

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by for evaluation of Hurricane
Dorian storm costs, by Florida Power & Light
Company

Docket No: 20200172-EI

Date: January 15, 2021

**FLORIDA POWER & LIGHT COMPANY'S
PREHEARING STATEMENT**

Florida Power & Light Company ("FPL" or the "Company"), by and through its undersigned counsel, hereby submits this Prehearing Statement pursuant to Order No. PSC-2020-0311-PCO-EI, and states:

1) FPL WITNESSES

Direct Testimony

WITNESS

SUBJECT MATTER

ISSUE #

Manuel B. Miranda

Describes FPL's emergency preparedness plan and restoration process and provides an overview of Hurricane Dorian's path, size, and intensity as a Category 5 storm, including the significant uncertainty of the storm's path and timing of forecasted impact to FPL's service territory and details of FPL's response. Describes details of the \$233.6 million of storm related Transmission and Distribution ("T&D") costs incurred for preparation, response and restoration efforts and follow-up work activities necessary to restore facilities to pre-storm conditions, and the approximately \$7 million of costs incurred by other FPL business units.

2,3,4,5,7,8,9

David Hughes

Presents FPL's Hurricane Dorian storm related costs totaling \$240.6 million and the accounting treatment for those costs. Demonstrates that FPL's storm related restoration and recovery accounting processes and controls are well established, documented, and implemented by personnel that are suitably trained to ensure proper storm accounting and ratemaking. Addresses certain provisions in FPL's Hurricane Irma Settlement Agreement ("Irma Settlement") related to supporting documentation for storm expenses and methodology for capitalization of costs. Explains FPL's determination of non-incremental storm costs associated with Hurricane

1-11

Dorian pursuant to the Incremental Cost and Capitalization Approach (“ICCA”) methodology.

Clare Gerard	Provides a detailed overview of FPL’s deliberate and comprehensive process of reviewing, approving and where applicable, adjusting invoices for Hurricane Dorian line and vegetation contractors. Explains that the invoice review process was properly designed and administered, and successfully identified and reduced Hurricane Dorian costs. Addresses FPL’s compliance with certain provisions in the Irma Settlement Agreement and Implementation Agreement related to FPL’s provision of data related to line and vegetation management contractors in the absence of utilizing the iStormed Application.	4,5
--------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----

Rebuttal

<u>WITNESS</u>	<u>SUBJECT MATTER</u>	<u>ISSUE #</u>
Manuel B. Miranda	Responds to Office of Public Counsel (“OPC”) witness Kollen’s flawed “process” conclusions that reflect his misunderstanding of what is required to restore service safely and as quickly as possible. Elaborates on why witness Kollen’s “process” recommendations are unrealistic, unsound and not in the best interests of customers.	2,3,4,5,7,8,9
David Hughes	Responds to issues raised by Mr. Kollen regarding the accounting treatment of storm costs, ICCA methodology, and accruals. Explains that the “disallowances” proposed by Mr. Kollen have no material impact on the Commission’s ultimate decision in this proceeding, since FPL is not seeking any incremental recovery of storm costs through a storm surcharge. Explains that Mr. Kollen inappropriately attempts to interject a number of issues into this case that would only be appropriate to address, if at all, in the context of a rulemaking proceeding. Addresses Mr. Kollen’s comments regarding FPL’s use of the reserve amortization mechanism to charge the Hurricane Dorian storm related costs to base O&M expense. Provides an update on final Hurricane Dorian storm related costs.	1-11

Clare Gerard

Responds to OPC witness Kollen's claim that the estimated accruals associated with Hurricane Dorian storm related costs should be disallowed due to lack of supporting detail. Provides results of the cost finalization of invoices which have been resolved subsequent to the filing of her direct testimony.

4,5

2) **EXHIBITS**

Witness	Proffered By	Exhibit No.	Description	Issue #
Direct				
Manuel B. Miranda	FPL	MBM-1	Satellite View of Hurricane Dorian	8,9
Manuel B. Miranda	FPL	MBM-2	National Hurricane Center's 5-day Forecast Track for Hurricane Dorian on August 29 and 30, 2019	8,9
Manuel B. Miranda	FPL	MBM-3	National Hurricane Center's 5-day Forecast Track for Hurricane Dorian on September 2, 2019	8,9
Manuel B. Miranda	FPL	MBM-4	FPL's T&D Hurricane Dorian Restoration Costs	2,3,4,5,7,8,9
David Hughes	FPL	DH-1	Hurricane Dorian Incremental Cost and Capitalization Approach Adjustments as of May 31, 2020	1-11
Clare Gerard	FPL	CLG-1	Example Travel Log for Hurricane Dorian Line and Vegetation Contractors	4,5
Clare Gerard/David Hughes	FPL	TBD	Materials Provided with FPL's June 29, 2020 Notice of Filing	1-11

Witness	Proffered By	Exhibit No.	Description	Issue #
Rebuttal				
David Hughes	FPL	DH-2	Hurricane Dorian Incremental Cost and Capitalization Approach Adjustments as of December 31, 2020	1-11

In addition to the above pre-filed exhibits, FPL reserves the right to utilize any exhibit introduced by any party. FPL additionally reserves the right to introduce any additional exhibit necessary for rebuttal, cross-examination, or impeachment at the final hearing.

3) STATEMENT OF BASIC POSITION

FPL submitted its petition, supporting testimony and a Notice of Filing to facilitate the Commission's evaluation of the Hurricane Dorian storm related costs, and to support a finding that the costs were reasonable and FPL's activities in restoring power following Hurricane Dorian were prudent. Importantly, however, FPL is not seeking approval in this proceeding to recover, through a storm surcharge or due to depletion of the storm reserve, any of the Hurricane Dorian storm related costs, because all non-capitalized storm-related costs were charged to base O&M expense as permitted under Part (1)(h) of Rule 25-6.0143, F.A.C. ("the Rule"). There is nothing in the Rule or FPL's 2016 Rate Case Settlement Agreement approved by the Commission in Order No. PSC-2016-0560-AS-EI in Docket No. 20160021-EI ("2016 Settlement Agreement") that requires FPL to file a petition for and obtain Commission approval to charge storm-related costs to base O&M expense. To the contrary, the Rule expressly allows a utility to do so "at its own option." Accordingly, although the Commission initiated this docket to evaluate the Hurricane Dorian storm related costs incurred by FPL, the recovery of these costs, through a storm surcharge or due to depletion of the storm reserve, has not been requested by FPL and is not an issue in this proceeding.¹

Hurricane Dorian was the fourth named storm, second hurricane, and first major hurricane of the 2019 hurricane season. Dorian formed on August 24, 2019, from a tropical wave in the Central Atlantic, and gradually strengthened as it moved toward the Lesser Antilles, becoming a hurricane on August 28. The National Hurricane Center's ("NHC") forecasts issued on August 28 brought the center of Dorian over the Florida peninsula as a major hurricane, and Florida remained within the NHC forecasted cone of uncertainty ("forecasted cone") from August 26, 2019 until September 2, 2019, and a Hurricane Warning issued by the NHC was in effect for portions of Florida from September 1 into September 4.

On August 30, 2019, the NHC forecast projected Dorian to make landfall in South Florida, including the most populous counties in FPL's service territory, which would have caused potentially catastrophic results. On August 31, 2019, after rapid intensification, Dorian became a Category 4 hurricane. On September 1, 2019, Dorian reached Category 5 intensity, with maximum sustained winds of 185 mph and a minimum central pressure of 910 mb (26.87 in Hg), while making landfall in Elbow Cay, Bahamas. Dorian made another landfall on Grand Bahama several hours later. The ridge of high-pressure steering Dorian westward collapsed on September 2, causing Dorian to stall just north of Grand Bahama for about a day. Dorian was the strongest known tropical system to impact the Bahamas, causing widespread devastation and destruction. While some of the models and the official forecast indicated Dorian's forward speed would decrease near the Northwestern Bahamas, none of them indicated that Dorian was going to stall there, which prolonged the uncertainty regarding potential landfall for Floridians.

FPL undertook reasonable, necessary, and prudent measures to prepare for and respond to the impacts of the storm. These preparations included complex and comprehensive logistical arrangements for mobilizing FPL employees, external contractors, and mutual aid utilities to

¹ All of the Hurricane Dorian storm-related costs were charged to capital or base O&M expense in December 2019. Stated otherwise, these costs have already been charged to base rates and any adjustment would constitute retroactive ratemaking, which the Commission has consistently held is prohibited. See *City of Miami v. Florida Public Service Commission*, 208 So. 2d 249 (Fla. 1968); *Gulf Power Company v. Cresce*, 410 So. 2d 492 (Fla. 1982); *Meadowbrook Utility Systems v. Florida Public Service Commission*, 518 So. 2d 326 (Fla. 1st DCA 1988); *Citizens of the State of Florida v. Public Service Commission*, 448 So. 2d 1024 (Fla. 1984); and *GTE Florida Incorporated v. Clark*, 668 So. 2d 971 (Fla. 1996).

support the restoration effort. Logistical arrangements and coordination of resources included, but were not limited to, staging sites, lodging, food, communications, and fuel delivery.

FPL's proactive approach to storm preparation, mobilization and pre-staging of resources, and execution of storm related activities including but not limited to restoration was not just prudent and reasonable, but was also highly successful in restoring service to its customers safely and as quickly as possible. FPL's preparation and ensuing coordinated response enabled the Company to restore service to more than 184,000 customers. On average, customers' outages were restored in just over an hour and no outage exceeded more than 24 hours.

FPL incurred a total of \$241.4 million in Hurricane Dorian storm related costs, and charged \$238 thousand as capitalized costs and \$2.0 million in ICCA adjustments to base O&M. This resulted in \$238.7 million of incremental jurisdictionalized storm related costs which FPL charged to base O&M expense. While Section 6 of the 2016 Settlement Agreement gives FPL the option to seek incremental storm cost recovery through a storm surcharge, it does not require FPL to do so. In this case, FPL elected to forgo that option, and instead charged the remaining \$239 million to base O&M expense as permitted by Part (1)(h) of the Rule. Therefore, FPL is not seeking any incremental recovery for the Hurricane Dorian storm related costs through either a surcharge or due to depletion of the storm reserve. FPL's accounting treatment for the Hurricane Dorian storm related costs avoided the need to charge customers a multi-year incremental storm surcharge.

OPC's proposed adjustments ignore the fact that the non-capital storm related costs have been charged to base O&M expense and, instead, OPC incorrectly treats the Hurricane Dorian storm related costs as though FPL is requesting approval for incremental recovery through a storm surcharge or depletion of the storm reserve. Mr. Kollen does not assert that FPL's storm related costs were unreasonable or imprudent. Moreover, OPC's proposed adjustments are contrary to the Rule, arbitrary, not factually supported, and do not reflect the reality of the circumstances FPL faced in responding to the significant and catastrophic threat posed by Hurricane Dorian. OPC's proposed adjustments ultimately would be detrimental to FPL's customers and to the state as a whole because they would result in longer restoration times and hamper FPL's ability to safely restore service within the shortest time practicable consistent with Rule 25-6.044(3), F.A.C. OPC's proposed adjustments to FPL's prudent and reasonable storm restoration costs should be rejected by the Commission.

4) STATEMENT OF ISSUES AND POSITIONS

ISSUE 1: Should the incremental cost and capitalization approach (ICCA) found in Rule 25-6.0143, F.A.C., be used to determine the reasonable and prudent amounts to be included in the Hurricane Dorian storm related costs?

FPL: The applicable provisions of the ICCA methodology should be used to calculate FPL's Hurricane Dorian storm costs, including removing below-the-line expenses and calculating storm capital costs. However, as a result of FPL's decision to charge both the incremental and non-incremental Hurricane Dorian storm related costs to base O&M expense, as permitted by Part (1)(h) of the Rule, certain provisions of the ICCA methodology related to incremental O&M costs (*i.e.*, regular payroll, vegetation management, etc.) which might otherwise be charged to the storm reserve are not applicable because they make no difference to the total Hurricane Dorian storm related costs charged to base O&M. (*Hughes*)

ISSUE 2: What is the reasonable and prudent amount of regular payroll expense to be included in the Hurricane Dorian storm related costs?

FPL: A total of \$3.1 million is the reasonable and prudent amount of regular payroll expense (both incremental and non-incremental) that FPL charged to base O&M expense for employee time spent in direct support of storm related activities including but not limited to restoration, which excludes bonuses and incentive compensation. OPC does not claim that any of these costs are unreasonable or imprudent. OPC's proposed adjustment to reclassify the entire regular payroll expense as non-incremental and disallow these costs fails to recognize that all of the regular payroll expense associated with Hurricane Dorian was charged to base O&M expense or capital and, unless the non-incremental regular payroll expense is found to be unreasonable or imprudent, it will be charged to base O&M expense. *(Miranda, Hughes)*

ISSUE 3: What is the reasonable and prudent amount of overtime payroll expense to be included in the Hurricane Dorian storm related costs?

FPL: A total of \$9.3 million is the reasonable and prudent amount of overtime payroll expense that FPL charged to base O&M expense for employee time spent in direct support of storm related activities including but not limited to restoration, which excludes bonuses and incentive compensation. OPC does not claim that any of these costs are unreasonable or imprudent. Further, OPC's proposal to reduce the overtime payroll expense by the non-incremental overtime payroll expense fails to recognize that all of the overtime payroll expense associated with Hurricane Dorian was charged to base O&M expense and, unless the non-incremental overtime payroll expense is found to be unreasonable or imprudent, it will be charged to base O&M expense. Moreover, OPC's adjustment fails to recognize that qualifying storm events and the associated overtime payroll expense are neither budgeted nor planned – they are, by definition, incremental in nature. *(Miranda, Hughes)*

ISSUE 4: What is the reasonable and prudent amount of contractor costs to be included in the Hurricane Dorian storm related costs?

FPL: A total of \$153.8 million is the reasonable and prudent amount of contractor costs that FPL charged to base O&M expense for line crews and mutual aid utilities that were necessary to support FPL's Hurricane Dorian storm restoration effort. FPL's decisions to acquire storm restoration line contractor resources prior to and during Hurricane Dorian were reasonable and prudent. OPC does not claim that any of these costs are unreasonable or imprudent. OPC's proposed adjustment to FPL's contractor costs fails to recognize that all line contractor costs related to supporting storm-related activities are by definition incremental. OPC's proposed adjustment further fails to recognize that all of these expenses associated with Hurricane Dorian were charged to base O&M expense or capital and, unless the contractor expense is found to be unreasonable or imprudent, it will be charged to base O&M expense. *(Miranda, Hughes, Gerard)*

ISSUE 5: What is the reasonable and prudent amount of vehicle and fuel costs to be included in the Hurricane Dorian storm related costs?

FPL: A total of \$8.7 million is the reasonable and prudent amount of vehicle and fuel costs associated with Hurricane Dorian that FPL charged to base O&M expense. OPC does not claim that any of these costs are unreasonable or imprudent, nor does OPC recommend any related disallowance. (*Miranda, Hughes, Gerard*)

ISSUE 6: What is the reasonable and prudent amount of employee expenses to be included in the Hurricane Dorian storm related costs?

FPL: A total of \$28,000 is the reasonable and prudent amount of employee expenses associated with Hurricane Dorian that FPL charged to base O&M expense. OPC does not claim that any of these costs are unreasonable or imprudent, nor does OPC recommend any related disallowance. (*Hughes*)

ISSUE 7: What is the reasonable and prudent amount of materials and supplies expense to be included in the Hurricane Dorian storm related costs?

FPL: A total of \$1.0 million is the reasonable and prudent amount of material and supplies expenses associated with Hurricane Dorian that FPL charged to base O&M expense. OPC does not claim that any of these costs are unreasonable or imprudent, nor does OPC recommend any related disallowance. (*Miranda, Hughes*)

ISSUE 8: What is the reasonable and prudent amount of logistics costs to be included in the Hurricane Dorian storm related costs?

FPL: A total of \$29.5 million is the reasonable and prudent amount of logistic costs associated with Hurricane Dorian that FPL charged to base O&M expense. OPC does not claim that any of these costs are unreasonable or imprudent, nor does OPC recommend any related disallowance. (*Miranda, Hughes*)

ISSUE 9: What is the reasonable and prudent total amount of storm related costs to be included in the Hurricane Dorian storm related costs?

FPL: A total of \$241.1 million, which excludes capital costs and below-the-line expenses, is the reasonable and prudent amount of Hurricane Dorian storm related costs that FPL charged to base O&M expense as permitted by Part(1)(h) of the Rule and Section 6 of the 2016 Settlement Agreement approved by the Commission in Order No. PSC-2016-0560-AS-EI in Docket No. 20160021-EI. (*Miranda, Hughes*)

ISSUE 10: What is the reasonable and prudent amount of storm related costs that should be capitalized?

FPL: A total of \$238,000 is the reasonable and prudent amount of Hurricane Dorian storm related costs that should be and were capitalized, which includes \$4,000 for regular payroll costs, \$153,000 for contractor costs, \$93,000 for materials and supplies, \$8,000 for other, and (\$19,000) for third-party reimbursements. To

determine the amount of capitalized costs, FPL used Part (1)(d) of the Rule, which states that "...the normal cost for the removal, retirement and replacement of those facilities in the absence of a storm, is the basis for calculating storm restoration capital." (*Hughes*)

ISSUE 11: What is the appropriate accounting treatment associated with any storm related costs found to have been imprudently incurred?

FPL: All of FPL's Hurricane Dorian storm related costs have been charged as either capital costs, below-the-line expense, or base O&M expense. In the event that the Commission were to find that any of FPL's Hurricane Dorian storm related costs charged as either capital or base O&M expense were imprudently incurred based on the actual conditions and circumstances at the time decisions were made, such costs would be charged below-the-line with a corresponding reduction in capital or above-the-line base O&M. For above-the-line base O&M, this would effectively increase the balance in FPL's amortization reserve mechanism. (*Hughes*)

ISSUE 12: Should this docket be closed?

FPL: Yes. FPL is not seeking approval in this proceeding to recover any of the Hurricane Dorian storm related costs through depletion of the storm reserve or through a storm surcharge, because all non-capitalized storm-related costs were charged to base O&M expense as permitted under Part (1)(h) of the Rule. Upon the issuance of an order finding that FPL's costs were reasonable and FPL's activities in restoring power following Hurricane Dorian were prudent, this docket should be closed.

CONTESTED ISSUES

OPC ISSUE 1: Is the charge to the Reserve limited to the costs recoverable under the ICCA approach set forth in Rule 25-6.0143, F.A.C.?

FPL: FPL objects to the inclusion of OPC's Contested Issue 1 in this proceeding. This docket was initiated to seek a Commission determination of the prudence of FPL's activities in preparing for and responding to Hurricane Dorian, and the reasonableness of the associated storm related costs. Through this contested issue, OPC attempts to inappropriately interject into this docket a ratemaking issue related to FPL's use of the Reserve Surplus Amortization (the "Reserve"), which has previously been decided by the Commission. In Docket No. 20180046-EI, the Commission directly addressed the issue of "whether FPL may debit the Reserve Amount created by Section 12 of the 2016 Settlement Agreement to pay for Hurricane Irma storm costs, or whether FPL must use the Storm Cost Recovery Mechanism (SCRM) created by Section 6 of the 2016 Settlement Agreement to do so." See Order No. PSC-2019-0225-FOF-EI at page 3. Answering that question in the affirmative, the Commission wrote that "we find there is no language in Section 12 (of the 2016 Rate Case Settlement) prohibiting FPL from either debiting the Reserve Amount to pay for the Hurricane Irma costs or crediting the Reserve Amount with tax savings realized from the passage of the TCJA." See Order No. PSC-2019-0225-FOF-EI at page 13. In short, the Commission determined that

FPL's use of the Reserve to avoid depletion of the storm reserve and to avoid the need to implement a storm surcharge was perfectly appropriate under the terms of the 2016 Settlement Agreement, and under the controlling law. OPC's Contested Issue 1, which, as stated, seeks to re-litigate issues long since decided by the Commission, is inappropriate and should be rejected.

In the event OPC's Contested Issue 1 instead intends to seek a determination of whether FPL appropriately recorded Hurricane Dorian storm related costs to base rates and to the Reserve, those questions are subsumed within one or more of Staff's Issues, specifically Staff Issues 1, 9, and 11. In that case, OPC Contested Issue 1 should be rejected as repetitive of the more appropriately phrased Staff issues.

For the foregoing reasons, FPL objects to OPC Contested Issue 1 and submits that it is not an appropriate issue to be decided in this proceeding.

OPC ISSUE 2: What written policies, if any, should be developed and adopted by the Company for future storm seasons?

FPL: FPL objects to the inclusion of OPC Contested Issue 2 in this proceeding. This docket was initiated to seek a determination of the prudence of FPL's activities in preparing for and responding to Hurricane Dorian, and the reasonableness of the associated storm related costs. OPC's Contested Issue 2 would only be appropriate, if at all, in the context of a rulemaking proceeding where all interested parties would have the opportunity to assert their positions, participate in workshops, and ultimately present their positions to the Commission. In fact, that informal process has been initiated by Commission Staff, where interested parties, including OPC, have provided comments and participated in Staff Workshops. But here, notwithstanding both the ongoing process and OPC's right to affirmatively petition the Commission for a rulemaking docket to be opened, OPC suggests that it is appropriate to include an issue that would prospectively change the requirements of the Rule outside of a rulemaking, and in a way that only one utility – FPL – would be impacted. In essence, in the context of a docket established to determine the prudence and reasonableness of FPL's Hurricane Dorian storm related costs, OPC takes the position that an FPL-specific Rule change should be considered by the Commission. Further, OPC Contested Issue 2 does not in any way suggest or imply that any Hurricane Dorian storm-related costs were imprudent or unreasonable, nor could it under any interpretation of the evidence to be presented in this proceeding and the law on which the Commission's decision will be based.

Aside from this legal defect, FPL objects to OPC Contested Issue 2 to the extent that it attempts to introduce into a utility-specific docket, the subject of which is the assessment of the prudence and reasonableness of FPL's Hurricane Dorian storm related costs, requirements that equate to the management or micromanagement of the utility's operations. The Commission's legal obligation and duty is to make a determination on those legal issues (i.e., prudence and reasonableness), not to micromanage the way in which utilities conduct their day-to-day business.

For the foregoing reasons, FPL objects to OPC Contested Issue 2 and submits that it is not an appropriate issue to be decided in this proceeding.

OPC ISSUE 3: Should the Commission provide a mechanism to ensure prudent use of resources before costs for a specific storm are incurred?

FPL: FPL objects to the inclusion of OPC Contested Issue 3 in this proceeding. This docket was initiated to seek a determination of the prudence of FPL's activities in preparing for and responding to Hurricane Dorian, and the reasonableness of the associated storm related costs. OPC's Contested Issue 3 would only be appropriate, if at all, in the context of a rulemaking proceeding where all interested parties would have the opportunity to assert their positions, participate in workshops, and ultimately to present their positions to the Commission. In fact, that informal process has been initiated by Commission Staff, where interested parties, including OPC, have provided comments and participated in Staff Workshops. But here, notwithstanding both the ongoing process and OPC's right to affirmatively petition the Commission for a rulemaking docket to be opened, OPC suggests that it is appropriate to include an issue that would prospectively change the requirements of the Rule outside of a rulemaking, and in a way that only one utility – FPL – would be impacted. In essence, in the context of a docket established to determine the prudence and reasonableness of FPL's Hurricane Dorian storm related costs, OPC takes the position that an FPL-specific Rule change should be considered by the Commission. Further, OPC Contested Issue 3 does not in any way suggest or imply that any Hurricane Dorian storm-related costs were imprudent or unreasonable, nor could it under any interpretation of the evidence to be presented in this proceeding and the law on which the Commission's decision will be based.

Aside from this legal defect, FPL objects to OPC Contested Issue 3 to the extent that it attempts to introduce into a utility-specific docket, the subject of which is the assessment of the prudence and reasonableness of FPL's Hurricane Dorian storm related costs, requirements that equate to the management or micromanagement of the utility's operations. The Commission's legal obligation and duty is to make a determination on those legal issues (i.e., prudence and reasonableness), not to micromanage the way in which utilities conduct their day to day business.

For the foregoing reasons, FPL objects to OPC Contested Issue 3 and submits that it is not an appropriate issue to be decided in this proceeding.

OPC ISSUE 4: Should the Commission institute a Binder file structure similar to the one that was used by Gulf Power Company in Docket No. 20190038-EI for Hurricane Michael cost recovery in order to facilitate the review of the invoices, improve the efficiency of the auditing process, and potentially reduce the costs of the auditing process?

FPL: FPL objects to the inclusion of OPC Contested Issue 4 in this proceeding. This docket was initiated to seek a determination of the prudence of FPL's activities in

preparing for and responding to Hurricane Dorian, and the reasonableness of the associated storm related costs. OPC's Contested Issue 4 would only be appropriate, if at all, in the context of a rulemaking proceeding where all interested parties would have the opportunity to assert their positions, participate in workshops, and ultimately to present their positions to the Commission. In fact, that informal process has been initiated by Commission Staff, where interested parties, including OPC, have provided comments and participated in Staff Workshops. But here, notwithstanding both the ongoing process and OPC's right to affirmatively petition the Commission for a rulemaking docket to be opened, OPC suggests that it is appropriate to include an issue that would prospectively change the requirements of the Rule outside of a rulemaking, and in a way that only one utility – FPL – would be impacted. In essence, in the context of a docket established to determine the prudence and reasonableness of FPL's Hurricane Dorian storm related costs, OPC takes the position that an FPL-specific Rule change should be considered by the Commission. Further, OPC Contested Issue 4 does not in any way suggest or imply that any Hurricane Dorian storm-related costs were imprudent or unreasonable, nor could it under any interpretation of the evidence to be presented in this proceeding and the law on which the Commission's decision will be based.

Aside from this legal defect, FPL objects to OPC Contested Issue 4 to the extent that it attempts to introduce into a utility-specific docket, the subject of which is the assessment of the prudence and reasonableness of FPL's Hurricane Dorian storm related costs, requirements that equate to the management or micromanagement of the utility's operations. The Commission's legal obligation and duty is to make a determination on those legal issues (i.e., prudence and reasonableness), not to micromanage the way in which utilities conduct their day to day business.

For the foregoing reasons, FPL objects to OPC Contested Issue 4 and submits that it is not an appropriate issue to be decided in this proceeding.

OPC ISSUE 5: Did the Company comply with the terms of the Hurricane Irma Stipulation and Settlement Agreement approved by the Commission in Order No. PSC-2010-0319-S-EI, Docket No. 20180049-EI, with regard to supplying documentation to the parties?

FPL: FPL objects to the inclusion of OPC Contested Issue 5 in this proceeding. This docket was initiated to seek a determination of the prudence of FPL's activities in preparing for and responding to Hurricane Dorian, and the reasonableness of the associated storm related costs. OPC Contested Issue 5 attempts to introduce for the first time in this proceeding the question of whether FPL supplied to the parties the types of documentation identified in the Hurricane Irma Settlement Agreement. This contested issue, or any alleged facts supporting this contested issue, was not addressed in the testimony of OPC's sole witness, Lane Kollen. Conversely, FPL has affirmatively provided testimony that it complied with the Hurricane Irma Settlement Agreement. As a result, there is absolutely no evidence in the record, nor can there be now that all testimony has been filed, to support a determination of anything but compliance, and as such OPC Contested Issue 5 is not appropriate for inclusion in the docket. Further, OPC Contested Issue 5 does not in any way

suggest or imply that any Hurricane Dorian storm-related costs were imprudent or unreasonable, nor could it under any interpretation of the evidence to be presented in this proceeding and the law on which the Commission's decision will be based.

5) STIPULATED ISSUES

FPL: None at this time.

6) PENDING MOTIONS

FPL: None at this time.

7) PENDING REQUESTS FOR CONFIDENTIALITY

1. FPL's request for confidential classification of [DN 03409-2020] information provided in support of notice of filing confidential supporting materials in support of petition for evaluation of Hurricane Dorian storm costs;
2. FPL's request for confidential classification of [DN 11268-2020] information provided in response to OPC's 1st request for PODs (Nos. 1, 4, 9, 16-17, 24, and 31);
3. FPL's request for confidential classification of information provided in response to OPC's 1st request for PODs, No. 15 [DN 11409-2020];
4. FPL's request for confidential classification of [DN 11658-2020] information provided in response to OPC's 1st request for PODs (Amended Nos. 4, 15, and 26);
5. FPL's request for confidential classification of [DN 13007-2020] information provided in response to OPC's 2nd set of interrogatories (Nos. 38-43 and 46) and 2nd request for PODs (Nos. 32-34);
6. FPL's request for confidential classification of [DN 13745-2020] information included in the direct testimony of OPC witness Lane Kollen; and
7. FPL's request for confidential classification of [DN 01120-2021] information included in the rebuttal testimony of FPL witness Manuel B. Miranda.

8) OBJECTIONS TO WITNESS QUALIFICATIONS AS AN EXPERT

FPL: None at this time.

9) REQUEST FOR SEQUESTRATION OF WITNESSES

FPL: None at this time.

10) STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE

There are no requirements of the Order Establishing Procedure with which FPL cannot comply.

Respectfully submitted this 15th day of January 2021.

By: s/ Joel T. Baker
Kenneth M. Rubin, Assistant General Counsel
Fla. Bar No. 349038
Ken.Rubin@fpl.com
Joel T. Baker, Principal Attorney
Florida Bar No. 108202
Joel.Baker@fpl.com
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408
(561) 304-5639
(561) 691-7135 (fax)

Attorneys for Florida Power & Light Company

CERTIFICATE OF SERVICE

Docket No. 20200172-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic service on this 15th of January, 2021 to the following:

Suzanne Brownless
Shaw Stiller
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-1400
sbrownle@psc.state.fl.us
Office of the General Counsel
Florida Public Service Commission

Patricia A. Christensen, Lead Counsel
Anastacia Pirrello
Charles J. Rehwinkel
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400
Christensen.Patty@leg.state.fl.us
Pirrello.Anastacia@leg.state.fl.us
Rehwinkel.Charles@leg.state.fl.us
Attorneys for the Citizens
of the State of Florida

By: s/ Joel T. Baker
Joel T. Baker