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February 25, 2020

Mr. Adam Teitzman  
Division of the Commission Clerk and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

**Re: Docket No. 20180049-EI**

Dear Mr. Teitzman:

I enclose for filing in the above docket the Joint Motion of Public Counsel and Florida Power & Light Company to Approve Hurricane Irma Settlement Implementation Agreement that was filed February 17, 2020. Attached to the Joint Motion is copy of the February 17, 2020 Hurricane Irma Settlement Implementation Agreement signed by representatives of Florida Power & Light Company and the Office of Public Counsel, the Commission's August 1, 2019 Final Order Approving Stipulation and Settlement Agreement in the referenced docket, and the June 6, 2019 Hurricane Irma Stipulation and Settlement Agreement.

Please contact me if you or your Staff has any questions regarding this filing.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ken Rubin', is written over the word 'Sincerely,'.

Kenneth M. Rubin

Enclosure

cc: Counsel for Parties of Record



**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Evaluation of storm restoration costs for  
Florida Power & Light Company related to  
Hurricane Irma

Docket No. 20180049-EI

Filed: February 25, 2020

**JOINT MOTION OF THE OFFICE OF PUBLIC COUNSEL AND FLORIDA  
POWER & LIGHT COMPANY TO APPROVE HURRICANE IRMA  
SETTLEMENT IMPLEMENTATION AGREEMENT**

Pursuant to Rule 28-106.204(1), Florida Administrative Code (“F.A.C.”), the Office of Public Counsel (“OPC”) and Florida Power & Light Company (“FPL” or the “Company”), by and through their respective undersigned counsel, hereby file this Joint Motion to Approve Hurricane Irma Settlement Implementation Agreement (“Joint Motion”) and request that the Florida Public Service Commission (“Commission”) approve the Hurricane Irma Settlement Implementation Agreement (“Implementation Agreement”) provided as Exhibit 1 to this Joint Motion. As described below, the Implementation Agreement, if approved, will only impact the timing of the one-time audit provision found at paragraph 18 of the Commission-approved Hurricane Irma Stipulation and Settlement Agreement (“Irma Settlement Agreement”), while leaving all other provisions intact. In support of this Joint Motion, OPC and FPL state as follows:

1. On February 22, 2018, the Commission opened the above-captioned docket for the limited purpose of evaluating FPL’s storm restoration costs related to Hurricane Irma.
2. Following extensive discovery and litigation, on June 6, 2019, OPC and FPL filed a Joint Motion to Approve Stipulation and Settlement Agreement (“Joint Motion to Approve Irma Settlement”), and attached as Exhibit A, the executed Irma Settlement Agreement. The Florida Industrial Power Users Group (“FIPUG”) subsequently became a signatory to the Irma Settlement Agreement while the Florida Retail Federation (“FRF”) took no position.

3. On August 1, 2019, the Commission issued Order No. PSC-2019-0319-S-EI granting the Joint Motion to Approve Irma Settlement. The Commission's Order incorporated by reference, approved and attached the Irma Settlement Agreement as Exhibit A. A copy of Order No. PSC-2019-0319-S-EI, including Attachment A to that Order, is attached hereto as Exhibit 2 to this Joint Motion.

4. The Irma Settlement Agreement sets forth in detail the financial, invoice review and other process issues that were resolved through settlement of the Irma proceeding.

5. Paragraph 6 of the Irma Settlement Agreement provided in pertinent part the following information: "For the 2019 storm season, FPL will introduce a new smart phone application ("App") for entry, recording, and approval of time and expenses for line crews and vegetation management crews. FPL's contracts with vendors will require the use of this App where reasonably practicable. The data from the App can be exported to sortable and searchable Excel files to provide reports of specific information on crews, billing, exceptions, etc. These reports will be provided to the parties and Staff with or shortly after the filing of pre-filed direct testimony in future storm cost recovery dockets."

6. Paragraphs 16 and 17 of the Irma Settlement Agreement further described how FPL planned to compile and provide storm cost documentation, including data exported from the App.

7. Paragraph 18 of the Irma Settlement Agreement described the process by which FPL would engage an independent outside audit firm to conduct a one-time audit of the Company's filed recoverable storm costs of the first named tropical system named by the National Hurricane Center for which claimed damages exceed \$250 million. The parties to the Irma Settlement Agreement further agreed (in paragraph 19) that the terms and conditions of the Irma Settlement Agreement were intended to reduce the amount of discovery in future storm cost recovery

proceedings, and agreed to meet to discuss proposed discovery limitations within three months following the issuance of a final order in FPL's next storm cost recovery proceeding.

8. FPL fully intended to utilize the App during the 2019 storm season. However, when Hurricane Dorian formed just a few weeks after the Commission approved the Irma Settlement Agreement, the Company determined that it needed to perform additional testing and training in the use of the App before requiring its use during what was projected to be a devastating Category 5 hurricane. As a result, FPL believed that the prudent course of action was to forego use of the App for Hurricane Dorian activities in order to facilitate a more efficient restoration effort.

9. Although Hurricane Dorian caused claimed damages in excess of \$250 million, OPC and FPL agree that the most productive use of the one-time audit provision will occur if the audit is undertaken in connection with FPL's use of the App during restoration for a qualifying storm. However, OPC and FPL still intend to meet within three months following the issuance of a final order in the anticipated FPL Hurricane Dorian proceeding to discuss proposed limitations on written discovery in future FPL storm cost recovery proceedings. Assuming a productive dialogue on that subject, agreed proposed limitations on written discovery in future FPL storm cost recovery proceedings will thereafter be provided to Staff as recommended for inclusion in the Order Establishing Procedure issued in future FPL storm cost dockets.

10. The App is now functional, has been loaded into the App stores, and is available to line contractor and vegetation management crews. These crews will be directed to utilize the App in the event FPL is required to undertake storm restoration activities during the 2020 storm season. As a result, FPL expects the App to be used to record and compile data during restoration efforts for future tropical systems and storms. OPC and FPL submit that the one-time audit provision

included in the Irma Settlement Agreement will be most effectively utilized following a qualifying (i.e., claimed damages in excess of \$ 250 million) storm that includes the expected use of the App.

11. OPC and FPL submit that approval of the Implementation Agreement, specifically the use of the one-time audit provision following FPL's use of the App in restoration activities for a qualifying storm, is in the public interest and is intended to obtain the most beneficial and informative information and analysis consistent with the purpose and scope of the audit as described in paragraph 18 of the Irma Settlement Agreement.

12. In light of the foregoing, OPC and FPL respectfully request the Commission to approve the attached Implementation Agreement. Approval of the Implementation Agreement will require FPL's use of the one-time audit provision following FPL's use of the App during restoration for the next named tropical system named by the National Hurricane center for which FPL's claimed damages exceed \$250 million. Notwithstanding the foregoing, approval of the Implementation Agreement will similarly maintain the requirement that the parties to the Irma Settlement Agreement meet to discuss proposed limitations on written discovery in future FPL storm cost recovery proceedings and provide any such recommendations to Staff for consideration for inclusion in future applicable Orders Establishing Procedure in FPL storm cost proceedings. No other provisions of the Irma Settlement Agreement will be affected by the approval of the Implementation Agreement, and all of the remaining provisions of the Irma Settlement Agreement will remain in full force and effect.

13. Pursuant to Rule 28-106.204(3), F.A.C., OPC and FPL have conferred with counsel for FIPUG and FRF, and have been advised that FIPUG and FRF take no position at this time on the motion.

WHEREFORE, for the reasons stated above, OPC and FPL jointly and respectfully request that the Commission approve the Hurricane Irma Settlement Implementation Agreement provided as Exhibit 1 to this Joint Motion.

Respectfully submitted this 25th day of February, 2020.

By: s/ Kenneth M. Rubin  
Kenneth M. Rubin,  
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*Attorneys for Florida Power & Light  
Company*

By: s/ Charles Rehwinkel  
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111 West Madison Street, Room 812  
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(850) 488-9330  
*Attorneys for the Office of Public  
Counsel*

**CERTIFICATE OF SERVICE**

**Docket No. 20180049-EI**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic service on this 25th day of February, 2020 to the following:

Suzanne S. Brownless, Esq.  
Special Counsel  
Office of General Counsel  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850  
sbrownle@psc.state.fl.us  
**Florida Public Service Commission**

Robert Scheffel Wright, Esq.  
John T. LaVia, III, Esq.  
Gardner, Bist, Bowden, Bush, Dee,  
LaVia, & Wright, P.A.  
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**Florida Retail Federation**

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**Florida Power & Light Company**

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Charles J. Rehwinkel, Esq.  
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**Office of Public Counsel**

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**Florida Industrial Power Users Group**

By: s/ Kenneth M. Rubin  
Kenneth M. Rubin, Assistant General Counsel  
Florida Power & Light Company

By: s/ Charles Rehwinkel  
Charles Rehwinkel, Deputy Public Counsel  
Office of Public Counsel

# **EXHIBIT 1**

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Evaluation of storm restoration costs for  
Florida Power & Light Company related to Hurricane  
Irma

Docket No. 20180049-EI

Dated: February 17, 2020

**IMPLEMENTATION AGREEMENT**

WHEREAS, Florida Power & Light Company (“FPL” or the “Company”) and Citizens through the Office of Public Counsel (“OPC”) (FPL and OPC together are referred to as the “Parties”) entered into a Stipulation and Settlement (the “Irma Settlement Agreement”) to resolve the issues raised in Docket No. 20180049-EI (In re: Evaluation of storm restoration costs for Florida Power & Light Company related to Hurricane Irma); and

WHEREAS, the Florida Public Service Commission issued its Final Order Approving Stipulation and Settlement Agreement, Order No. PSC-2019-0319-S-EI, on August 1, 2019 which approved the Irma Settlement Agreement; and

WHEREAS, paragraphs 5 through 20 of the Irma Settlement Agreement include a number of Process Provisions, some of which relate to FPL’s development, implementation and intended use of a new smart phone application for entry, recording, and approval of time and expense for line crews and vegetation management crews (the “App”); and

WHEREAS, although FPL intended to utilize the App during the 2019 season, additional testing and training was still ongoing when Hurricane Dorian formed in late August 2019; and

WHEREAS, because the testing and training in the use of the App was ongoing as Hurricane Dorian approached, FPL believed that the prudent course of action was to forego the use of the App in order to facilitate a more efficient restoration effort; and

WHEREAS, the Irma Settlement Agreement includes a process provision at paragraph 18 requiring FPL to engage an independent outside audit firm to conduct an audit of the Company's filed recoverable storm costs of the first named tropical system named by the National Hurricane Center for which claimed damages exceed \$250 million; and

WHEREAS, although Hurricane Dorian caused claimed damages in excess of \$250 million, the Parties agree that the most productive use of the one-time audit provision in paragraph 18 of the Irma Settlement Agreement will occur if the audit is undertaken in connection with FPL's use of the App during restoration efforts for a qualifying named tropical system; and

WHEREAS, in paragraph 19 of the Irma Settlement Agreement, the Parties agreed that the terms of the Irma Settlement Agreement are intended to reduce the amount of discovery in future storm cost recovery proceedings, and the Parties further agreed that they would meet within three months following the issuance of a final order in FPL's next storm cost recovery proceeding to discuss limitations on written discovery in future storm cost proceedings that the parties would provide to Staff for recommended use in future storm cost recovery proceedings.

WHEREAS, the Parties agree that although the one-time audit described in paragraph 18 of the Irma Settlement Agreement will be more productive if undertaken in connection with FPL's use of the App during restoration efforts for a qualifying named tropical system, the paragraph 19 provision for a meeting and potential agreement on proposed limitations on storm cost recovery discovery contains no reference to or condition on the use of the App, and accordingly the meeting

contemplated under paragraph 19 should still take place within three months following the issuance of a final order in the anticipated Hurricane Dorian docket.

#### IMPLEMENTATION AGREEMENT PROVISIONS

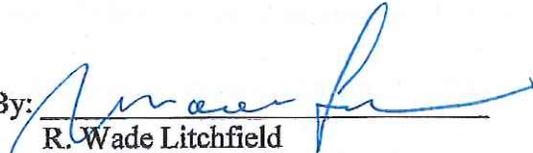
1. The Parties agree that the one-time audit provision described in paragraph 18 of the Irma Settlement Agreement will not be utilized or undertaken in connection with FPL's Hurricane Dorian restoration efforts or any docket to determine the prudence of FPL's Hurricane Dorian costs.
2. FPL will engage an independent outside audit firm to conduct an audit of the Company's filed recoverable storm costs of the first named tropical system named by the National Hurricane Center for which claimed damages exceed \$250 million, and for which FPL utilizes the App in connection with its restoration efforts.
3. In the event a docket is opened to determine the prudence of FPL's Hurricane Dorian costs, within three months following the issuance of a final order in that docket, and notwithstanding the unavailability of the App during the Hurricane Dorian event, the parties will still meet to discuss limitations on written discovery in future storm cost recovery proceedings.
4. In the event the Parties agree on any express limitations on written discovery for future storm cost recovery proceedings, the proposed limitations will be provided to Staff as

recommended for inclusion in the Order Establishing Procedure issued in future FPL storm cost recovery proceedings.

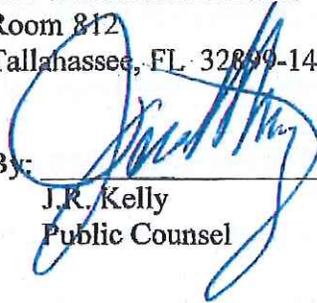
5. The Parties agree that the provisions of this Implementation Agreement are in the public interest.
6. This Implementation Agreement may be executed in counterpart originals, and a scanned .pdf copy of an original signature shall be deemed an original. Any person or entity that executes a signature page to this Implementation Agreement shall become and be deemed a Party with the full range of rights and responsibilities provided hereunder, notwithstanding that such person or entity is not listed in the first recital above and executes the signature page subsequent to the date of this Implementation Agreement, it being expressly understood that the addition of any such additional Party(ies) shall not disturb or diminish the benefits of this Implementation Agreement to any current Party.

In Witness Whereof, the Parties evidence their acceptance and agreement with the provisions of this Implementation Agreement by their signature.

FLORIDA POWER & LIGHT COMPANY  
R. Wade Litchfield, Esq.  
700 Universe Boulevard  
Juno Beach, Florida 33408

By:   
R. Wade Litchfield  
Vice President and General Counsel

OFFICE OF PUBLIC COUNSEL  
J.R. Kelly, Esq.  
The Florida Legislature  
111 West Madison Street  
Room 812  
Tallahassee, FL 32399-1400

By:   
J.R. Kelly  
Public Counsel

# **EXHIBIT 2**

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Evaluation of storm restoration costs for  
Florida Power & Light Company related to  
Hurricane Irma.

DOCKET NO. 20180049-EI  
ORDER NO. PSC-2019-0319-S-EI  
ISSUED: August 1, 2019

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman  
JULIE I. BROWN  
DONALD J. POLMANN  
GARY F. CLARK  
ANDREW GILES FAY

APPEARANCES:

KENNETH M. RUBIN, KEVIN DONALDSON, and CHRISTOPHER  
WRIGHT, ESQUIRES, Florida Power & Light Company, 700 Universe  
Boulevard, Juno Beach, Florida 33408-0420  
On behalf of Florida Power & Light Company (FPL)

CHARLES J. REHWINKEL, STEPHANIE A. MORSE, and PATRICIA A.  
CHRISTENSEN, ESQUIRES, Office of Public Counsel, c/o The Florida  
Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-  
1400  
On behalf of the Citizens of the State of Florida (OPC)

JON C. MOYLE, JR. and KAREN PUTNAL, ESQUIRES, Moyle Law Firm, PA,  
The Perkins House, 118 North Gadsden Street, Tallahassee, Florida 32301  
On behalf of the Florida Industrial Power Users Group (FIPUG)

ROBERT SCHEFFEL WRIGHT and JOHN T. LAVIA, III, ESQUIRES,  
Gardner, Bist, Bowden, Bush, Dee, LaVia & Wright, P.A., 1300 Thomaswood  
Drive, Tallahassee, Florida 32308  
On behalf of the Florida Retail Federation (FRF)

SUZANNE BROWNLESS, ESQUIRE, Florida Public Service Commission, 2540  
Shumard Oak Boulevard, Tallahassee, Florida 32399-0850  
On behalf of the Florida Public Service Commission (Staff)

MARY ANNE HELTON, ESQUIRE, Deputy General Counsel, Florida Public  
Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-  
0850  
Advisor to the Florida Public Service Commission

KEITH HETRICK, ESQUIRE, General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850  
Florida Public Service Commission General Counsel

FINAL ORDER APPROVING STIPULATION AND SETTLEMENT AGREEMENT

BY THE COMMISSION:

BACKGROUND

This docket was opened by the Florida Public Service Commission (Commission) on February 22, 2018, to evaluate the storm restoration costs for FPL related to Hurricane Irma. On August 31, 2018, FPL filed a petition requesting recovery of Hurricane Irma costs along with supporting testimony and exhibits. OPC,<sup>1</sup> FRF,<sup>2</sup> and FIPUG<sup>3</sup> are parties to this docket.

On June 7, 2018, Order No. PSC-2018-0290-PCO-EI, was issued establishing procedures to be followed in this docket. On November 16, 2018, Order No. PSC-2018-0539-PCO-EI was issued which modified testimony filing dates and set the final hearing for June 11-14, 2019. On December 28, 2018, OPC filed a Motion for Extension of Testimony Filing Dates Established by Order No. PSC-2018-0539-PCO-EI, which was denied by Order No. PSC-2019-0017-PCO-EI, issued January 8, 2019. The Prehearing Conference was held on May 20, 2019, with the Prehearing Order, Order No. PSC-2019-0205-PHO-EI, issued on May 31, 2019.

On June 6, 2019, FPL and OPC filed a Joint Motion to Approve a Stipulation and Settlement (Storm Settlement) which resolved all of the outstanding issues in this docket and proposed procedures for processing invoices from third-party storm restoration contractors in the future. Neither FRF nor FIPUG were signatories to the Storm Settlement. On June 7, 2019, Order No. PSC-2019-0224-PCO-EI was issued, which cancelled the June 11-14, 2019 final hearing to allow FRF and FIPUG to take positions on the Storm Settlement by no later than June 12, 2019. FIPUG filed its response to the Storm Settlement on June 12, 2019, stating that it had signed the Storm Settlement and supported it. FRF advised all parties at this time that it would take no position on the Storm Settlement.

A final hearing was held on July 9, 2019, in which the testimony of Eduardo DeVarona, Thomas Gwaltney, Ronald Reagan, Manuel Miranda, Keith Ferguson and Kristin Manz, on behalf of FPL, and Helmuth Schultz, on behalf of OPC, were inserted into the record as though read and 59 exhibits were admitted. A panel of three FPL witnesses, Manuel Miranda, Keith Ferguson and Kristin Manz, were sworn and testified regarding the Storm Settlement terms. In addition, they explained the cell phone application developed by FPL to track third party storm restoration contractors' invoices and payments. At the conclusion of the hearing, the parties waived briefs and a bench vote was taken.

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<sup>1</sup> Order No. PSC-2018-0234-PCO-EI, issued May 8, 2018.

<sup>2</sup> Order No. PSC-2018-0298-PCO-EI, issued June 8, 2018.

<sup>3</sup> Order No. PSC-2018-0299-PCO-EG, issued June 8, 2018.

We have jurisdiction pursuant to Sections 366.04, 366.05, and 366.06, Florida Statutes (F.S.).

### Storm Settlement

The Storm Settlement has three parts: (1) "Financial Terms" contained in Sections 1-4; (2) "Process Provisions" contained in Sections 5-20; and (3) "Other Provisions" contained in Sections 21-26. The Financial Terms in Sections 1-4 deal with issues that have been identified in this docket in the Prehearing Order while the Process Provisions in Sections 5-20 are matters that were not identified as issues. The Other Provisions are conditions associated with the Commission's approval of the Storm Settlement itself, restrictions on the parties' ability to contest the Storm Settlement, and each party's right to pursue its position on any issue raised in this docket in future proceedings.

The Financial Terms of the Storm Settlement are as follows:

- The effective date of the Storm Settlement is the date of the Final Order issued in this docket. [Section 1]
- \$50 million of the storm restoration costs requested by FPL will be treated as follows:

\$25 million will be reclassified as capital added to FPL's Plant in Service balance [Section 2];

\$20 million will be treated as non-incremental costs recognized as base Operations and Maintenance (O&M) expense [Section 3]; and

\$5 million of Other Expense will be used to reduce the Reserve Amount, as described in Section 12 of the 2016 Settlement Agreement, available for amortization. [Section 4]

The Process Provisions, which apply to third party storm restoration contractors, crews, and vendors (Contractors), are as follows:

- For the 2019 storm season, Phase I of FPL's smart phone application (App) will be used for entry, recording, and approval of time and expenses for line crews and vegetation management crews. [Section 6]
- For the 2020 storm season, Phase II of the App will have additional functionalities to upload invoices and receipts as well as documenting exceptions to required reporting or work procedures and flagging non-compliant charges and time. [Section 7]
- FPL will use a Crew Tracking App which allows the company to geographically track storm restoration crews during mobilization and demobilization. [Section 8]
- Billing begins when Contractors begin to travel after acquisition. [Section 9]

- Contractors are only compensated for actual travel time which includes stops for fuel, meals, weigh stations, and repairs. [Section 10]
- Establishes a threshold of 500 miles of travel per 16-hour day which includes stops for fuel, meals, weigh stations, and repairs, [Section 11]
- FPL will manage external line crew contracts to avoid paying double time. [Section 12]
- Meals and fueling, after Contractors are on-boarded, are expected to be provided at or by the base camp with exceptions entered into the App. [Section 13]
- FPL will not “poach” Contractors who are committed to another utility or are part of another utility’s mutual aid allocation without the consent of the other utility. [Section 14]
- FPL will continue to participate in the Southeastern Electric Exchange and Edison Electric Institute mutual assistance groups. [Section 15]
- FPL will provide extensive supporting documentation in virtual (sortable spreadsheet) or physical files, e.g., regular and overtime payroll and related overheads, App data, travel data. [Section 16]
- FPL will engage an outside independent audit firm to audit FPL’s requested storm restoration costs for the first named tropical storm whose damages exceed \$250 million with auditing costs recovered from ratepayers through a storm surcharge or from a storm reserve. Pre-filed direct testimony will be filed after any required audit is concluded. [Sections 17, 18]
- After the conclusion of the next storm cost recovery docket, the parties will discuss the maximum number of written discovery requests that will be served in future storm cost cases and provide any agreed upon number to the Commission staff for possible inclusion in the next storm cost recovery docket’s Order Establishing Procedure. [Section 19]

Although included in the Process Provisions section, Section 20 actually addresses a financial calculation: the incremental cost methodology for capitalized costs. The parties have agreed that a combined simple average of hourly internal FPL and embedded contractor rates that are of the type normally incurred in the absence of a storm will be used to determine amounts to capitalize to plant, property, and equipment along with the materials and other cost of equipment.

The Other Provisions are: (1) that the Storm Settlement will have no precedential value; (2) that a modified version of Exhibit HWS-3<sup>4</sup> will be admitted into the record; (3) that the

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<sup>4</sup> Helmuth Schultz’s Ex. 3, transcripts of the depositions of FPL’s corporate representative panel on November 15, 2018, and December 13, 2018, with deposition exhibits.

Storm Settlement is contingent upon approval by the Commission in its entirety without modification; (4) that parties to the Storm Settlement will support it before the Commission; (5) that no party will argue that proposed Issue 1A<sup>5</sup> should have been addressed or was waived in this docket; and (6) that the Storm Settlement resolves all outstanding issues, is in the public interest, and no party will file an appeal of any order issued in this docket.

### DECISION

The standard for approval of a settlement agreement is whether it is in the public interest.<sup>6</sup> A determination of public interest requires a case-specific analysis based on consideration of the proposed settlement taken as a whole.<sup>7</sup>

The Storm Settlement resolves all issues in this docket, as well as providing for significant improvements in both the real time management of restoration tasks as well as cost verification. Crew tracking, contractor invoicing, and utility billing review procedures will be improved through the smart phone Phase I and Phase II applications that are designed to better monitor and verify contractor charges during storm restoration events. The Storm Settlement also provides for an outside audit of FPL's requested storm restoration costs for the first named tropical storm whose damages exceed \$250 million prior to submittal for Commission approval. These procedures are the result of negotiations between OPC and FPL and they are a reasonable attempt to address both the cost as well as discovery issues that are part of every storm restoration docket.

The Financial Terms contained in the Storm Settlement will result in: (1) total storm restoration costs being reduced from \$1,273,545,000 to \$1,253,545,000, reflecting the reclassification of storm restoration costs to non-incremental costs to be recovered in base Operation and Maintenance expenses; (2) reclassification of \$25 million in costs as capitalized, resulting in cost recovery over the various lives of the plant assets rather than immediately as a

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<sup>5</sup> Issue 1A: Was FPL required to use the Storm Cost Recovery Mechanism (SCRM) described in Order No. PSC-2016-0560-AS-EI for the recovery of FPL's reasonable and prudent Hurricane Irma restoration costs?

<sup>6</sup> Sierra Club v. Brown, 243 So. 3d 903, 910-913 (Fla. 2018); Order No. PSC-13-0023-S-EI, issued on January 14, 2013, in Docket No. 120015-EI, In re: Petition for increase in rates by Florida Power & Light Company; Order No. PSC-11-0089-S-EI, issued February 1, 2011, in Docket Nos. 080677 and 090130, In re: Petition for increase in rates by Florida Power & Light Company and In re: 2009 depreciation and dismantlement study by Florida Power & Light Company; Order No. PSC-10-0398-S-EI, issued June 18, 2010, in Docket Nos. 090079-EI, 090144-EI, 090145-EI, 100136-EI, In re: Petition for increase in rates by Progress Energy Florida, Inc., In re: Petition for limited proceeding to include Bartow repowering project in base rates, by Progress Energy Florida, Inc., In re: Petition for expedited approval of the deferral of pension expenses, authorization to charge storm hardening expenses to the storm damage reserve, and variance from or waiver of Rule 25-6.0143(1)(c), (d), and (f), F.A.C., by Progress Energy Florida, Inc., and In re: Petition for approval of an accounting order to record a depreciation expense credit, by Progress Energy Florida, Inc.; Order No. PSC-05-0945-S-EI, issued September 28, 2005, in Docket No. 050078-EI, In re: Petition for rate increase by Progress Energy Florida, Inc.

<sup>7</sup> Order No. PSC-13-0023-S-EI, at p. 7.

storm restoration cost expense; and (3) a reduction in the Reserve Amount<sup>8</sup> of \$5 million decreasing the Reserve Amount to \$1.245 billion.

The Storm Settlement has been signed by OPC, FPL and FIPUG, three of the four parties to this docket, with the fourth party, FRF, taking no position. The signatories represent a broad segment of FPL's customer base including both residential and commercial classes. Having carefully reviewed the Storm Settlement, the exhibits entered into the record, and the testimony provided by FPL and OPC witnesses, we find that, taken as a whole, it provides a reasonable resolution of all issues raised in this docket. We find, therefore, that the Storm Settlement, Attachment A hereto, is in the public interest, and we hereby approve it.

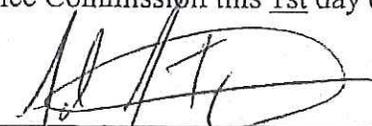
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Joint Motion of the Office of Public Counsel and Florida Power & Light Company to Approve Stipulation and Settlement Agreement is hereby granted. It is further

ORDERED that the Stipulation and Settlement filed on June 6, 2019, referred to herein as Storm Settlement, attached hereto as Attachment A, and incorporated by reference, is hereby approved. It is further

ORDERED that in the event no timely appeal is filed, Docket No 20180049-EI shall be closed.

By ORDER of the Florida Public Service Commission this 1st day of August, 2019.



ADAM J. FETZMAN  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
www.floridapsc.com

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

SBr

<sup>8</sup> As defined in Section 12(a) of FPL's 2016 Settlement approved by Order No. PSC-16-0560-AS-EI, issued December 15, 2016, in Docket No. 20160021-EI, In re: Petition for rate increase by Florida Power & Light Company.

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.

Any party adversely affected by the Commission's final action in this matter may request:

- 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, 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 and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

**ATTACHMENT A**

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Evaluation of storm restoration costs for Florida  
Power & Light Company related to Hurricane Irma

Docket No. 20180049-EI

Filed: June 6, 2019

**STIPULATION AND SETTLEMENT**

WHEREAS, Florida Power & Light Company (“FPL” or the “Company”) and Citizens through the Office of Public Counsel (“OPC”) have signed this Stipulation and Settlement (the “Agreement”); unless the context clearly requires otherwise, the term “Party” or “Parties” means a signatory to this Agreement); and

WHEREAS, on August 30, 2017, Tropical Storm Irma intensified into a major hurricane. On September 4, 2017, as forecasts projected potential Florida impacts, Governor Rick Scott declared a state of emergency in all 67 Florida counties; and

WHEREAS, by September 5, 2017, Hurricane Irma intensified into a Category 5 hurricane with sustained winds reaching 180 mph; and

WHEREAS, on September 6, 2017, the National Hurricane Center’s Hurricane Irma five-day forecast cone encompassed the entire Florida peninsula, and FPL began actively mobilizing a restoration workforce of more than 11,000 employees and contractors, activated more than 20 staging sites, and started to pre-position crews in the areas of FPL’s service territory anticipated to be hardest hit by Hurricane Irma; and

WHEREAS, as Hurricane Irma approached Florida, forecasts increased in certainty that the state would be seriously impacted, with possible landfall in Miami-Dade County, the most heavily populated area served by FPL. As FPL and its customers proceeded with their final

storm preparations, Hurricane Irma made landfall as a Category 5 storm in northern Cuba on September 9; and

WHEREAS, Hurricane Irma made its first direct U.S. landfall in the Florida Keys during the morning of Sunday, September 10, 2017, as a Category 4 hurricane, causing extensive damage; and

WHEREAS, Hurricane Irma impacted FPL's entire service area, requiring FPL to ensure that restoration crews that had been pre-positioned were out of harm's way to ensure the crews could safely begin the restoration process when the storm passed their area; and

WHEREAS, Hurricane Irma impacted all 35 counties and 27,000 square miles of FPL's service territory, and caused more than 4.4 million FPL customers to lose power. FPL's overall preparation for the hurricane resulted in the assembly and deployment of workers from 30 states and Canada, a number that grew to more than 28,000 at its peak and spread across 29 staging sites the Company established throughout its service territory; and

WHEREAS, FPL's preparation and ensuing coordinated response enabled the Company to restore service to 50% of customers within one day, 95% of its customers within one week, and 99% of its customers within ten days after the storm left FPL's service territory. According to FPL, this effort represents the fastest post hurricane restoration of electric service to the largest number of people by any one utility in U.S. history; and

WHEREAS, FPL incurred \$1.375 billion in storm restoration costs, but did not implement a storm surcharge or deplete the storm reserve, and instead expensed all costs after removing below the line costs, third party reimbursements, and capitalizable costs; and

WHEREAS, on February 22, 2018, the Staff of the Florida Public Service Commission (the "Commission") requested the Commission to open a docket for the evaluation of storm restoration costs for FPL related to Hurricane Irma; and

WHEREAS, on August 31, 2018, FPL petitioned the Commission for evaluation of storm restoration costs related to Hurricane Irma, and filed the direct testimony and exhibits of FPL witnesses Manuel B. Miranda, Eduardo DeVarona and Keith Ferguson in support of the requested evaluation; and

WHEREAS, OPC intervened in this docket and, on January 11, 2019, filed the direct testimony and exhibits of OPC Witness Helmuth Schultz III in support of OPC's position; and

WHEREAS, on March 15, 2019, FPL filed the rebuttal testimony and exhibits of FPL witnesses Manuel B. Miranda, Thomas W. Gwaltney, Ronald R. Reagan, Kristin Manz and Keith Ferguson; and

WHEREAS, the Parties engaged in significant discovery including the production of more than 100,000 pages of documents, hundreds of interrogatories, and depositions of five FPL witnesses; and

WHEREAS, the Parties to this Agreement have undertaken to resolve the issues raised in this docket, and the Parties have also agreed to address certain process issues separate and distinct from the matters at issue in this proceeding; and

WHEREAS, the Parties have entered into this Agreement in compromise of positions taken in accord with their rights and interests under Chapters 350, 366 and 120, Florida Statutes, as applicable, and as a part of the negotiated exchange of consideration among the Parties to this

Agreement each has agreed to concessions to the others with the expectation that all provisions of the Agreement will be enforced by the Commission as to all matters addressed herein with respect to all Parties regardless of whether a court ultimately determines such matters to reflect Commission policy, upon acceptance of the Agreement as provided herein and upon approval by the Commission in the public interest;

NOW THEREFORE, in consideration of the foregoing and the covenants contained herein, the Parties hereby stipulate and agree:

FINANCIAL TERMS

1. This Agreement will become effective on the date of the Final Order in Docket No. 20180049-EI (the "Implementation Date").
2. FPL will reclassify \$25 million of the storm restoration costs as capital, which will be added to FPL's retail Plant in Service balance for all surveillance and future rate setting purposes. OPC agrees not to dispute the reasonableness or prudence of this additional \$25 million of capital in any future rate proceeding.
3. FPL will treat an additional \$20 million of incremental storm restoration costs as non-incremental costs recognized as base Operations & Maintenance expense.
4. FPL will treat an additional \$5 million of Other Expense of the storm restoration costs as an adjustment to expenses and will reduce the overall Reserve Amount (as defined in Section 12 of the 2016 Settlement Agreement in Docket No. 20160021-EI) available for amortization by this amount.

PROCESS PROVISIONS

5. For purposes of the "Process Provisions" section of this Agreement, any reference to contractor(s), crews or vendors excludes the employees and personnel working on behalf of and billed through mutual aid utilities.
6. FPL Application Phase I: For the 2019 storm season, FPL will introduce a new smart phone application ("App") for entry, recording, and approval of time and expenses for line crews and vegetation management crews. FPL's contracts with vendors will require the use of this App where reasonably practicable. The data from the App can be exported to sortable and searchable Excel files to provide reports of specific information on crews, billing, exceptions, etc. These reports will be provided to the parties and Staff with or shortly after the filing of pre-filed direct testimony in future storm cost recovery dockets.
  - A. The App will not apply at this time to activities or personnel other than non-mutual aid line crews and vegetation management crews (e.g., patrollers, damage assessors, logistics vendors, both turn-key and a la carte providers for expenses incurred in connection with the establishment of staging sites and the provision of services at staging sites, etc.).
  - B. The App will allow FPL to review time and track miscellaneous expenses incurred by crews. All expenses entered in the App after a line contractor crew or vegetation management crew has been on-boarded require a reason, since the majority of services resulting in expenses after on-boarding (e.g., food, fuel, lodging) should be directly provided for by FPL while on system (i.e., between the point of on-boarding and release). During mobilization and demobilization, only those expenses excluded by the contract with the line contractor or

vegetation management contractor will require a reason for approval in the App, since line contractors and vegetation management contractors are entitled to reimbursement for certain expenses, such as lodging, during mobilization and demobilization.

C. Where the App is utilized, this process will largely eliminate the paper time sheet support that was required to review and approve the thousands of invoice packets for line contractors received, reviewed, and processed following Hurricane Irma.

7. FPL Application Phase II: For the 2020 storm season, FPL plans to introduce additional functionalities for the App to further automate reporting and invoice and receipt uploading where reasonably practicable. Current plans for the proposed additional functions include flagging non-compliant charges and time as well as documenting exceptions relative to the items addressed by Phase II of the App using drop-down boxes.
8. Crew Tracking App: FPL will use (where reasonably practicable) its Crew Tracking App (which runs on iOS or Android cellular phones) to geographically track storm crews during mobilization and demobilization. The Crew Tracking App will only be provided to the leader of each travel module (i.e., only one truck per travel module). The Crew Tracking App provides detailed visualization regarding travel teams' geographic position and attributes about the team. Where applicable, the Company will use the Crew Tracking App to continue and/or implement procedures to document exceptions to the items addressed in this Paragraph 8 of the Agreement. In instances where exceptions are not documented, the Company will not be precluded from generating such documentation through reference to or consultation with personnel involved in restoration management or efforts.

9. **Billing Start Point:** The Parties agree that for external contractors, billing begins when crews begin to travel after acquisition. In this regard, the Company will continue and/or implement procedures to document exceptions to the items addressed in this Paragraph 9 of the Agreement. In instances where exceptions are not documented, the Company will not be precluded from generating such documentation through reference to or consultation with personnel involved in restoration management or efforts.
10. **Travel Time Billing:** The Parties agree that for external contractors, vendors are only compensated for actual travel time which includes stops (e.g., for fuel, meals, weigh stations, repairs). The Company will continue and/or implement procedures to document exceptions to the items addressed in this Paragraph 10 of the Agreement. In instances where exceptions are not documented, the Company will not be precluded from generating such documentation through reference to or consultation with personnel involved in restoration management or efforts.
11. **Pace of Travel:** For external contractor storm documentation purposes, FPL will establish a 500 miles per 16-hour day threshold which includes stops (e.g., fuel, meals, weigh stations, repairs). The Company will continue and/or implement procedures to document exceptions to the items addressed in this Paragraph 11 of the Agreement. In instances where exceptions are not documented, the Company will not be precluded from generating such documentation through reference to or consultation with personnel involved in restoration management or efforts.
12. FPL will continue to manage external line crew contracts to avoid paying double time rates. The Company will continue and/or implement procedures to document exceptions to the items addressed in this Paragraph 12 of the Agreement. In instances where

exceptions are not documented, the Company will not be precluded from generating such documentation through reference to or consultation with personnel involved in restoration management or efforts.

13. The Company will continue to maintain a process for external vendors that meals and fueling, after vendor crews are on-boarded, are expected to be provided at or by the base camp with exceptions entered into the App as referenced in Paragraph 6 B above where practicable. The Company will continue and/or implement procedures to document exceptions to the items addressed in this Paragraph 13 of the Agreement. In instances where exceptions are not documented, the company will not be precluded from generating such documentation through reference to or consultation with personnel involved in restoration management or efforts.
14. No Poaching of Vendor Crews: FPL agrees that it does not, and will not, "poach" vendors or vendor crews who are committed to another utility or are part of another utility's mutual aid allocation without the consent of the other utility.
15. In the spirit of continuous improvement, the Company will continue to participate in the Southeastern Electric Exchange and Edison Electric Institute mutual assistance groups.
16. Storm Cost Documentation: The Company will provide, for each named tropical system named by the National Hurricane Center, supporting documentation which includes the following virtual (sortable spreadsheet) or physical files:
  - Summary of expenses in a format consistent with Company records showing total expenses incurred, that includes the following cost categories:
    - Regular Payroll and Related Overheads, Overtime Payroll and Related Overheads, Contractors, Vegetation Contractors, Logistics, Materials & Supplies, and Other.
  - Data exported from the App including vendor crews, time reported, and travel days.

- Data exported from REDi for travel contingents including date committed, billing and city of origin, date started travel, date arrived, date released, and home location city and date arrived.
  - Filings involving more than one storm will be similar in format and organization.
17. The Company will provide the information outlined above in a format that comports with the Company's record keeping and accounting practices on the timeline discussed below. Pre-filed direct testimony will be filed after any required independent audit is concluded. In the event it is not practicable or feasible to utilize the App, and/or in instances where the App does not capture the data and information described in this Agreement, FPL will provide Staff and parties with the data and information in the format that it has been captured or documented by FPL in the absence of the App, and the Company will continue and/or implement procedures to document exceptions as more fully described in Paragraphs 6 through 13 of this Agreement. In instances where exceptions are not documented, the Company will not be precluded from generating such documentation through reference to or consultation with personnel involved in restoration management or efforts.
18. Initial Independent Audit: FPL will engage an independent outside audit firm to conduct an audit of the Company's filed recoverable storm costs of the first named tropical system named by the National Hurricane Center for which claimed damages exceed \$250 million. The audit will be conducted utilizing generally accepted sampling techniques.
- a. Audit Purpose and Scope
    - i. The purpose of the audit is to validate that storm costs paid were accurate, incurred within the appropriate time period, adequately and completely supported, and properly approved.
    - ii. The scope of the audit should be sufficient to enable the auditor to evaluate the adequacy and effectiveness of the Company's internal

controls (or processes) governing (1) contractor time and expenses, (2) invoice/billing payment review process, and (3) the approval/denial/resolution process, including but not limited to, the Company's payment approval logic for compliance with contract terms.

- b. The Parties agree that the completion of the audit should not delay cost recovery.
  - c. The Parties agree that Audit Activities should include:
    - i. Interviews with key personnel
    - ii. Review of operating policies and procedures
    - iii. Review of relevant documents, such as executed contracts, labor and equipment rates, established work day hours, over time and double time criteria, and vendor employee rosters
    - iv. Comparisons between vendor employee rosters and approved timesheets, and expense receipts (hotel, fuel or meal)
    - v. Inspection and comparison of paid invoices to submitted expense receipts and submitted timesheets
  - d. The Parties will not object to and will support the Company recovering audit costs through the storm surcharge or storm reserve.
19. The Parties agree that the terms and conditions of this Agreement are intended to reduce the amount of discovery in future storm cost recovery proceedings. The Parties will meet within three months following the issuance of a final order in FPL's next storm cost recovery proceeding to discuss limitations on written discovery in future storm cost recovery proceedings. Any agreed express limitations on written discovery for future FPL storm cost recovery proceedings will be provided to Staff as recommended for inclusion in the Order Establishing Procedure issued in future FPL storm cost recovery proceedings.
20. Incremental Cost Methodology of Capitalized Costs: FPL will use a combined simple average of hourly internal Company and embedded contractor rates that are the type

normally incurred in the absence of a storm to determine amounts to capitalize to plant, property, and equipment along with the materials and other cost of equipment.

OTHER PROVISIONS

21. Nothing in the Agreement will have precedential value.
22. The direct testimony of FPL witnesses Manuel B. Miranda, Eduardo DeVarona and Keith Ferguson and OPC Witness Helmuth Schultz III and the rebuttal testimony of FPL witnesses Manuel B. Miranda, Thomas W. Gwaltney, Ronald R. Reagan, Kristin Manz and Keith Ferguson shall be entered into the record along with the stipulated Comprehensive Exhibit List and listed exhibits, with the agreement that only portions of Exhibit HWS-3 will be entered into the record. Where applicable, confidential classification shall be maintained as determined by the Commission, Commission rules or applicable provisions of Chapter 366, Florida Statutes. The Parties further stipulate that the entry of portions of Exhibit HWS-3 into the record does not constitute a waiver of any objections that FPL would lodge or maintain in the event a contested hearing were to be held in this proceeding, nor does it constitute precedent in any future proceeding for the wholesale entry of an entire deposition transcript absent a stipulation of all parties to a proceeding.
23. The provisions of the Agreement are contingent upon approval by the Commission in its entirety without modification. No Party agrees, concedes or waives any position with respect to any of the issues identified in the Prehearing Order and this Agreement does not specifically address any such issue. The Parties will support approval of the Agreement and will not request or support any order, relief, outcome or result in conflict with it. No Party to the Agreement will request, support or seek to impose a change to

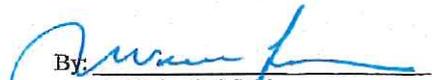
any provision of the Agreement. Approval of the Agreement in its entirety will resolve all matters and issues in this docket. This docket will be closed effective on the date that the Commission Order approving this Agreement is final, and no Party to the Agreement shall seek appellate review of any order issued in this docket.

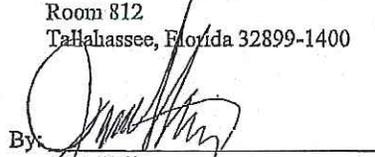
24. The Parties agree that approval of the Agreement is in the public interest.
25. The Parties agree and stipulate that no party shall advocate, assert or otherwise represent that the issue identified and proposed as 1A by certain parties in Docket No. 20180049-EI should have been addressed or was waived in Docket No. 20180049-EI.
26. This Agreement may be executed in counterpart originals, and a scanned .pdf copy of an original signature shall be deemed an original. Any person or entity that executes a signature page to this Agreement shall become and be deemed a Party with the full range of rights and responsibilities provided hereunder, notwithstanding that such person or entity is not listed in the first recital above and executes the signature page subsequent to the date of this Agreement, it being expressly understood that the addition of any such additional Party(ies) shall not disturb or diminish the benefits of this Agreement to any current Party.

In Witness Whereof, the Parties evidence their acceptance and agreement with the provisions of this Agreement by their signature.

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