues.

22 So Section I.

23 Section II.

24 Section III.

25 Section IV.

1 MS. CHRISTENSEN: Commissioner, this is Patty
2 Christensen with the Office of Public Counsel.

3 I just wanted to confirm that we are resuming
4 our normal in-person hearing procedures with regard
5 to confidential materials, and we are not doing any
6 pre-electronic filings. That's my understanding
7 from the draft of the prehearing order, but I
8 thought I would ask for clarification or
9 confirmation on the record.

10 COMMISSIONER GRAHAM: Staff?

11 MR. STILLER: Yes, Commissioner. Staff will
12 note that OPC is correct, in short, that when
13 confidential is used in the hearing that has not
14 been filed as prefiled testimony or prefiled
15 exhibits, parties must have copies for the
16 Commissioners, necessary staff and the court
17 reporter in red envelopes clearly marked with the
18 nature of the contents and with the confidential
19 information highlighted.

20 Any party wishing to examine the confidential
21 material that is not subject to an order granting
22 confidentiality shall be provided a copy in the
23 same fashion as provided the Commissioners subject
24 to execution of any appropriate protective
25 agreement with the owner of the material.

1 MS. CHRISTENSEN: Okay.

2 COMMISSIONER GRAHAM: Anybody else on Section
3 IV?

4 Section V.

5 MR. STILLER: Staff suggests that witnesses be
6 given no more than three minutes to summarize their
7 direct testimony. Witnesses who will offer
8 rebuttal testimony should also be given no more
9 than three minutes to summarize their testimony.

10 MS. CHRISTENSEN: Commissioner, we don't have
11 a lot of witnesses in this case. I would ask that
12 that be moved to at least five minutes. These are
13 rather lengthy testimony. If we can do it in
14 three, we will be happy do it, but we would just
15 like a little latitude.

16 COMMISSIONER GRAHAM: I think I want to keep
17 it at three.

18 Anybody else?

19 Okay. Order of witnesses.

20 MR. BADDERS: Yes, Commissioner, I do have one
21 change here.

22 Note that we have several witnesses who filed
23 testimony for both FPL and Gulf. As listed here,
24 they would take the stand twice. Our
25 recommendation is that we would have each of these

1 witnesses appear one time and address both the Gulf
2 and the FPL testimony at that time. So there will
3 be one summary and one witness -- and we would also
4 ask to change the order of witnesses to reflect --
5 I'm sorry -- And we would also like to change the
6 order --

7 COMMISSIONER GRAHAM: Start from the beginning
8 again.

9 MR. BADDERS: I am sorry. Yes.

10 Several of our witnesses have testimony in
11 both FPL and a Gulf docket. Here they are listed
12 so that they would appear twice -- are you able to
13 hear me? I am sorry. We would prefer to have them
14 appear one time and combine that testimony so they
15 would have one witness appearance with one summary.
16 And we would also like to change the order of
17 witnesses to reflect the order that's in our
18 prehearing statement.

19 COMMISSIONER GRAHAM: OPC, any comments?

20 MS. CHRISTENSEN: No objection to taking up
21 Gulf and FPL testimony of the same witness when
22 they are up once. That's fine with us.

23 COMMISSIONER GRAHAM: Staff?

24 MR. STILLER: No objection from staff.

25 COMMISSIONER GRAHAM: Okay.

1 MR. BADDERS: Thank you.

2 COMMISSIONER GRAHAM: Okay. Staff, on the
3 order of witnesses, do we have anything else?

4 MR. STILLER: On the order of witnesses,
5 Commissioner, there are no stipulated witnesses at
6 this time. If the parties advise staff of any
7 witness stipulations for witnesses in which the
8 testimony will still be included in the docket,
9 staff will confirming with each Commissioner that
10 any identified witness can be excused. If
11 Commissioners do not have any questions of these
12 witnesses, the witnesses may be excused from the
13 hearing and his or her testimony and exhibits
14 entered into the record at hearing as though read.

15 MS. CHRISTENSEN: Commissioner --

16 COMMISSIONER GRAHAM: Ms. Christensen.

17 MS. CHRISTENSEN: -- with the updated hearing
18 order of FPL and Gulf witnesses, can we get an
19 update on what that will be, since it's a little
20 bit different than what's in the prehearing order,
21 or if that's going to be updated in the final
22 order, final prehearing order, that would be fine
23 too.

24 MR. BADDERS: I can quickly run through it
25 now, and then we will provide that information so

1 it can end up in the prehearing order.

2 COMMISSIONER GRAHAM: Let's just go ahead and
3 run through it right now.

4 MR. BADDERS: Okay.

5 COMMISSIONER GRAHAM: And also include it in
6 the final prehearing order.

7 MR. BADDERS: All right. Thank you.

8 Our first witness would be Miranda. Next
9 would be Talley, then Priore, Gerard, Hughes. And
10 then on rebuttal, we would have Miranda and Hughes.

11 COMMISSIONER GRAHAM: Staff or OPC, any
12 questions?

13 MS. CHRISTENSEN: I am not sure, did I miss
14 Cohen?

15 MR. BADDERS: Thank you, Patty -- or Ms.
16 Christensen. We do need to include Ms. Cohen as
17 our last witness for direct.

18 COMMISSIONER GRAHAM: We are good?

19 MR. STILLER: Yes, Commissioner. No objection
20 from staff.

21 COMMISSIONER GRAHAM: Okay. Basic positions.
22 Do the parties have any changes to their basic
23 positions? Basic position, any changes?

24 MR. BADDERS: I am sorry, no.

25 MS. CHRISTENSEN: No change for OPC.

1 COMMISSIONER GRAHAM: Staff?

2 MR. STILLER: Staff would just note that if
3 there are any changes in basic positions, they
4 should be submitted in writing by the close of
5 business tomorrow, June 22nd, 2022.

6 COMMISSIONER GRAHAM: Okay. Section No. VIII,
7 issues and positioned, staff.

8 MR. STILLER: Staff notes that for any issues
9 for which the parties provided no position, or
10 state no position at this time, the party must take
11 a position by no later than close of business
12 tomorrow, June 22nd. If they fail to do so, their
13 position will be changed to no position in the
14 prehearing order.

15 Pursuant to the OEP, if a party fails to take
16 a position on an issue by the time of the
17 prehearing conference without showing good cause
18 why they cannot take a position by that time, the
19 party waives its opportunity to conduct
20 cross-examination on the issue, as well as to file
21 a post-hearing brief on the issue.

22 COMMISSIONER GRAHAM: Okay. Staff, are there
23 any contested issues?

24 MR. STILLER: Yes, Commissioner Graham, there
25 is one contested issue. OPC has proposed -- and I

1 will read the issue as worded.

2 OPC Issue 1: What changes, if any, should be
3 made by FPL to their hurricane processes?

4 Staff would note that the adequacy of such
5 processes have not been previously identified by
6 the Commission in prior storm dockets as an
7 independent issue. Some of the additional
8 improvements suggested recommend FPL develop or
9 acquire software and engage external assistance.

10 The existing provisions that these would build
11 on were established in prior settlement agreements,
12 most recently the Hurricane Irma Settlement
13 Agreement and Implementation Agreement.

14 Staff is aware that Florida Power & Light
15 opposes this issue and wishes to present argument
16 in opposition.

17 COMMISSIONER GRAHAM: All right. Staff, who
18 do I start with, OPC or Florida Power & Light?

19 MR. STILLER: It would probably be more
20 appropriate to begin with OPC since they are
21 forwarding the position.

22 COMMISSIONER GRAHAM: Ms. Christensen.

23 MS. CHRISTENSEN: That's fine. I am going to
24 address it now, but if there is any issues that I
25 need to rebut, I would ask for some leeway on that.

1 COMMISSIONER GRAHAM: I will circle back
2 around to you after Florida Power & Light and
3 staff.

4 MS. CHRISTENSEN: Thank you.

5 We proposed this issue, we have testimony on
6 this issue. Yes, some of the process changes build
7 a little bit on previous settlements, which of
8 course the Commission has reviewed and approved
9 under the Commission's authority. We think the
10 Commission has broad discretion, or broad authority
11 to address process changes, particularly in any
12 proceeding where the Commission, under its
13 authority under 366.06, is looking to establish a
14 surcharge or a rate.

15 One of the issues that the Commission has
16 within its purview is the practices of any utility,
17 and we believe that that should be reviewed in this
18 case. And particularly since we have testimony on
19 that issue, we think an individual issue on that
20 would be appropriate.

21 Contrary to FPL's position, we don't think
22 that this necessarily entails a micromanaging type
23 look. It's well within the Commission's purview.
24 And really, what we are here today is to decide
25 whether or not the Commission should at least take

1 up the issue and take testimony on that issue. How
2 the Commission decides on the issue, or decides
3 what to do with the information it's received,
4 that's an issue that will be decided after the
5 hearing at the post-hearing -- post-hearing agenda
6 or the post-hearing recommendation.

7 At this point, really the only issue before
8 you today is whether or not the Commission has the
9 authority and should hear the issue. And we think
10 that it's ripe, and that there is testimony on this
11 issue.

12 Thank you.

13 COMMISSIONER GRAHAM: Florida Power & Light.

14 MR. BADDERS: Yes. Thank you.

15 When I looked at this issue initially, it
16 struck me, and I saw Ms. Christensen's argument
17 that, you know, policies and procedures are at
18 issue any time the Commission looks at a rate, and
19 in her case, she includes a surcharge. So when I
20 looked at that, you know, I am not arguing whether
21 or not they can look at the policies or the
22 procedures that were in place in 2020. That's what
23 we are looking at here. Our storm costs, 2020
24 storms, four of them actually, and whether or not
25 those costs are reasonable and prudent. So any

1 response, or any answer to this proposed issue
2 really doesn't affect those costs. We are not
3 going to go back in time and apply any of these
4 procedures.

5 So it's really beyond the scope. I mean, this
6 is limited to the costs, reasonableness and
7 prudence. Expanding it -- and I know they disagree
8 as to whether or not this is micromanaging, or
9 managing.

10 Really what we have are two accounting witness
11 for Public Counsel, two consultants, who set out a
12 very detailed set of requirements for FPL to follow
13 in future storms. That's well beyond, I think,
14 what the Commission has ever done in the past.
15 It's clearly not appropriate in what this would be
16 a cost recovery docket.

17 So we would object, just really on the basis
18 that this is beyond the scope. It's not necessary.
19 It's not even appropriate. And as she said, there
20 is not really a -- it seems like there needs to be
21 something after this docket to implement this, and
22 that's not really how this is set up. This was
23 established by a petition by the companies to seek
24 cost recovery, not to open up a policy docket.

25 COMMISSIONER GRAHAM: Ms. Christensen.

1 MS. CHRISTENSEN: Well, I think Mr. Badders is
2 correct. It is a reasonableness and prudence
3 review. Reasonableness takes into account looking
4 at the policies and procedures that the company has
5 in place, and looking at whether those are
6 adequate, and were adequate at the time the storm
7 hit and if any changes should be made.

8 I don't think that the Commission is bound to
9 just only looking solely at whether or not the
10 costs were prudently incurred and taking such a
11 narrow view. I think the Commission has much
12 broader authority to look at whether or not the
13 policies and procedures under which those costs
14 were incurred were adequate, and if they are not
15 adequate, making changes going forward for that
16 particular company.

17 And that's all we are really asking for the
18 Commission to consider as a separate issue in this
19 docket. And we think this is the appropriate
20 docket, and we have testimony on the issue. It was
21 raised, and the company has the opportunity and, to
22 some extent, did rebut that in their rebuttal
23 testimony. So the issue is queued up for the
24 Commission's consideration.

25 Whether or not the Commission has done it in a

1 prior docket, I would almost argue it's not
2 necessarily relevant to whether or not you should
3 take it up today, because it may not have been teed
4 up in a prior docket because it may not have been
5 an issue.

6 I will say this that, you know, the processes
7 and procedures that the companies have in place,
8 and particularly this company, for cost containment
9 on hurricane issues is significantly relevant,
10 particularly when it comes to the customers who are
11 getting these costs as pass-through costs on past
12 storms and costs that will be incurred in this
13 hurricane season. So we are asking the Commission
14 take a look at that in this forum, this is the
15 appropriate time.

16 Thank you.

17 COMMISSIONER GRAHAM: Staff, is this a
18 decision that has to be made now, or can we just
19 include this in the final prehearing?

20 MR. STILLER: Commissioner, you can defer
21 ruling and consider it and enter your ruling in the
22 final prehearing order if you so wish.

23 COMMISSIONER GRAHAM: I'm going to take this
24 all under advisement and sit down and beat up Mary
25 Anne and Keith for a while, because I could go

1 either way on this one. So we'll include this in
2 the final prehearing order.

3 Okay. Comprehensive exhibit list, staff.

4 MR. STILLER: Yes, Commissioner.

5 Staff has prepared a comprehensive exhibit
6 list which lists all prefiled exhibits and those
7 exhibits staff wishes to include in the record.
8 The draft list was given to the parties to see if
9 there were any changes or objections to the CEL or
10 the introduction of any staff's exhibits being
11 entered into the record.

12 At this time, we would like to see if there
13 are any known changes that need to be made to the
14 parties' exhibits and if there are any known
15 objections to the entry of staff's proposed
16 exhibits into the record.

17 Staff will continue to work with the parties
18 towards stipulating the exhibit list prior to the
19 hearing.

20 COMMISSIONER GRAHAM: Anybody have any
21 comments on the exhibit list or staff's
22 comprehensive exhibit list?

23 Florida Power & Light?

24 MR. BADDERS: We don't currently have any
25 questions or changes, but we will continue to work

1 with staff if anything comes up.

2 COMMISSIONER GRAHAM: Okay.

3 MS. CHRISTENSEN: We will do the same.

4 COMMISSIONER GRAHAM: Okay. Proposed
5 stipulations, Section X.

6 MR. STILLER: There are no proposed
7 stipulations at this time.

8 COMMISSIONER GRAHAM: Okay. Section XI.

9 MR. STILLER: There are no pending motions in
10 the docket at this time.

11 COMMISSIONER GRAHAM: Section XII.

12 MR. STILLER: There are 12 pending
13 confidentiality motions remaining at this time.
14 These orders are under review, and staff will
15 endeavor to get all resolved prior to the hearing.

16 COMMISSIONER GRAHAM: Any questions or
17 concerns on that?

18 Seeing none, 13, post-hearing procedures.

19 MR. STILLER: Staff recommends that
20 post-hearing briefs be limited to 40 pages should
21 briefs be necessary. Staff recommends that a
22 summary of each position of 50 words set off with
23 asterisks should be included in the post-hearing
24 statement.

25 If a bench decision is not made, post-hearing

1 briefs should be due on August 9th, 2022.

2 COMMISSIONER GRAHAM: Both parties agree with
3 that?

4 MS. CHRISTENSEN: Commissioner, I would ask to
5 have the wording on the position statement
6 increased to 75.

7 COMMISSIONER GRAHAM: You want to go from 50
8 to 75?

9 MS. CHRISTENSEN: Yeah. It's usually a little
10 bit easier. I know it's only 25 words, but it does
11 make a difference when you are trying to condense
12 complex issues into a brief summary.

13 COMMISSIONER GRAHAM: I don't have a problem
14 with that. We can go to 75 56789.

15 MS. CHRISTENSEN: The only other issue I have
16 is right now the briefs are currently scheduled for
17 August 9th. The week prior to that, we have the
18 Storm Protection Plan docket, at which I will be
19 participating all week. I would ask for a week
20 extension on that if possible, to the 16th.

21 COMMISSIONER GRAHAM: Staff, I don't know
22 what's on the calendar.

23 MR. STILLER: The 9th was picked based on some
24 other dockets and potentially getting this to an
25 earlier fall docket. If it goes back to August

1 16th, it would -- I believe the earliest the order
2 could be considered would be October. That would
3 be the biggest change.

4 COMMISSIONER GRAHAM: Let's take about two,
5 three minutes and go over the calendar and figure
6 out if we can or cannot move that date from the 9th
7 to something else, let's me know.

8 MR. STILLER: Yes.

9 COMMISSIONER GRAHAM: Florida Power & Light,
10 any --

11 MR. BADDERS: We have no objection to an extra
12 week.

13 COMMISSIONER GRAHAM: Okay. We will take a
14 brief recess here for about three minutes and let
15 staff go over the calendar.

16 (Brief recess.)

17 MR. STILLER: Yes, Commissioner, everyone's
18 calendars have been examined, and staff -- if the
19 briefs were moved back to August 16th, which staff
20 has no objection to, the matter would be considered
21 -- would be scheduled for consideration at the
22 November 1st Agenda Conference.

23 COMMISSIONER GRAHAM: Ms. Christensen, does
24 that work?

25 MS. CHRISTENSEN: Yeah, it certainly helps.

1 It gets it right off the hearing.

2 COMMISSIONER GRAHAM: Okay. All right.

3 Florida Power & Light, any issues with that?

4 MR. BADDERS: No issues at all.

5 COMMISSIONER GRAHAM: Oakie-doke. So we are
6 moving on to rulings, Section XIV.

7 MR. STILLER: Staff recommends that the
8 prehearing officer make a ruling that all parties
9 be provided five minutes for opening statements,
10 that witnesses have up to, as previously stated
11 three minutes to provide their summaries, and that
12 changes to basic positions should be submitted in
13 writing by close of business tomorrow.

14 And the only other matter would I add to that,
15 Commissioner, is that the ruling on OPC's contested
16 issue would also be included in the final
17 prehearing order.

18 COMMISSIONER GRAHAM: Okay. Any other
19 matters?

20 MR. STILLER: Staff is unaware of any other
21 matters at this time.

22 COMMISSIONER GRAHAM: Before we adjourn, I am
23 just going to take a second to talk about the
24 witness summaries. I have had an issue with this
25 since I came to this position. I actually had a

1 conversation with one or two of the other
2 attorneys.

3 Quite honestly, I would make -- I would bring
4 that to zero if I could. I have had many
5 conversations with Mary Anne and a few other
6 general counsels, and they've both talked me off
7 the ledge because, in my opinion, this is testimony
8 we've already reviewed and read, and so there is
9 really no need to have it summarized for me. But I
10 do understand that it's a habit, and I think the
11 three minutes is my opinion of a compromise, but I
12 didn't want to be short when I said earlier about
13 going to five minutes, and I have actually seen
14 people do it the a seven minutes at one point. And
15 once again, I think three is more than enough time.

16 You guys have heard me say this before about
17 the Gettysburg Address, that that was done in three
18 minutes, and there is nothing you can tell me in
19 three minutes that's going to be more important
20 than that. So that's why that's kind of been my
21 mantra here for a while.

22 Opening statements, I don't have a problem
23 with that going five minutes. I get that's kind of
24 where people lay the groundwork for that hearing,
25 but for the summaries, that's always going to be

1 three minutes whenever I am sitting in this
2 position. I can't speak for my other colleagues.
3 But I would like for that tradition to kind of
4 stay, and so I just wanted to take an extra minute
5 to kind of explain to everybody why that is my
6 position.

7 That all being said, if there is anything else
8 to come before us, any other matters?

9 Seeing none, we are adjourned.

10 (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 6th day of June, 2022.



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