

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Energy conservation cost recovery
clause.

DOCKET NO. 20250002-EG

FILED: October 17, 2025

AMENDED PREHEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL

The Citizens of the State of Florida, through the Office of Public Counsel, pursuant to the Order Establishing Procedure in this docket, Order No. PSC-2025-0047-PCO-EG, issued February 10, 2025, hereby submit this Prehearing Statement. Amended positions are shown in underline.

APPEARANCES:

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On behalf of the Citizens of the State of Florida

1. WITNESSES:

None.

2. EXHIBITS:

None.

3. STATEMENT OF BASIC POSITION

The utilities bear the burden of proof to justify the recovery of costs they request in this docket. The utilities must carry this burden regardless of whether or not the intervenors provide evidence to the contrary. Further, the utilities bear the burden of proof to support their proposal(s) seeking the Commission's adoption of policy statements (whether new or changed) or other

affirmative relief sought. Even if the Commission has previously approved a program, recovery of a cost, factor, or adjustment as meeting the Commission's *own* requirements, the utilities still bear the burden of demonstrating that the costs submitted for final recovery meet any statutory test(s) and are reasonable in amount and prudently incurred. Further, the utilities bear the burden of proof to support that all costs sought to be recovered through this clause are correctly clause recovery costs and not base rate costs. Further, recovery of even prudently incurred costs is constrained by the Commission's obligation to set fair, just, and reasonable rates. Further, pursuant to Section 366.01, Florida Statutes, the provisions of Chapter 366, Florida Statutes, must be liberally construed to protect the public welfare.

In addition, with regard to FPL, the OPC does not agree that the Commission should presume the validity of a contested non-unanimous and special interest-focused and facially invalid settlement agreement filed on August 20, 2025 can or should give it any weight in determining costs, cost attribution or revenue allocation in this docket. The OPC asserts that the only lawful and proper posture is to determine this case based on the timely filings of evidence and testimony submitted pursuant to the Order Establishing Procedure in this docket, Order No. PSC-2025-0047-PCO-EI, issued February 10, 2025. An exclusionary settlement document that purports to adjudicate rights, costs and revenue responsibility in this or any clause docket and to seek capital recovery of asset-related costs from substantial interests that were not represented in the making of the defective document, cannot be considered in this case, regardless of what the limited special interests agreed-to in private, among themselves. Any assertion by FPL related to return on equity, depreciation expense, deferred taxes and revenue allocation or any other cost that has yet to be determined by the Commission or supported by timely-filed testimony in this docket must be ignored. If the Commission makes a determination after the close of the record in this docket that changes the cost and revenue allocation assumptions, the impact of such can be adjusted in the true-up process in 2026 and in the factor in 2027. To the extent that the Commission were to do anything else would be a violation of due process and demonstrate a prejudgment of the outcome of another case without a record basis.

4. STATEMENT OF FACTUAL ISSUES AND POSITIONS

Generic Conservation Cost Recovery Issues

ISSUE 1: What are the final conservation cost recovery adjustment true-up amounts for the period January 2024 through December 2024?

OPC: The OPC is not in agreement at this time that the Companies have demonstrated that they have met their burden to demonstrate that costs are reasonable and/or prudent. A significant percentage of the costs on a customer's bill is based on clause recovery in this docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. The OPC is not in a position to agree, given these circumstances, that the final conservation cost recovery adjustment true-up amounts for the period January 2024 through December 2024 proposed for recovery from customers can necessarily be deemed reasonable and prudent.

ISSUE 2: What are the appropriate conservation adjustment actual/estimated true-up amounts for the period January 2025 through December 2025?

OPC: The OPC is not in agreement at this time that the Companies have demonstrated that they have met their burden to demonstrate that costs are reasonable and/or prudent. A significant percentage of the costs on a customer's bill is based on clause recovery in this docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. The OPC is not in a position to agree, given these circumstances, that the conservation adjustment actual/estimated true-up amounts for the period January 2025 through December 2025 proposed for recovery from customers can necessarily be deemed reasonable or prudent.

ISSUE 3: What are the appropriate total conservation adjustment true-up amounts to be collected/refunded during the period January 2026 through December 2026?

OPC: The OPC is not in agreement at this time that the Companies have demonstrated that they have met their burden to demonstrate that costs are reasonable and/or prudent. A significant percentage of the costs on a customer's bill is based on clause

recovery in this docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. The OPC is not in a position to agree, given these circumstances, that the total conservation adjustment true-up amounts to be collected/refunded during the period January 2026 through December 2026 and proposed for recovery from customers can necessarily be deemed reasonable or prudent. In addition, with regard to FPL, the OPC does not agree that the Commission should presume the validity of a contested non-unanimous and special interest-focused and facially invalid settlement agreement filed on August 20, 2025 can or should give it any weight in determining costs, cost attribution, revenue allocation or factors in this docket.

ISSUE 4: What are the total conservation cost recovery amounts to be collected during the period January 2026 through December 2026?

OPC: The OPC is not in agreement at this time that the Companies have demonstrated that they have met their burden to demonstrate that costs are reasonable and/or prudent. A significant percentage of the costs on a customer's bill is based on clause recovery in this docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. The OPC is not in a position to agree, given these circumstances, that the total conservation cost recovery amounts to be collected during the period January 2026 through December 2026 and proposed for recovery from customers can necessarily be deemed reasonable. In addition, with regard to FPL, the OPC does not agree that the Commission should presume the validity of a contested non-unanimous and special interest-focused and facially invalid settlement agreement filed on August 20, 2025 can or should give it any weight in determining costs, cost attribution, revenue allocation or factors in this docket.

ISSUE 5: What are the conservation cost recovery factors for the period January 2026 through December 2026?

OPC: The factors should be based on costs deemed reasonable or prudent after a hearing. In addition, with regard to FPL, the OPC does not agree that the Commission should presume the validity of a contested non-unanimous and special interest-focused and facially invalid settlement agreement filed on August 20, 2025 can or should give it any weight in determining costs, cost attribution, revenue allocation or factors in this docket.

ISSUE 6: What should be the effective date of the new conservation cost recovery factors for billing purposes?

OPC: The effective date for any rate change should be the first day of the first billing cycle in January 2026.

ISSUE 7: Should the Commission approve revised tariffs reflecting the energy conservation cost recovery factors determined to be appropriate in this proceeding?

OPC: The tariffs ultimately approved should be based on costs deemed reasonable or prudent in a hearing. In addition, with regard to FPL, the OPC does not agree that the Commission should presume the validity of a contested non-unanimous and special interest-focused and facially invalid settlement agreement filed on August 20, 2025 can or should give it any weight in determining costs, cost attribution, revenue allocation or factors in this docket.

Company Specific Conservation Cost Recovery Issues – Tampa Electric Company

ISSUE 8: What is the Contracted Credit Value for the GSLM-2 and GSLM-3 rate riders for Tampa Electric Company for the period January 2026 through December 2026?

OPC: The OPC is not in agreement at this time that Tampa Electric Company has demonstrated that it has met its burden to demonstrate that costs are reasonable and/or prudent. A significant percentage of the costs on a customer's bill is based

on clause recovery in this docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. The OPC is not in a position to agree, given these circumstances, that the Contracted Credit Value for the GSLM-2 and GSLM-3 rate riders for Tampa Electric Company for the period January 2026 through December 2026 can necessarily be deemed to be correct or reasonable.

ISSUE 9: What are the residential Price Responsive Load Management (RSVP-1) rate tiers for Tampa Electric Company for the period January 2026 through December 2026?

OPC: The OPC is not in agreement at this time that the Companies have demonstrated that they have met their burden to demonstrate that costs are reasonable and/or prudent. A significant percentage of the costs on a customer's bill is based on clause recovery in this docket and others. The Commission has not held a contested proceeding where testimony from witnesses was heard and discussed in open hearing. The OPC is not in a position to agree, given these circumstances, that the residential Price Responsive Load Management (RSVP-1) rate tiers for Tampa Electric Company for the period January 2026 through December 2026 can necessarily be deemed to be reasonable.

ISSUE 10: Should this docket be closed?

OPC: No position at this time.

5. STIPULATED ISSUES

None at this time.

6. PENDING MOTIONS

None.

7. STATEMENT OF PARTY'S PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY

There are no pending requests for claims for confidentiality filed by OPC.

8. **OBJECTIONS TO WITNESS QUALIFICATIONS AS AN EXPERT**

OPC has no objections to any witness' qualifications as an expert in this proceeding.

9. **STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE**

There are no requirements of the Order Establishing Procedure with which the Office of Public Counsel cannot comply.

Dated this 17th day of October, 2025.

Respectfully Submitted,

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CERTIFICATE OF SERVICE
Docket No. 20250002-EG

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail on this 17th day of October, 2025, to the following:

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