



1 PLACE: Betty Easley Conference Center  
Room 148  
2 4075 Esplanade Way  
Tallahassee, Florida

3  
4 REPORTED BY: DEBRA R. KRICK  
Court Reporter and  
5 Notary Public in and for  
the State of Florida at Large

6  
7 PREMIER REPORTING  
112 W. 5TH AVENUE  
TALLAHASSEE, FLORIDA  
8 (850) 894-0828

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

## 1 APPEARANCES:

2 JOEL T. BAKER, KEN HOFFMAN and RUSSELL  
3 BADDERS, ESQUIRES, Gulf Power Company, One Energy Place,  
4 Pensacola, Florida, 32520-0100, appearing behalf of Gulf  
5 Power Company (GULF).

6 BETH KEATING, ESQUIRE, Gunster, Yoakley &  
7 Stewart P.A., 215 South Monroe Street, Suite 601,  
8 Tallahassee, Florida 32301, appearing behalf of Florida  
9 Public Utilities Companies (FPUC).

10 RICHARD GENTRY, PUBLIC COUNSEL; CHARLES  
11 REHWINKEL, DEPUTY PUBLIC COUNSEL; STEPHANIE MORSE,  
12 ANASTACIA PIRRELLO and PATRICIA A. CHRISTENSEN,  
13 ESQUIRES, Office of Public Counsel, c/o The Florida  
14 Legislature, 111 W. Madison Street, Room 812,  
15 Tallahassee, Florida 32399-1400, appearing on behalf of  
16 the Citizens of the State of Florida (OPC).

17 SHAW P. STILLER, WALTER TRIERWEILER and  
18 JENNIFER S. CRAWFORD, ESQUIRES, FPSC General Counsel's  
19 Office, 2540 Shumard Oak Boulevard, Tallahassee, Florida  
20 32399-0850, appearing on behalf of the Florida Public  
21 Service Commission (STAFF).

22 KEITH HETRICK, GENERAL COUNSEL; MARY ANNE  
23 HELTON, ESQUIRES, Florida Public Service Commission, 2540  
24 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850,  
25 Advisor to the Florida Public Service Commission.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I N D E X  
WITNESSES

NAME :	PAGE
MITCHELL P. GOLDSTEIN	
Prefiled Direct Testimony inserted	27
Prefiled Rebuttal Testimony inserted	41
J. TERRY DEASON	
Prefiled Direct Testimony inserted	48
Prefiled Rebuttal Testimony inserted	60
DANIEL J. LAWTON	
Prefiled Direct Testimony inserted	76
MICHAEL D. GALTMAN	
Prefiled Direct Testimony inserted	137
Prefiled Rebuttal Testimony inserted	144
DERRICK M. CRAIG	
Prefiled Direct Testimony inserted	159
Prefiled Rebuttal Testimony inserted	170
J. TERRY DEASON	
Prefiled Rebuttal Testimony inserted	176
DANIEL J. LAWTON	
Prefiled Direct Testimony inserted	192

EXHIBITS				
	NUMBER:		ID	ADMITTED
1	1	Comprehensive Exhibit List	25	25
2	2-4	As identified on the CEL	25	25
3	10-18	As identified on the CEL	25	25
4	20	As identified on the CEL	25	25
5	21	Exhibit A from settlement agreement	135	135
6	5-9	As identified on the CEL	25	135
7	19	As identified on the CEL	25	135
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				

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

2 CHAIRMAN CLARK: All right. We will go ahead  
3 and convene this hearing this morning, and I will  
4 ask staff, if they would, to please read the  
5 notice.

6 MR. STILLER: By notice published June 24th,  
7 2021, this time and place has been set for a  
8 hearing in Docket Nos. 20200151-EI and 20200194-PU.  
9 The purpose of the hearing is set out more fully in  
10 the notice.

11 CHAIRMAN CLARK: Thank you very much, Mr.  
12 Stiller.

13 Let's go ahead and take appearance. We will  
14 begin with Gulf.

15 MR. BAKER: Good morning, Chairman. Joel  
16 Baker appearing on behalf of Gulf Power.

17 CHAIRMAN CLARK: All right. Thank you, Mr.  
18 Baker.

19 We are going to make sure we got a good  
20 connection with you. It's breaking up right there.  
21 Can you give me a test? Count to 10 for me, Mr.  
22 Baker. Try it without the mute button and let's  
23 see if that makes a difference.

24 MR. BAKER: Let's try this, one, two, three,  
25 four, five, six, eight, nine, 10.

1           CHAIRMAN CLARK: We will assume that you knew  
2           seven went in there somewhere, right? You are  
3           having a little bit of trouble with your audio.

4           MR. BAKER: I believe that cut out on me. I  
5           am sorry, Chairman Clark.

6           (Multiple speakers.)

7           CHAIRMAN CLARK: All right. We -- we will --  
8           I think we maybe we can hear you. Dave is giving  
9           me a thumbs up there. We are going to give it a  
10          try.

11          Thank you very much, Mr. Baker.

12          FPU.

13          MS. KEATING: Good morning, Mr. Chairman,  
14          Commissioners. Beth Keating with the Gunster Law  
15          Firm here today for Florida Public Utilities  
16          Company and Chesapeake Utilities.

17          CHAIRMAN CLARK: Thank you, Ms. Keating.

18          OPC.

19          MS. CHRISTENSEN: Good morning, Commissioners.  
20          Patty Christensen with the Office of Public  
21          Counsel. I believe Ms. Morse is also available on  
22          video camera to enter an appearance, and I would  
23          also enter an appearance for Richard Gentry, the  
24          Public Counsel.

25          CHAIRMAN CLARK: Thank you very much.

1 Staff.

2 MR. STILLER: Shaw Stiller for Commission  
3 staff. I would also like to enter an appearance  
4 for Walt Trierweiler and Jennifer Crawford.

5 MS. HELTON: And Mary Anne Helton is here as  
6 your Advisor, along with your General Counsel,  
7 Keith Hetrick.

8 CHAIRMAN CLARK: All right. Thank you.  
9 Did we get everyone?

10 All right. Preliminary matters, staff.

11 MR. STILLER: Yes. The parties, their  
12 representatives and witnesses were afforded the  
13 option to participate in this hearing in person or  
14 virtually. Several of the parties to this docket  
15 have representatives in the hearing room today, and  
16 the rest are on GoToMeeting.

17 For those in the hearing room, please be sure  
18 to speak directly into the microphone at all times.  
19 Do not turn away from the microphone or look down  
20 while speaking.

21 Several persons are appearing virtually via  
22 GoToMeeting. Each person participating via  
23 GoToMeeting today needs to keep their phone or  
24 device muted when they are not speaking, and only  
25 unmute when they are called upon to speak. If they



1 do not keep their phone muted, or put the phone on  
2 hold, they may be disconnected from the proceeding  
3 and will need to call back in.

4 Also, telephonic participants should speak  
5 directly into the phone and not use the speaker  
6 function.

7 Finally, members of the public who want to  
8 observe or listen to this hearing may do so by  
9 accessing the live video broadcast which is  
10 available from the Commission website. Upon  
11 completion of the hearing, the archived video will  
12 also be available.

13 Staff is aware of no other matters at this  
14 time.

15 CHAIRMAN CLARK: Thank you, Mr. Stiller.

16 Any of the other parties have any preliminary  
17 matters?

18 All right. Status update.

19 MR. STILLER: These dockets were set for a  
20 consolidated hearing to commence on June 16th. On  
21 June 11th, Florida Public Utilities Company and the  
22 Office of Public Counsel, the only parties to  
23 Docket No. 20200194-EI, filed a joint motion for  
24 approval of stipulation and settlement with an  
25 attached settlement agreement.

1           On June 15th, Gulf Power Company and the  
2           Office of Public Counsel, the only parties to  
3           Docket No. 20200151-EI, filed a joint motion for  
4           approval of stipulation and settlement with an  
5           attached settlement agreement.

6           Following receipt of the joint motion from  
7           Gulf and OPC, the prehearing officer entered an  
8           order of abatement and canceled the June 16th final  
9           hearing in order to give the Commission an  
10          opportunity to consider the two settlement  
11          agreements.

12          The Commission is here today to take evidence  
13          and testimony regarding whether the stipulations  
14          and settlement agreements that would allow the  
15          establishment of regulatory assets and the recovery  
16          of costs incurred due to COVID-19 are in the public  
17          interest.

18          CHAIRMAN CLARK: All right. Thank you, Mr.  
19          Stiller.

20          All right. Commissioners, we have -- as Shaw  
21          said, we have two different dockets, and we are  
22          going to try to handle these in one hearing. We  
23          are going to take them up together. They typically  
24          would take two separate actions. That will be your  
25          discretion when we get to the end of the hearing,

1           assuming that we do want to make a decision today,  
2           as to how we handle those. We are going to take  
3           both the items up at the same time. So let's  
4           start.

5           Each utility will have no more than four  
6           minutes to make their opening statements. OPC is  
7           going to have six minutes. I understand you are  
8           going to divide your six minutes. We will start  
9           with Gulf's opening statement followed by FPUC, and  
10          then move to OPC.

11          Mr. Baker.

12          MR. BAKER: Thank you, Chairman Clark. Is my  
13          audio better before I begin?

14          CHAIRMAN CLARK: Yes, sir. I believe it  
15          sounds okay right now. We need a little bit more  
16          volume from you.

17          MR. BAKER: Fantastic. I will lean in a  
18          little bit more then. Okay. I will begin if that  
19          works for you, Chairman.

20          Good morning, Commissioners. Again, this is  
21          Joel Baker appearing on behalf of Gulf Power.  
22          Thank you for the opportunity to offer a statement  
23          in support of the joint motion of OPC and Gulf  
24          Power.

25          With your approval, the settlement will

1 resolve all issues in Docket No. 20200151 related  
2 to Gulf's request to establish a regulatory asset  
3 in which to record its bad debt and safety related  
4 costs attributable to COVID-19. We are here today  
5 to respectfully request your approval of the  
6 settlement agreement.

7 If I am able to spend just a minute on some of  
8 the facts and circumstances that led us to the  
9 settlement agreement that's before you.

10 To start, the outbreak of COVID-19 itself and  
11 the economic impacts were extreme and unforeseen.  
12 A once-in-a-lifetime event, we hope that, and it  
13 affected us all to some degree.

14 In the beginning part of 2020, the early  
15 stages of the pandemic, the state of Florida took  
16 necessary unprecedented actions to reduce the  
17 virus' spread to its residents. One of those  
18 actions occurred on April 1st of 2020, when  
19 Governor DeSantis issued Executive Order No. 20-91,  
20 which we refer to as the stay-at-home order,  
21 requiring that all persons in Florida limit their  
22 movements and personal interactions outside of  
23 their home to only those necessary to obtain or  
24 provide essential services, or conduct essential  
25 activities.

1           In the same way the State sought to ensure the  
2           security of its residents, Gulf Power undertook  
3           prompt action to protect its customers, employees  
4           and contractors. These actions included monitoring  
5           health and body temperatures of employees and  
6           contractors; testing employees for COVID-19 and  
7           antibodies; making modifications to company  
8           facilities; obtaining personal protective  
9           equipment, such as masks and gloves; and placing  
10          signage on buildings and trucks to ensure social  
11          distancing and other safety related COVID  
12          protocols.

13           In addition to direct safety related actions,  
14          Gulf Power proactively instituted initiatives to  
15          support its customers, specifically Gulf suspended  
16          customer disconnections for nonpayment from March  
17          17th, 2020, through mid-November 2020, it was the  
18          right thing to do by our customers.

19           Gulf also addressed its customers' financial  
20          needs. For example, in May of 2020, Gulf Power  
21          received approval from this commission to implement  
22          a one-time decrease of approximately 40 percent of  
23          the typical residential customer bill as an  
24          accelerated return of expected fuel overrecovery.

25           Gulf also made donations and contributions to

1 organizations fighting the health and economic  
2 impacts of the virus.

3 The Gulf Power settlement before you today is  
4 the culmination of a proceeding that's lasted over  
5 a year. Gulf Power filed its petition in May of  
6 2020 seeking the establishment of a regulatory  
7 asset for its COVID related bad debt and safety  
8 costs. Gulf Power later filed testimony from  
9 Mitchell Goldstein and Terry Deason in April of  
10 this year. OPC responded with testimony from its  
11 consultants, and that was followed by rebuttal from  
12 Gulf's same witnesses. Mr. Deason filed his  
13 rebuttal testimony on behalf of both Gulf and FPUC.

14 During this process, Gulf Power responded to a  
15 substantial amount of discovery providing OPC and  
16 staff with the additional information it sought to  
17 evaluate Gulf Power's case.

18 Following the completion of the testimony and  
19 the discovery period, Gulf and OPC entered into  
20 negotiations that resulted in the settlement  
21 agreement that's before you.

22 The settlement of the Gulf COVID docket is  
23 straightforward. According to the agreement, Gulf  
24 Power may establish a regulatory asset in a total  
25 amount not to exceed \$13.2 million to reflect a

1 total amount of Gulf's COVID costs as of June 30th  
2 of 2021.

3 The parties have also agreed in the settlement  
4 that Gulf Power will be allowed to amortize that  
5 regulatory asset over three years through the Fuel  
6 and Purchase Power Cost Recovery Clause mechanism  
7 beginning with the factors established for the  
8 calendar year 2022.

9 On behalf of Gulf Power, we respectfully ask  
10 that you approve the Gulf Power-OPC joint motion  
11 that's before you, and we thank you for your time  
12 and attention.

13 Witness Terry Deason and Mitchell Goldstein  
14 from Gulf Power are available virtually to answer  
15 any questions you have regarding the settlement.

16 Thank you.

17 CHAIRMAN CLARK: Thank you very much, Mr.  
18 Baker.

19 Ms. Keating.

20 MS. KEATING: Thank you, Mr. Chairman.

21 Commissioners, I want to begin by thanking Mr.  
22 Gentry and his team at the Office of Public  
23 Counsel, notably Ms. Christensen, for working with  
24 us to negotiate the settlement that's before you  
25 today.

1           I would also like to express FPUC Chesapeake  
2           Companies appreciation to the Commission staff for  
3           facilitating our presentation of it for your  
4           consideration. The settlement you see is the  
5           product of thoughtful and very detailed  
6           negotiations that took place in tandem with the  
7           preparation for the hearing that was originally  
8           scheduled to be held on June 16th.

9           Commissioners, as you have already heard from  
10          Mr. Baker, and as you are well aware, the prolonged  
11          and profound impact of COVID-19 on the state is  
12          going to be felt for a long time, but I would like  
13          to provide some background on how we got to where  
14          we are today.

15          At the outset, with the earliest indications  
16          that COVID-19 was spreading from other countries,  
17          FPUC Chesapeake Companies responded quickly by  
18          implementing enhanced safety measures, including  
19          among other things, enabling as many employees as  
20          possible to work from home; canceling all business  
21          travel; instituting health reporting protocols;  
22          providing paid time off for employees that tested  
23          positive or were exposed; providing personal  
24          protective equipment, or PPE, for all employees;  
25          and implementing social distancing practices.



1           The company's field operations teams that were  
2           essential workers and required to go out into the  
3           field were provided social distancing and health  
4           protection training, as well as the necessary PPE  
5           and disinfectant supplies.

6           These safety protocols were critical to  
7           protect the health and safety of both the company's  
8           customers and its employees, but the FPUC Companies  
9           incurred, as a result, additional unanticipated  
10          incremental costs associated with these measures.

11          To respond to the economic impacts of the  
12          pandemic, the FPUC Companies proactively suspended  
13          customer late fees and disconnections, but the  
14          companies, too, experienced the economic impacts of  
15          the pandemic, primarily through incremental  
16          increases in bad debt expense for each of the FPUC  
17          Chesapeake business units.

18          To manage the implications of these increased  
19          expenses, the FPUC companies petitioned the  
20          Commission for approval of a regulatory asset in  
21          August of 2020. That was ultimately protested and  
22          set for a consolidated hearing with some of the  
23          requests made by Gulf Power.

24          While conducting discovery and preparing for  
25          hearing, the FPUC Companies and OPC seized every

1 opportunity to engage in negotiations regarding  
2 avenues for compromise. These good faith  
3 negotiations ultimately produced the agreement  
4 before you today.

5 The settlement terms really speak for  
6 themselves, but among the key terms are the parties  
7 agree that FPUC may establish a regulatory asset  
8 the amount of \$2,085,759, which will be deemed the  
9 appropriate amount as of June 30th, 2021.

10 Certain categories of costs incurred prior to  
11 June 30th are considered recovered for COVID-19  
12 related savings, and therefore they won't be  
13 included in the regulatory asset.

14 FPUC will not recover any further amounts of  
15 the regulatory asset after June 30th, and any  
16 incremental amounts that are incurred after that  
17 date will be considered a separate event by both  
18 parties.

19 In addition, the settlement contemplates that  
20 the FPUC Companies will be allowed to amortize over  
21 two years, and beginning with the factors  
22 established for calendar year 2022, recover the  
23 costs for the PGA and swing service mechanisms for  
24 its natural gas business units, and through the  
25 fuel clause mechanism for the electric division.

1           Commissioners, the FPUC Chesapeake Companies  
2           believe this settlement represents a good  
3           compromise among the parties, permits regulatory  
4           certainty for the company and its customers, and  
5           avoids the unnecessary expense of continuing  
6           through the full litigated hearing process. Taken  
7           as whole, FPUC and OPC agree that this settlement  
8           is in the public interest and should be approved  
9           with that modification.

10           Mr. Chairman, the companies' witnesses Michael  
11           Galtman and Derrick Craig are here to address any  
12           questions the Commission may have about the  
13           proposed settlement. Mike Cassel, AVP for  
14           Regulatory Business is also here with us today.

15           Once your questions have been addressed, we  
16           believe this settlement will be ripe for a bench  
17           decision, and we ask respectfully that you approve.

18           CHAIRMAN CLARK: Thank you very much, Ms.  
19           Keating.

20           Ms. Christensen.

21           MS. CHRISTENSEN: Good morning, Commissioners.  
22           Patty Christensen for the Office of Public Counsel,  
23           representing the ratepayers of the Florida Public  
24           Utility Company, and Richard Gentry, the Public  
25           Counsel.

1            OPC would like to thank FPUC. We appreciate  
2            their working collaboratively with us to resolve  
3            the many issues in this matter, and to come to a  
4            resolution that is fair to the ratepayers as well  
5            as the utility.

6            On June 11th, 2021, OPC and FPUC filed a joint  
7            motion for approval of our stipulation and  
8            settlement, which resolves all of the issues in  
9            Docket No. 20200194 for the FPUC Electric Division,  
10           the FPUC Gas Divisions that include FPUC Fort  
11           Meade, Indiantown and the Chesapeake Florida  
12           Division.

13           In FPUC's COVID-19 petition filed August 11th,  
14           2020, the company asked to establish regulatory  
15           assets for the incremental costs associated with  
16           the COVID-19 pandemic for each of its natural gas  
17           and business -- electric business units. By order  
18           PSC-2020-0404-PAA, the Commission approved the  
19           company's request to establish a regulatory asset  
20           for incremental costs for the bad debt and safety  
21           related costs directly and solely attributable to  
22           the health, safety -- and safety of the company's  
23           employees and the customers during the pandemic,  
24           excluding lost revenue. OPC protested.

25           OPC conducted discovery to flesh out the costs

1 associated with the company's request and filed  
2 witness testimony in this docket. As a result of  
3 the OPC filing, the testimony of our expert witness  
4 conducting and reviewing the extensive discovery  
5 and reviewing all the testimonies filed. And in  
6 the spirit of compromise, and while maintaining our  
7 reservations regarding the creation of a regulatory  
8 asset, OPC believes that the proposed resolution of  
9 this docket is in the best interest of all of  
10 FPUC's customers. We believe this settlement  
11 represents a favorable outcome for the FPUC  
12 customers under the circumstances. In this regard,  
13 I will highlight some of the features of the  
14 settlement that we believe are beneficial to FPUC's  
15 ratepayers.

16 FPUC filed COVID-19 regulatory assets claimed  
17 for all categories of costs that was \$2,205,789 as  
18 of April 30th, 2021. The settlement reduced that  
19 regulatory assets balanced by \$1,120,030. FPUC's  
20 request was reduced through the settlement by  
21 deeming certain categories of costs in the amount  
22 of 352,227 recovered through COVID-19 related  
23 savings through June 30th, 2021, and deeming FPUC's  
24 request for hazard pay and lost opportunity for  
25 reducing insurance premiums in the amount of

1           \$767,803 through April 30th, 2021, recovered  
2           through COVID-19 related savings.

3           The settlement only allows for recovery in the  
4           regulatory assets for the incremental bad debt  
5           writeoffs, personal protective equipment, cleaning  
6           and business information services for remote  
7           working in the amount of \$2,085,759.

8           Because of these features, as well as others  
9           contained in the settlement, OPC believes that this  
10          commission should approve the settlement as being  
11          in the public interest resulting in fair, just and  
12          reasonable rates.

13          Thank you.

14          CHAIRMAN CLARK: Thank you, Ms. Christensen.  
15          Ms. Morse.

16          MS. MORSE: Thank you. And good morning, Mr.  
17          Chairman and Commissioners.

18          Again, I am Stephanie Morse with the Office of  
19          Public Counsel, which represents the customers of  
20          Gulf Power Company. We are offering a brief  
21          explanation of the settlement entered into by the  
22          parties and proposed to you in this proceeding, in  
23          the joint motion filed June 15th, 2021, and we  
24          would like to provide an explanation of why we  
25          believe the settlement serves the public interest.

1           The settlement decreases the company's  
2           original request in part to recognize the decrease  
3           in expenses related to COVID-19. Rather than the  
4           over \$20 million the company originally requested,  
5           the regulatory asset will be capped at \$13.2  
6           million pursuant to the settlement. Additionally,  
7           the customers will not be responsible for any  
8           alleged pandemic related expenses after June 30,  
9           2021.

10           Moreover, the customers' ultimate payments for  
11           Gulf's costs are further reduced because the  
12           carrying costs, or the unamortized amount of the  
13           regulatory asset, will be set at the embedded  
14           long-term cost of debt. The overall Gulf and  
15           post-merger FPL weighted average cost of capital  
16           after considering the tax effect from the equity  
17           component would have been much higher than the  
18           long-term cost of debt carrying costs achieved by  
19           the settlement.

20           This docket contained disputed issues of law  
21           and policy which have not been conceded by either  
22           party. As such, the settlement specifically  
23           provides that nothing in the settlement will have  
24           precedential value.

25           The settlement is not a statement or a

1 concession on the proper establishment or use of a  
2 regulatory asset under any circumstances. As such,  
3 OPC believes the settlement benefits the customers,  
4 and we ask you to approve the settlement.

5 Thank you, Commissioners, for your  
6 consideration.

7 CHAIRMAN CLARK: Thank you very much, Ms.  
8 Morse.

9 All right. Thank you all for your opening  
10 statements. We are going to take up the Gulf  
11 docket first and then move into the FPUC docket  
12 immediately following.

13 Staff, Gulf Power docket.

14 MR. STILLER: Staff has prepared a  
15 Comprehensive Exhibit List which includes Exhibits  
16 1 through 20. This unified comprehensive exhibit  
17 list contains all exhibits relevant to both Docket  
18 No. 20200151-EI and Docket No. 20200194-PU. The  
19 list and the identified exhibits have been provided  
20 to the parties, Commissioners and the court  
21 reporter.

22 Staff requests that the Comprehensive Exhibit  
23 List itself be marked as Exhibit No. 1, with all  
24 subsequent exhibits marked as identified on the  
25 list.



1           CHAIRMAN CLARK: All right. Exhibits are  
2           marked as identified.

3           (Whereupon, Exhibit Nos. 1-20 were marked for  
4           identification.)

5           MR. STILLER: The exhibits on the  
6           comprehensive exhibit list will be tendered in two  
7           groups by staff, each of which will correspond to  
8           the utility to which the exhibits pertain.

9           Turning first to Gulf Power Company, in Docket  
10          No. 20200151-EI, it is staff's understanding that  
11          the parties do not object to the entry of Exhibit 1  
12          through 4, 10 through 18 and 20 into the record.  
13          Staff requests that Exhibit 1 through 4, 10 through  
14          18 and 20 be entered into the record at this time.

15          CHAIRMAN CLARK: Is there any objection?  
16          Without objection --

17          MR. BAKER: No objection.

18          CHAIRMAN CLARK: -- they are in the record.

19          (Whereupon, Exhibit Nos. 1-4, 10-18 & 20 were  
20          received into evidence.)

21          CHAIRMAN CLARK: All right. Witnesses, Mr.  
22          Stiller.

23          MR. STILLER: It is staff's understanding that  
24          the prefiled testimony of all witnesses in this  
25          case has been stipulated to by all of the parties

1           and the witnesses excused from attending today's  
2           hearing. That being the case, staff would request  
3           that the prefiled direct and rebuttal testimony of  
4           Gulf witness Goldstein, the direct testimony of  
5           Gulf witness Deason, the rebuttal testimony of  
6           joint rebuttal witness Deason as it relates to  
7           Gulf, and the direct testimony of OPC witness  
8           Lawton be inserted into the record as though read  
9           in the order stated.

10                   Gulf witnesses Deason and Goldstein are  
11           available to speak in support of the settlement  
12           agreement and to answer any questions by the  
13           Commissioners.

14                   (Whereupon, prefiled direct testimony of  
15           Mitchell P. Goldstein was inserted.)

16

17

18

19

20

21

22

23

24

25

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

**GULF POWER COMPANY**

**DIRECT TESTIMONY OF MITCHELL P. GOLDSTEIN**

**DOCKET NO. 20200151-EI**

**APRIL 2, 2021**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

**TABLE OF CONTENTS**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

**I. INTRODUCTION.....3**

**II. BACKGROUND .....5**

**III. COVID-19 REGULATORY ASSET.....8**

## I. INTRODUCTION

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19

**Q. Please state your name and business address.**

A. My name is Mitchell Goldstein, and my business address is One Energy Place, Pensacola, Florida, 32520.

**Q. By whom are you employed and what is your position?**

A. I am employed by Gulf Power Company (“Gulf Power”)<sup>1</sup> as Vice President, Finance.

**Q. Please describe your duties and responsibilities in that position.**

A. I am responsible for Gulf Power’s finance organization, including financial accounting and internal and external reporting. As a part of these responsibilities, I ensure that Gulf Power’s financial reporting complies with requirements of Generally Accepted Accounting Principles (“GAAP”) and multi-jurisdictional regulatory accounting requirements.

**Q. Please describe your educational background and professional experience.**

A. I graduated from the Wharton School of the University of Pennsylvania in 1982 with a Bachelor of Science degree in Economics, *magna cum laude*, and from Harvard Business School in 1986 with a Masters of Business Administration degree, *with honors*. I began my working career with Strategic Planning Associates (“SPA”), a management consulting firm, in 1982, as a Research Analyst. I left SPA in 1984 to

---

<sup>1</sup>Gulf Power was merged into Florida Power & Light Company on January 1, 2021, but remains a separate ratemaking entity. On January 11, 2021, pursuant to Rule 25-9.044, F.A.C., FPL submitted a notice of the change in ownership of Gulf Power effective January 1, 2021 and FPL’s adoption and ratification of Gulf Power’s existing rates and tariffs on file with the Commission. FPL adopts the petition filed by Gulf Power in this docket.

1 attend business school, returned as an Associate in 1986, and was promoted several  
2 times, becoming Vice President in 1994. In 1995, I joined Campbell Soup Company  
3 as Director, Strategic Planning, and became Vice President and Chief Financial Officer  
4 of Vlasic Foods International, a company spun-off from Campbell, in 1998. I  
5 subsequently held the Chief Financial Officer position for several companies, including  
6 The Great Atlantic & Pacific Tea Company, Nice-Pak Products and Clear Channel  
7 Radio, before joining NextEra Energy in 2011 as Vice President, Finance, for the  
8 company's Nuclear division. I assumed my current responsibilities in January 2019.

9 **Q. Are you sponsoring any exhibits in this case?**

10 A. Yes, I am sponsoring Exhibit MG-1, which shows Gulf Power's COVID costs by  
11 category, broken out by the amounts incurred through February 2021 and the amounts  
12 forecasted to be incurred the remainder of 2021, based on Gulf Power's most recent  
13 forecast.

14 **Q. What is the purpose of your testimony?**

15 A. The purpose of my testimony is to support the amount of incremental costs, less savings,  
16 Gulf Power has incurred and reasonably anticipates incurring, associated with the  
17 COVID-19 pandemic through December 31, 2021. This includes how Gulf Power has  
18 accounted for these costs as a regulatory asset as well as calculations for determining  
19 incremental bad debt expense. In addition, I provide background on the extraordinary  
20 and unprecedented nature of the COVID-19 pandemic and highlight the actions Gulf  
21 Power undertook to support its customers and protect its employees and contractors  
22 from the impacts of the virus.

23

## II. BACKGROUND

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

**Q. What are the circumstances giving rise to Gulf Power’s petition in this matter?**

A. In late 2019, a severe outbreak of the Novel Coronavirus Disease 2019, or COVID-19, began. Since the beginning of the outbreak, COVID-19, has spread internationally and to all 50 U.S. states. COVID-19’s severity and transmissibility caused the World Health Organization to classify COVID-19 as a pandemic.

The State of Florida undertook numerous actions to reduce the virus’ impact on its residents. On March 1, 2020, Governor Ron DeSantis issued Executive Order number 20-51, directing the State Health Officer and Surgeon General to declare a public health emergency, and on March 9, 2020, the Governor issued Executive Order number 20-52 declaring the existence of a state of emergency in the State of Florida. On April 1, 2020, Governor DeSantis issued Executive Order number 20-91 (the “Safer at Home Executive Order”), requiring that “all persons in Florida shall limit their movements and personal interactions outside of their home to only those necessary to obtain or provide essential services or conduct essential activities.” The state of emergency has been extended by executive order (currently through April 2021).

**Q. Please explain the measures Gulf Power took to assist its customers in response to the pandemic.**

A. Gulf Power took numerous steps in assisting its customers with the impact of the pandemic. Among those many actions are the following:

- 1 • Gulf Power suspended customer disconnections for nonpayment from March 17,  
2 2020 through mid-November 2020.
- 3 • Gulf Power received Florida Public Service Commission (“Commission”)  
4 approval to implement a one-time decrease of approximately 40% for the typical  
5 residential customer bill in May 2020, as an accelerated return of an expected  
6 fuel over-recovery. Most business customers experienced a 40-50% decrease in  
7 their total bill.
- 8 • The Gulf Power Foundation made a \$500,000 donation to the three United Way  
9 organizations serving our region.
- 10 • The Gulf Power Economic Development Trust Fund contributed more than  
11 \$450,000 to the Northwest Florida Small Business COVID-19 Recovery Grant  
12 Program.
- 13 • Gulf Power made a \$100,000 donation to Project SHARE, which is a program  
14 administered by the Salvation Army that helps its customers pay their utility  
15 bills.

16 **Q. What were the effects of Gulf Power’s decision to suspend customer disconnects?**

17 A. As I mentioned, Gulf Power’s suspension of customer disconnects remained in place  
18 for over eight months, which had the effect of dramatically increasing Gulf Power’s  
19 accounts receivable. For example, Gulf Power’s accounts receivable on November 28,  
20 2020, shortly following the resumption of disconnects, was \$103 million, which is 36%  
21 higher than the balance of \$76 million on December 31, 2019. Even more impactful  
22 was the increase in bills aged over 60 days, which rose 10-fold from \$2 million on  
23 December 31, 2019 to \$23 million on November 28, 2020. This 10-fold increase in



1 accounts receivable aged over 60 days demonstrates the unprecedented and  
2 extraordinary nature of COVID-19, the effects of which were not anticipated or  
3 accounted for in base rates.

4  
5 With the resumption of disconnects since November, the level of receivables aged over  
6 60 days has declined to \$19 million as of February 28, 2021. This change is reflected  
7 in the current reserve for uncollectible accounts receivable, the current bad debt  
8 expense and the 2021 forecast incremental bad debt expense noted in Exhibit MG-1.

9 **Q. Please explain the measures Gulf Power took to address safety as a result of**  
10 **COVID-19.**

11 A. Gulf Power also undertook and continues to undertake safety-related actions to ensure  
12 its employees, contractors, and customers are protected from COVID-19. To this end,  
13 Gulf Power has obtained materials and equipment to limit the potential spread of  
14 COVID-19 and has implemented a variety of practices at its facilities based on  
15 recommendations from the United States Centers for Disease Control and Prevention  
16 and Florida Department of Health. I provide further details about these efforts and their  
17 costs later in my testimony.

18 **Q. Please explain why Gulf Power requested the establishment of a regulatory asset**  
19 **in this proceeding.**

20 A. Although Gulf Power was able to implement various measures to assist its customers  
21 during the pandemic, Gulf Power has incurred incremental operating costs that were  
22 not contemplated when base rates were last reset. Therefore, due to this unique and  
23 extraordinary event beyond Gulf Power's control, Gulf Power petitioned for deferral

1 of the incremental operating costs and to seek recovery through rates at a later time.  
2 Gulf Power's request was preliminarily approved by the Commission in Order No.  
3 PSC-2020-0406-PAA-EI, issued October 27, 2020, which is the subject of the Office  
4 of Public Counsel's protest petition.

5

6

### III. COVID-19 REGULATORY ASSET

7

8 **Q. What operating costs are being recorded by Gulf Power into the COVID-19**  
9 **regulatory asset?**

10 A. Gulf Power has incurred two types of costs due to the impacts of COVID-19: 1)  
11 incremental bad debt expense and 2) incremental operating costs to preserve the health  
12 and safety of its employees, contractors and customers. Both types of costs are being  
13 deferred in Account 182.3, Other Regulatory Assets.

14 **Q. Please explain how Gulf Power calculated the incremental bad debt expense**  
15 **attributable to COVID-19.**

16 A. For those months which have been completed (April 2020 through February 2021), to  
17 determine the incremental bad debt expense related to COVID-19 each month, we  
18 compared the actual bad debt expense for that month to the average bad debt in the  
19 corresponding month in the three preceding years (2017, 2018, 2019). The difference  
20 between these amounts is the incremental bad debt expense for that month (*e.g.*,  
21 incremental bad debt expense for April 2020 would be the total bad debt expense for  
22 that month less the three-year average of April 2017, 2018 and 2019).

23

1 For months which are not yet completed and for which we have forecasted costs (March  
2 2021 through December 2021), we forecasted the bad debt expense expected for each  
3 month, based on the most recent information available following the end of February  
4 2021. To determine the incremental bad debt expense for these months, we compared  
5 the forecast of bad debt expense for each month to the average bad debt in the  
6 corresponding month during 2017, 2018 and 2019, and the difference between these  
7 amounts is the incremental bad debt expense forecasted for that month

8  
9 For the months of 2020, we made one adjustment to the above calculation of  
10 incremental bad debt expense. During 2020, Gulf Power implemented a new Customer  
11 Account Management System (“CAMS”) and suspended customer disconnects during  
12 the transition to the new system (January through March 2020). As such, pre-COVID,  
13 Gulf Power anticipated an increase to historic levels of bad debt expense due to this  
14 brief suspension of disconnects. Thus, as more specifically explained below, Gulf  
15 Power reduced the amount recorded to the COVID-19 regulatory asset by \$71,853 each  
16 month during 2020 due to the suspension of customer disconnects that occurred during  
17 Gulf Power’s CAMS implementation. This adjustment does not apply in 2021 because  
18 the CAMS implementation was completed in early 2020.

19 **Q. Please explain how Gulf Power accounted for the reduction in the COVID-19**  
20 **regulatory asset related to the CAMS.**

21 A. Prior to the onset of COVID-19, Gulf Power upgraded its customer billing and  
22 communication system, completing the implementation of CAMS during February  
23 2020. During the final implementation phase, beginning January 2020, customer

1 disconnects were suspended, with the plan that disconnects would be restarted at the  
2 end of March 2020.

3

4 Gulf Power anticipated this pre-COVID-19 disconnect suspension would increase bad  
5 debt expense for the full year of 2020 to \$4,439,337, an increase of \$862,231 over the  
6 2017-2019 three-year average of \$3,577,105. Therefore, Gulf Power reduced the  
7 monthly amount of incremental bad debt expense recorded in the COVID-19 regulatory  
8 asset in 2020 by \$71,853, which is an average monthly amount based on the estimated  
9 full year increase of \$862,231.

10 **Q. Please explain what types of operating costs comprise Gulf Power's safety-related**  
11 **COVID-19 costs.**

12 A. As I mentioned, Gulf Power has undertaken and continues to undertake significant  
13 actions, and incur related costs, to preserve the health and safety of its employees,  
14 contractors, and customers. These safety-related actions have included: (1) monitoring  
15 the health and body temperatures of employees and contractors at its generating  
16 facilities, major field locations, and offices; (2) testing employees for COVID-19 and  
17 antibodies; (3) making modifications to facilities such as restrooms, break areas, and  
18 office configurations to ensure clean, sanitary, and touch free access; (4) obtaining  
19 personal protective equipment such as masks and gloves; and (5) signage on buildings  
20 and trucks to encourage social distancing and other COVID-related safety protocols.

21 **Q. Are there any COVID-related cost savings Gulf Power has recorded to the**  
22 **COVID-19 regulatory asset?**

23 A. Yes. Gulf Power has reduced the COVID-19 regulatory asset by achieved savings in

1 travel and meals expenses and in medical expenses.

2 **Q. Has Gulf Power received any government assistance for COVID-19 costs?**

3 A. No. Gulf Power has not received any government assistance for COVID-19 costs.

4 **Q. When did Gulf Power begin recording amounts to the COVID-19 regulatory**  
5 **asset?**

6 A. As approved by the Commission in Order No. PSC-2020-0406-PAA-EI, COVID-19-  
7 related costs and savings incurred after April 1, 2020 have been recorded to the  
8 COVID-19 regulatory asset. Such amounts have been reported to the Commission in  
9 a schedule included along with Gulf Power's monthly earnings surveillance reports,  
10 beginning in July 2020.

11 **Q. What is the current amount of the COVID-19 regulatory asset?**

12 A. As of February 28, 2021, the amount of the COVID-19 regulatory asset is \$17.6  
13 million, representing incremental bad expense and COVID-19-related operating  
14 expenses, reduced by savings for travel and meals expenses, as explained above.  
15 During March 2021, Gulf Power reviewed the status of savings on medical expenses  
16 achieved between April 2020 and February 2021. These savings were initially  
17 anticipated to be due to changes in timing, with the likelihood that such costs would  
18 increase in early 2021. Since no increase has occurred to date, Gulf Power made an  
19 entry in March 2021 to reduce the amount deferred to the COVID-19 regulatory asset  
20 by \$1.6 million, based on the savings achieved each month versus the planned expense  
21 for that month. Such reduction is reflected in Exhibit MG-1 as a savings in total costs  
22 incurred to date.

23

1 **Q. When does Gulf Power propose to cease deferring amounts to the COVID-19**  
2 **regulatory asset?**

3 A. Gulf Power proposes to cease deferring amounts to the COVID-19 regulatory asset on  
4 December 31, 2021, based on Gulf Power's forecast that the most significant impacts  
5 of COVID-19 will be concluded at that time, with accounts receivable and bad debt  
6 returning to historic levels and less need for the strict COVID operating protocols now  
7 in place.

8 **Q. What is the total amount of COVID-related cost that Gulf Power is proposing to**  
9 **defer?**

10 A. As shown on Exhibit MG-1, Gulf Power's current forecast is that it will defer \$20.7  
11 million through the end of 2021. This forecast is updated as of early March, based on  
12 actual results through February 2021 and the current outlook for the remainder of 2021.  
13 Gulf Power's outlook for forecasted safety-related costs and for COVID-related cost  
14 savings is informed by Gulf Power's 12 months of experience handling and anticipating  
15 COVID-related costs, and at this point in the pandemic are largely ascertainable. Gulf  
16 Power's outlook for forecasted incremental bad debt expense is based on Gulf Power's  
17 decades of experience in forecasting bad debt expense in light of current levels and  
18 aging of accounts receivable and economic forecasts. While economic forecasts are  
19 never certain and cannot be guaranteed, the anticipated COVID-related bad debt costs,  
20 like the safety-related costs, are also somewhat ascertainable now.

21 **Q. How does Gulf Power propose to recover the COVID-19 regulatory asset from**  
22 **customers?**

23 A. As discussed in FPL witness Fuentes's testimony filed in Docket No. 20210015-EI,

1 recovery of the COVID-19 regulatory asset is requested over a four-year period as part  
2 of its the base rate adjustment beginning in 2022.

3 **Q. How does Gulf Power propose to incorporate the outcome of the COVID-19**  
4 **regulatory asset in this proceeding into Docket No. 20210015-EI?**

5 A. Gulf Power has requested in the 20210015-EI docket that the Commission incorporate  
6 its decision in this proceeding before the record is closed in Docket No. 20210015-EI.

7 **Q. If the Commission determines that any portion of prudently incurred COVID-19**  
8 **costs should not be deferred as a regulatory asset, how does Gulf Power propose**  
9 **to record those costs?**

10 A. If the Commission determines that any portion of the prudently incurred COVID-19  
11 costs should not be deferred as a regulatory asset, then Gulf Power proposes to record  
12 those costs to above-the-line operations and maintenance expense.

13 **Q. Does this conclude your direct testimony?**

14 A. Yes.

1                   (Whereupon, prefiled rebuttal testimony of  
2 Mitchell P. Goldstein was inserted.)

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25



**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

**GULF POWER COMPANY**

**REBUTTAL TESTIMONY OF MITCHELL P. GOLDSTEIN**

**DOCKET NO. 20200151-EI**

**May 21, 2021**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

## I. INTRODUCTION

1

2

3 **Q. Please state your name and business address.**

4 A. My name is Mitchell Goldstein. My business address is Gulf Power Company (“Gulf  
5 Power”), One Energy Place, Pensacola, Florida, 32520.

6 **Q. Did you previously submit direct testimony in this proceeding?**

7 A. Yes. I submitted written direct testimony on April 2, 2021, together with Exhibit MG-  
8 1.

9 **Q. Are you sponsoring any rebuttal exhibits in this case?**

10 A. No.

11 **Q. What is the purpose of your rebuttal testimony?**

12 A. The purpose of my rebuttal testimony is to address and correct erroneous statements  
13 made by the Office of Public Counsel (“OPC”) witness Daniel Lawton in his testimony  
14 related to: 1) Gulf Power’s accounting for the deferral of incremental bad debt expense  
15 related to the COVID-19 regulatory asset; and 2) whether Gulf Power’s request to defer  
16 costs to a regulatory asset satisfies the requirements under applicable accounting rules  
17 and the Uniform System of Accounts (“USOA”).

18

19

## II. BACKGROUND

20

21 **Q. What is the context of your rebuttal testimony?**

22 A. In my direct testimony, I supported the amount of incremental costs, less savings, that  
23 Gulf Power has incurred and reasonably anticipates incurring, associated with the

1 COVID-19 pandemic. I made clear that the costs from April 2020 through February  
2 2021 were the actual amounts that Gulf incurred and that amounts from March 2021  
3 through December 2021 were forecast amounts based on the best information available  
4 at that time.

5  
6 For the forecast amounts, Gulf Power's intention has always been that the amounts  
7 deferred to the regulatory asset would be based on our actual experience during the  
8 remaining months of 2021. OPC witness Lawson has completely misread the context  
9 of Gulf Power's request.

10

11

### III. COVID-19 REGULATORY ASSET

12

13 **Q. OPC witness Lawton's testimony asserts that the amounts Gulf Power proposes**  
14 **to defer for bad debt expenses are based on estimates and therefore not actual bad**  
15 **debt written-off. Does his assertion have any impact on Gulf Power's proposal**  
16 **for the deferral of incremental bad debt expense requested in this Commission**  
17 **docket?**

18 A. No. Mr. Lawton's statements demonstrate a lack of understanding of Generally  
19 Accepted Accounting Principles ("GAAP") and how bad debt expenses are recorded.  
20 In addition, Mr. Lawton's statements indicate that he is not aware or does not  
21 understand that Gulf Power's accounting and recording of these expenses has no impact  
22 on Gulf Power's request to defer incremental bad debt expense to the COVID-19  
23 regulatory asset.

1 As noted in Gulf Power's response to OPC's discovery, Gulf Power's entries for bad  
2 debt expense each month are made to ensure the Company has a sufficient  
3 Uncollectible Accounts Receivable reserve to cover billed amounts which may be  
4 written-off in the future. The process ensures an appropriate matching of bad debt  
5 expense with the period in which the associated revenue is earned, recognizing that the  
6 actual write-offs for specific uncollectible account balances take place several months  
7 later.

8  
9 Gulf Power's forecast in each month for the amount of accounts receivable that will  
10 ultimately be written-off (and therefore that month's bad debt expense) is based on  
11 several factors, including, prior accounts receivable balances, the age of the balances,  
12 recent collections activity, and the overall economic outlook. Thus, Gulf Power's bad  
13 debt expense each month reflects an expectation on the magnitude of customer  
14 accounts which will not be collected timely and will be disconnected, as well as the  
15 proportion of the outstanding balances which will ultimately be written-off. In each  
16 subsequent month, prior estimates are trued-up based on experience with actual write-  
17 offs and changes in future outlook.

18  
19 As such, each month's bad debt expense explicitly incorporates experience and data  
20 from actual write-offs. Gulf Power has decades of experience with billing and  
21 collections, and with the process of truing-up estimates based on actual write-offs. This  
22 experience provides an appropriate basis for the bad debt expense incurred to date and  
23 forecast to be incurred in 2021.

1 In contrast to OPC witness Lawton's erroneous statements, Gulf Power's accounting  
2 approach with respect to estimating bad debt reserves is consistent with the requirements  
3 under GAAP.

4 **Q. Do you agree with OPC witness Lawton's contention that Gulf Power's bad debt**  
5 **estimates are overstated, not reflecting rapid economic recovery through 2021?**

6 A. No. Gulf Power's estimate of the amount of incremental bad debt expense to be deferred  
7 to the regulatory asset is based on: 1) Gulf Power's actual experience to date; 2) current  
8 levels and aging of accounts receivable; and 3) a forecast of economic activity and  
9 customer behavior through 2021. The first two of these factors is known. As for the  
10 third factor, the forecast used by Gulf Power is based on the best information available  
11 at this time.

12 **Q. Will the forecast of economic activity and customer behavior affect the actual**  
13 **amount of the deferral of incremental bad debt expense requested in this**  
14 **proceeding?**

15 A. No. In the hypothetical case posed by OPC witness Lawton, reflecting a more rapid  
16 economic recovery through 2021, it is possible our actual bad debt expense would be  
17 lower than our current forecast. It is, of course, possible to pose other hypothetical  
18 situations including the opposite scenario where our actual bad debt expense is  
19 ultimately higher than our current forecast. In any event, as I discussed above, the actual  
20 amount that Gulf Power defers to the regulatory asset will reflect its actual bad debt  
21 experience based on actual events between now and the end of 2021.

1 **Q. OPC witness Lawton indicates in his testimony that the amount that Gulf Power**  
2 **proposes to defer to the regulatory asset does not satisfy requirements of the**  
3 **USOA and therefore should be denied. Do you agree with this statement?**

4 A. No, I do not agree. Based on my review of the USOA, the 5% threshold referenced by  
5 Mr. Lawton is only applicable to extraordinary items and has nothing to do with  
6 regulatory assets. The USOA definition for Regulatory Assets and Liabilities  
7 establishes that they can be created by “rate actions of regulatory agencies,” with no  
8 quantitative standard required for the magnitude of such Regulatory Assets. Further,  
9 the account description for Account 182.3 Other Regulatory Assets does not have a 5%  
10 or any other quantitative standard, leaving it to a regulatory agency to define what is  
11 permissible as a Regulatory Asset.

12 **Q. Does this conclude your rebuttal testimony?**

13 A. Yes.

1                   (Whereupon, prefiled direct testimony of J.  
2 Terry Deason was inserted.)

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

**GULF POWER COMPANY**

**DIRECT TESTIMONY OF J. TERRY DEASON**

**DOCKET NO. 20200151-EI**

**APRIL 2, 2021**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23



**TABLE OF CONTENTS**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

**I. INTRODUCTION.....3**

**II. COVID PANDEMIC AND EFFECTS ON UTILITIES .....4**

**III. ESTABLISHMENT OF A REGULATORY ASSET .....6**

**IV. GUIDING COMMISSION POLICY AND PRECEDENT.....8**

## I. INTRODUCTION

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

**Q. Please state your name and business address.**

A. My name is Terry Deason. My business address is 4377 NW Torreya Park Road, Bristol, Florida 32321.

**Q. By whom are you employed and in what capacity?**

A. I am self-employed as an independent consultant specializing in the fields of energy, telecommunications, water and wastewater, and public utilities generally.

**Q. Please describe your educational background and professional experience.**

A. I have more than 43 years of experience in the field of public utility regulation spanning a wide range of responsibilities and roles. I served a total of seven years as a consumer advocate in the Florida Office of Public Counsel (“OPC”) on two separate occasions. In that role, I testified as an expert witness in numerous rate proceedings before the Florida Public Service Commission (“Commission”). My tenure of service at OPC was interrupted by six years as Chief Advisor to Florida Public Service Commissioner Gerald L. Gunter. I left OPC as its Chief Regulatory Analyst when I was first appointed to the Commission in 1991. I served as Commissioner on the Commission for 16 years, serving as its chairman on two separate occasions. Since retiring from the Commission at the end of 2006, I have been providing consulting services and expert testimony on behalf of various clients, including public service commission advocacy staff, county and municipal governments, and regulated

1 utility companies. I have also testified before various legislative committees on  
2 regulatory policy matters. I hold a Bachelor of Science Degree in Accounting,  
3 summa cum laude, and a Master of Accounting, both from Florida State  
4 University.

5 **Q. For whom are you appearing as a witness?**

6 A. I am appearing as a witness for Gulf Power Company (“Gulf Power”).<sup>1</sup>

7 **Q. What is the purpose of your testimony?**

8 A. The purpose of my testimony is to support the use of a regulatory asset approach  
9 to appropriately address the net incremental bad debt and safety-related cost  
10 increases associated with the COVID-19 pandemic (the “COVID Costs”). I do  
11 this from an overall regulatory policy perspective. Gulf Power Witness  
12 Goldstein will address specific amounts and accounting entries pertaining to the  
13 associated regulatory asset.

14

## 15 II. COVID PANDEMIC AND EFFECTS ON UTILITIES

16

17 **Q. At a national level, what financial impact has the COVID-19 pandemic had on**  
18 **utilities?**

19 A. The pandemic has caused significant adverse financial impacts across the entire

---

<sup>1</sup> Florida Power & Light Company (“FPL”) and Gulf Power were merged legally on January 1, 2021, but Gulf Power continues to exist as a separate ratemaking entity. On January 11, 2021, pursuant to Rule 25-9.044, F.A.C., FPL submitted a notice of the change in ownership of Gulf Power effective January 1, 2021 and FPL’s adoption and ratification of Gulf Power’s existing rates and tariffs on file with the Commission.

1 economy, including utilities. A cursory review of regulatory proceedings across the  
2 country involving utilities reveals a sweeping need to address these impacts.

3 **Q. Have those impacts been felt by Florida utilities, as well?**

4 A. Yes, Florida utilities are not immune to these impacts.

5 **Q. What sort of impacts have Florida utilities incurred due to the pandemic?**

6 A. The impacts generally fall into one of two major categories. The first, which I will call  
7 financial impacts, include such things as increased financial uncertainty, lost revenues,  
8 and increased bad debts. The second, which I will call operational impacts, include  
9 increased costs incurred to protect customers, employees, and the public generally from  
10 the spread of the COVID-19 virus and to maintain reliable service to customers. These  
11 costs would include the cost of such things as personal protective equipment, enhanced  
12 sanitation efforts, and increased security measures.

13 **Q. If no recording mechanism such as a regulatory asset is established, what would  
14 be the impact on Gulf Power?**

15 A. Gulf Power's current rates were not set to recover such unanticipated increased costs.  
16 As such, these costs will not ever be recovered in rates unless they are identified and  
17 booked into a regulatory asset. Even booking them into a regulatory asset does not  
18 insure their ultimate recovery. It does, however, provide a tool to enable eventual  
19 recovery, should the Commission so decide. It should also be noted that some adverse  
20 financial impacts, such as increased financial uncertainty and lost revenues, will be  
21 manifest regardless of whether a regulatory asset is created. This is another reason why  
22 it is so imperative that a regulatory asset is approved for the COVID Costs.

1 **Q. Not every utility in Florida has requested the establishment of a regulatory asset**  
2 **for these costs. Should this have any bearing on Gulf Power's request to establish**  
3 **a regulatory asset?**

4 A. No. Each utility is different in its circumstances, including such things as rate cases and  
5 settlements. As such, a decision by one utility to not seek a regulatory asset should not  
6 be used as an indication that another utility, such as Gulf Power, is not needful of a  
7 regulatory asset.

8

9 **III. ESTABLISHMENT OF A REGULATORY ASSET**

10

11 **Q. What is the Commission's authority to allow for the creation of a regulatory asset?**

12 A. Essentially all Commission authority is derived from Florida Statutes and Court  
13 decisions impacting the interpretation and implementation of those statutes over time.  
14 Under Florida Statutes, the Commission is enabled to liberally construe its authority to  
15 regulate in the public interest. As such, the Commission has significant discretion in  
16 establishing fair and reasonable rates and certainly can exercise its discretion to create a  
17 regulatory asset where it is appropriate to do so.

18 **Q. Under what circumstances has the Commission exercised its discretion to**  
19 **establish regulatory assets?**

20 A. The Commission has the authority and responsibility to set rates that are fair and  
21 reasonable to both customers and investors. In so doing, the Commission has created  
22 regulatory assets when they are required or otherwise facilitate rates that are fair and  
23 reasonable. The Commission has created regulatory assets for various reasons, such as

1 situations which have caused unexpected increase in costs (often caused by major events  
2 outside of management's control). The Commission has also used regulatory assets to  
3 accumulate known cost increases that should be recovered but are difficult to quantify  
4 and may exist for an unknown duration. And in other situations, the Commission has  
5 used regulatory assets to spread costs over several years to mitigate adverse impacts in  
6 any one year. Often regulatory assets are created for all or a combination of the  
7 situations I just described.

8 **Q. Are the costs that Gulf Power has incurred due to the pandemic appropriate for**  
9 **recording into a regulatory asset?**

10 A. Yes. These costs are resulting from a major unanticipated event beyond management's  
11 control. A regulatory asset is an appropriate regulatory tool to segregate and tabulate  
12 these costs for future consideration and to spread them over a reasonable number of  
13 years to help mitigate their impact on customers.

14 **Q. What does the creation of a regulatory asset for the COVID Costs accomplish?**

15 A. It creates an appropriate mechanism to identify and tabulate the cost increases and to  
16 report them to the Commission periodically. It further allows a mechanism for the  
17 Commission to evaluate these costs for possible inclusion in rates at a future time and  
18 over an appropriate period.

19 **Q. Does the recording of costs to a regulatory asset ensure a utility will eventually**  
20 **recover the amounts recorded?**

21 A. No. The utility must still demonstrate that the increased costs are reasonable in nature  
22 and amount. The Commission retains its full authority to review the costs for their  
23 reasonableness and prudence before they are ever reflected in rates to customers. Gulf

1 Power witness Goldstein addresses the reasonableness and prudence of the COVID  
2 Costs addressed in Gulf Power's request to establish a regulatory asset.

3

4 **IV. GUIDING COMMISSION POLICY AND PRECEDENT**

5

6 **Q. Is the request of Gulf Power to establish a regulatory asset for the COVID Costs**  
7 **consistent with Commission policy and precedent?**

8 A. Yes, Gulf Power's COVID-19 request is consistent with prior Commission decisions.  
9 First, the increase in costs is being caused by a major event outside of management's  
10 control. And, secondly, the regulatory asset allows a prudency review by the  
11 Commission in this docket and further enables any approved costs to be spread over an  
12 appropriate period.

13 **Q. Given your long tenure on the Commission, did you ever experience an event**  
14 **similar to the COVID-19 pandemic?**

15 A. Yes, the terrorist attacks on September 11, 2001 come to mind. Like the COVID-19  
16 pandemic, these attacks negatively impacted the entire country and resulted in  
17 significant unforeseen cost increases for utilities in the form of increased security costs  
18 at nuclear power plants. And like efforts to prevent the spread of the virus, preventing  
19 attacks on nuclear power plants was seen to be a matter of national interest and great  
20 public concern.

21 **Q. How did the Commission address the increased security costs at nuclear power**  
22 **plants?**

23 A. The Commission recognized that increasing security at nuclear power plants was in the

1 public interest and authorized a mechanism to allow for recovery of the unforeseen cost  
2 increases.

3 **Q. Did the mechanism to allow for cost recovery include the use of a regulatory asset?**

4 A. No, the Commission used a more immediate form of cost recovery through the fuel and  
5 purchased power adjustment clause. The Commission used the fuel adjustment clause  
6 because of the linkage between keeping nuclear power plants online and saving fuel  
7 costs. Had it not been for this linkage, in my opinion the Commission would have  
8 considered and in all likelihood would have authorized the creation of a regulatory asset  
9 for these costs. This is because the two approaches are analogous.

10 **Q. How are they analogous?**

11 A. First, both events reflect an event beyond management's control that could not have  
12 been reasonably anticipated when base rates were last set and, therefore, should be  
13 viewed as necessary and prudent costs recoverable by the utility. Second, they both  
14 involve the recovery of costs incurred to prevent further negative outcomes of great  
15 public concern. Here, the Commission should recognize that customers benefit from a  
16 utility's proactive steps to respond to an emergency event and maintain reliable service,  
17 in this case the COVID-19 pandemic. Incremental cost recovery of reasonable  
18 incremental COVID-19 costs furthers this policy and provides regulatory stability for  
19 utilities that must respond to such unforeseen events. And third, they both implemented  
20 a mechanism to identify, tabulate, and report the associated costs. The only difference  
21 is that the nuclear security costs were subject to a true-up via the inherent workings of  
22 the fuel adjustment clause, while the COVID-19 costs will be "trued-up" when there is  
23 a request to include them in base rates. It should also be noted that the increased nuclear



1 security costs were eventually allowed to be included in base rates and were taken out  
2 of the fuel adjustment clause.

3 **Q. Did the Commission recognize that the nuclear security costs were not clearly**  
4 **defined at the time of their initial inclusion in the fuel adjustment clause?**

5 A. Yes. Even though they were not clearly defined at the time, the Commission determined  
6 it was important to send an expeditious and appropriate message to Florida's utilities.

7 **Q. What was the message delivered by the Commission?**

8 A. The message was that the Commission encourages utilities to protect their generation  
9 assets in extraordinary emergency conditions.

10 **Q. Will the approval of Gulf Power's request to create a regulatory asset for the**  
11 **COVID Costs also send a message?**

12 A. Yes. It will send the message that the Commission encourages its utilities to  
13 expeditiously take all reasonable steps in an emergency situation to protect customers,  
14 employees, and contractors, and to continue to provide customers with reliable service.  
15 This encouragement would be evidenced by the fact that all reasonable costs will  
16 eventually be eligible for review and potentially allowed to be recovered in rates.

17 **Q. Is there any harm done to Gulf Power or its customers by denying Gulf Power's**  
18 **request to establish a regulatory asset for the COVID-19 costs?**

19 A. Yes, in addition to those consequences mentioned by Gulf Power Witness Goldstein,  
20 Gulf Power would be denied cost recovery for doing the right thing for its customers  
21 and employees. This would send the message that the Commission does not support  
22 utilities expeditiously taking all reasonable steps to protect customers and to continue to  
23 provide reliable service to customers in an emergency situation.

1 **Q. What do you mean by doing the right thing?**

2 A. I am referring to the steps Gulf Power took to prevent the spread of the virus, to continue  
3 to provide reliable service, and steps taken to assist customers facing hardships due to  
4 the pandemic. These measures were taken even though the resulting increased costs  
5 were not budgeted and not included in rates. Actions taken to directly assist customers  
6 included the temporary suspension of disconnections for nonpayment, the accelerated  
7 flow-back of fuel cost savings, and increased customer outreach and facilitation of  
8 access for customers to resources for assistance.

9 **Q. Does this conclude your direct testimony?**

10 A. Yes.

1                   (Whereupon, prefiled rebuttal testimony of J.  
2 Terry Deason was inserted.)

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

**GULF POWER COMPANY**

**FLORIDA PUBLIC UTILITIES COMPANY**

**REBUTTAL TESTIMONY OF J. TERRY DEASON**

**DOCKET NOS. 20200151-EI AND 20200194-PU**

**MAY 21, 2021**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

1 **I. INTRODUCTION**

2

3 **Q. Please state your name and business address.**

4 A. My name is Terry Deason. My business address is 4377 NW Torreya Park Road,  
5 Bristol, Florida 32321.

6 **Q. Did you previously submit direct testimony in this proceeding?**

7 A. Yes. I submitted written direct testimony on April 2, 2021, on behalf of Gulf Power  
8 Company (“Gulf Power”).<sup>1</sup> In my direct testimony, I supported the use of a regulatory  
9 asset approach from an overall regulatory policy perspective to appropriately address  
10 the net incremental bad debt and safety-related cost increases with the COVID-19  
11 pandemic (the “COVID Costs”).

12 **Q. For whom are you submitting rebuttal testimony in this proceeding?**

13 A. Gulf Power and Florida Public Utilities Company (“FPUC”).

14 **Q. Do you have any exhibits to your rebuttal testimony?**

15 A. No.

16 **Q. What is the purpose of your rebuttal testimony?**

17 A. The purpose of my rebuttal testimony is to address policy arguments raised in the  
18 testimony of Office of Public Counsel (“OPC”) Witness Daniel Lawton filed in Docket  
19 Nos. 20200151-EI and 20200194-PU regarding the petitions for approval of regulatory  
20 assets associated with COVID-19 related costs filed by Gulf Power and FPUC.

---

<sup>1</sup> Florida Power & Light Company (“FPL”) and Gulf Power were merged legally on January 1, 2021, but Gulf Power continues to exist as a separate ratemaking entity. On January 11, 2021, pursuant to Rule 25-9.044, F.A.C., FPL submitted a notice of the change in ownership of Gulf Power effective January 1, 2021 and FPL’s adoption and ratification of Gulf Power’s existing rates and tariffs on file with the Commission.

1           **II. RESPONSES TO OPC WITNESS LAWTON’S POLICY ARGUMENTS**

2

3   **Q.     Do you agree with the testimony filed by OPC Witness Daniel Lawton?**

4   A.     No. As I will discuss further in greater detail in my rebuttal testimony, Mr. Lawton  
5           does not correctly describe and apply Commission policy and precedent for creation  
6           and approval of a regulatory asset to address significant unforeseeable costs such as the  
7           costs experienced with the COVID-19 pandemic. Following Mr. Lawton’s  
8           recommendations would distort the existing balance between customers and  
9           shareholders and place unnecessary and burdensome requirements that would impede  
10          the Commission’s ability to proactively respond to emergency conditions and set rates  
11          which are fair and reasonable. I do agree with Mr. Lawton’s testimony that the COVID  
12          Costs are unusual, infrequent, and were not previously recognized or included in rates.  
13          (See Direct Testimony of OPC Witness Daniel Lawton at page 7, lines 19-21.)

14   **Q.     OPC Witness Lawton’s testimony asserts that the Gulf Power and FPUC requests**  
15          **are designed only to enhance shareholder earnings. Do you agree?**

16   A.     No, and this is but one example of Mr. Lawton’s inappropriate focus on earnings instead  
17          of the fundamental purpose of a regulatory asset. Gulf Power’s and FPUC’s requests  
18          are not designed to enhance earnings, rather they are designed to maintain earnings at  
19          their existing levels as if the pandemic had not occurred. This is an appropriate outcome  
20          given that the COVID Costs are unusual, infrequent, and were not previously  
21          recognized or included in rates. The regulatory asset tool is also appropriate because  
22          it allows Gulf Power and FPUC management to promptly take all necessary and  
23          reasonable steps to protect customers, employees, and vendors from the impacts of the

1 pandemic without regard to potential impacts on the companies' earnings. As a matter  
2 of regulatory policy, customer protections should be the number one priority, and a  
3 utility's management should be afforded the tools to achieve this objective without the  
4 utility having to diminish its return. The use of a regulatory asset enables this to be  
5 accomplished. Gulf Power and FPUC are simply seeking to employ a valid and useful  
6 regulatory accounting tool that, if approved by the Commission, would serve to maintain  
7 existing earnings and protect their customers.

8 **Q. OPC Witness Lawton's testimony asserts that the Gulf Power and FPUC requests**  
9 **fail to balance the benefits and burdens between the customers and shareholders.**  
10 **Do you agree?**

11 A. No. Gulf Power's and FPUC's requests equitably balance the benefits and burdens  
12 between customers and shareholders. Without question, the COVID pandemic has  
13 placed burdens on both companies and their customers. The question is how to address  
14 these burdens within the context of a regulatory compact that is designed to balance the  
15 interests of utilities and their customers. Within that compact, utilities are required to  
16 provide quality service to all customers and at all times (even during pandemics). Also,  
17 within this compact, customers are required to pay reasonable rates which include the  
18 recovery of all necessary and prudent expenses (including pandemic-related expenses)  
19 plus a reasonable return on the investments made to serve them. Gulf Power's and  
20 FPUC's requests to use a regulatory asset to account for the net incremental costs of  
21 the pandemic are consistent with this compact and result in an equitable balance.

22 **Q. Please describe this equitable balance.**

23 A. As fully acknowledged by Mr. Lawton, the COVID Costs are not included in Gulf

1 Power's and FPUC's rates. Therefore, there needs to be a fair mechanism to allow for  
2 eventual recovery of these costs, as deemed appropriate by the Commission. The  
3 requested regulatory assets are the appropriate mechanisms to accomplish this. Gulf  
4 Power and FPUC customers receive the benefit of continued reliable and safe service  
5 during the pandemic, but also have the burden to pay for all reasonable and necessary  
6 costs. The customers also receive the benefit that any eventual rate impacts will likely  
7 be implemented post-pandemic over a number of years in the future when customers  
8 should be in a better position to pay. Gulf Power and FPUC have the burden to continue  
9 to provide safe and reliable service during the pandemic and to incur all reasonable and  
10 necessary costs of so doing. Gulf Power and FPUC will receive the benefit of eventual  
11 cost recovery with no adverse impact on their earnings, but certainly no enhancement  
12 of their earnings.

13 **Q. OPC Witness Lawton recommends that the Commission adopt a standard**  
14 **requiring a financial integrity test before a regulatory asset can be implemented**  
15 **in Florida. Should Witness Lawton's recommendation be adopted?**

16 A. No, such a standard would be ill-advised, and I oppose it for many reasons. First,  
17 requiring a financial integrity test before implementing a regulatory asset is not current  
18 Commission policy, and there are good reasons for this, which I detail below.  
19 Moreover, to adopt such a standard of general applicability in this proceeding would  
20 be beyond the scope of this proceeding.

21  
22 Second, such a standard is not consistent with ratemaking in Florida and the use of a  
23 rate of return range to set and monitor earnings. Florida typically sets rates at the mid-



1 point of the return on equity (“ROE”) range. It is hoped and anticipated that the  
2 resulting rates will be reasonable for multiple years, thereby avoiding the need for  
3 another rate case until the cumulative effect of the moderate swings in revenues and  
4 costs over several years results in earnings either above or below the ROE range. The  
5 range is not set to anticipate and allow for recovery of major infrequent, unanticipated,  
6 and essential costs, like responding to a pandemic. Applying Mr. Lawton’s standard  
7 would disrupt this approach and would likely result in more frequent rate cases for costs  
8 that could be appropriately recognized with a regulatory asset. This could result in  
9 more rate volatility and a loss of the rate-smoothing benefits of regulatory assets.

10

11 Third, Mr. Lawton’s recommended standard would be impractical and burdensome –  
12 essentially opening a relatively straight-forward request to establish a regulatory asset  
13 to a review of earnings and the rate case-type issues that would be sure to follow. This  
14 would add costs and ultimately delay a Commission decision. This is particularly  
15 troubling when time is of the essence to respond to an emergency situation like a  
16 pandemic.

17

18 Fourth, Mr. Lawton’s recommended standard could overly complicate matters and  
19 eliminate much needed Commission discretion to utilize regulatory assets. For  
20 example, the Commission regularly approves the deferral of rate case expenses from  
21 the period incurred and allows them to be recovered in rates over a number of years in  
22 the future. This would not be possible under Mr. Lawton’s standard because rates  
23 would have just been set, and it would be unlikely that the rate case expenses would

1 cause the affected utility to earn below its just established ROE range.

2 **Q. Are there other areas where adoption of OPC Witness Lawton's financial**  
3 **integrity standard could threaten established Commission practice?**

4 A. Yes. Witness Lawton's financial integrity standard would impact and potentially  
5 imperil any Commission action to approve use of deferred accounting to set fair and  
6 reasonable rates. A notable example would be hurricane restoration costs. Like a  
7 pandemic, hurricanes do not occur every year. However, when they do, their impacts  
8 can be catastrophic. The Commission has often included an allowance in rates to fund  
9 a storm damage reserve. When hurricane frequency or the severity of their impacts  
10 exceed those anticipated by the reserve, reserve deficiencies can and do result. In such  
11 situations, the Commission has allowed such costs in excess of the reserve (and  
12 amounts to replenish the reserve) to be deferred for future recovery through a surcharge  
13 mechanism. This is done without regard to the level of earnings currently being  
14 achieved by the effected utility. However, a financial integrity standard could threaten  
15 this well-established mechanism by making such deferred recovery subject to a  
16 mechanical financial standard as defined by Mr. Lawton.

17 **Q. How does OPC Witness Lawton define financial integrity?**

18 A. Mr. Lawton uses two approaches to define or measure financial integrity for purposes  
19 of his proposed financial integrity standard. His first approach is to require reported  
20 earnings to be below the bottom of the company's ROE range. Thus, his standard  
21 would be for the company in question to be on the verge of having to file a rate case  
22 before it would be eligible to seek a regulatory asset. In other words, he would expect  
23 a company to incur all of the unanticipated and significant costs to protect its customers

1 from a pandemic (or to restore service from a hurricane as the case may be) while  
2 limiting the recovery of such historical costs. His approach would only allow recovery  
3 of future costs that may still be incurred and included in a company's test year in a rate  
4 case. The only time a regulatory asset would be considered is if the company is eligible  
5 to file a rate case but chooses not to do so and gets authorization to establish a  
6 regulatory asset. However, the regulatory asset would be only for the amount of costs  
7 which cause earnings to fall below the minimum of the company's ROE range. This  
8 strikes me as being unfair and borderline punitive. It would certainly be inconsistent  
9 with Florida's regulatory approach of encouraging its utilities to do the right thing for  
10 its customers.

11 **Q. What is the second way that OPC Witness Lawton defines financial integrity?**

12 A. Mr. Lawton uses bond ratings and the ability of a company to access capital. He  
13 concludes that candidates for deferred accounting should be limited to those companies  
14 that have experienced bond rating reductions or otherwise experienced limitations on  
15 access to capital on reasonable terms. (See Direct Testimony of OPC Witness Daniel  
16 Lawton at page 47 lines 11-13.)

17 **Q. Do you agree with these qualifiers before a company could be eligible for deferred  
18 accounting?**

19 A. No. Access to capital on reasonable terms is essential for all companies, but especially  
20 for utilities which are by their nature capital intensive. Regulated utilities must provide  
21 service to all customers at all times and must have reasonable access to capital to fulfill  
22 this obligation, in both good times and bad. A strong bond rating is a good tool to  
23 maintain reasonable access to capital and is a prized possession which greatly benefits

1 customers and should be jealously guarded. Obtaining and maintaining such a rating  
2 takes sustained effort over a long period of time. However, it can be quickly eroded,  
3 to the detriment of a company's customers. Mr. Lawton's proposed approach to wait  
4 until there is a bond rating downgrade is analogous to favoring the use of the fire  
5 department to put out a fire over taking reasonable steps (building maintenance,  
6 installing sprinklers, etc.) to avoid a fire in the first place. In other words, the damage  
7 is already done under Mr. Lawton's approach, with great effort needed to repair and  
8 rebuild the damage.

9 **Q. What has been Florida's regulatory approach to bond ratings?**

10 A. Regulation in Florida has consistently recognized the need for strong bond ratings for  
11 its regulated utilities. This is founded in the fact that strong bond ratings are essential  
12 to enable access to capital needed to provide safe, efficient, and reliable service. In  
13 short, Florida has recognized that strong bond ratings are good for customers. As such,  
14 Florida has taken steps to proactively support bond ratings, where it can reasonably do  
15 so. I can think of no instance where Florida has made a conscious decision to deny  
16 regulatory support until there has been a bond rating downgrade.

17 **Q. Does OPC Witness Lawton cite a credit analysis report from Moody's?**

18 A. Yes, he cites a June 17, 2020 Update to Credit Analysis from Moody's. Based on his  
19 interpretation of this report, Mr. Lawton concludes there are no substantial risk issues  
20 for Gulf Power as a result of COVID-19.

21 **Q. Is OPC Witness Lawton's interpretation correct?**

22 A. The Moody's report needs to be viewed in the context in which it was presented. First,  
23 the Moody's report was written very early in the pandemic, at a time when the course

1 of the pandemic was unknown. In addition, the Moody's analyst had no actual  
2 information on the incremental bad debt and other COVID-related expenses that Gulf  
3 Power was incurring, making any of the report's conclusions preliminary.

4  
5 Second, the Moody's report was not presented as supporting a denial of deferred  
6 accounting for Gulf Power's COVID Costs. It was presented to investors within the  
7 context of Moody's understanding that Gulf Power is a Florida regulated utility and  
8 that this Commission's regulatory policies would impact recovery of COVID Costs.  
9 Moody's is fully aware of Florida's regulatory policies supporting credit quality and  
10 that Florida has used deferred accounting to permit possible recovery of such  
11 unanticipated expenses. I believe it is likely that Moody's took Florida's regulatory  
12 climate into consideration when issuing its report.

13 **Q. What would be the impact on Gulf Power's bond rating should the Commission**  
14 **adopt OPC Witness Lawton's standard to deny deferred accounting until there is**  
15 **a bond rating downgrade?**

16 A. A company's bond rating determination is intricate with many factors and metrics  
17 affecting the outcome. Included in this process would be both quantitative as well as  
18 qualitative considerations. A single decision on deferred accounting would not  
19 significantly "move the needle" on Gulf Power's bond rating. However, an adoption  
20 of a standard as proposed by Mr. Lawton would be a significant shift in Florida's  
21 regulatory climate and would be noted by Moody's and other bond rating agencies. It  
22 is fair to say that the adoption of such a standard would not be viewed favorably.

23

1 **Q. What does OPC Witness Lawton recommend for the general O&M savings, not**  
2 **related to COVID-19 impacts, achieved by Gulf Power since its last rate case?**

3 A. First, let me say that the O&M savings achieved by Gulf Power are precisely the type  
4 of efficiencies and cost-savings that Florida's regulatory approach incentivizes. Gulf  
5 Power was able to identify costs previously included in its rates and take managerial  
6 action to reduce them and create efficiencies and savings. However, Mr. Lawton  
7 recommends that the Commission take these savings, which it has encouraged, and use  
8 them to offset COVID costs. Such a position would clearly send the wrong message to  
9 utility management that it should not seek to reduce O&M expenses overall for the  
10 utility in the face of unusual and unforeseen costs such as the COVID Costs.

11 **Q. Beyond sending the wrong message, are there any other reasons why it would be**  
12 **improper to offset the COVID costs with O&M savings?**

13 A. Yes, there are at least three reasons. First, Mr. Lawton is mixing apples and oranges.  
14 The COVID Costs are unusual, infrequent, and were not previously recognized or  
15 included in rates. In contrast, the O&M costs which Gulf Power has reduced are usual  
16 in nature, frequently incurred, and were previously included in its rates. Second, the  
17 O&M savings achieved by Gulf Power were the result of managerial actions taken over  
18 which management had discretion and control. In contrast, the COVID Costs were the  
19 result of a pandemic over which management had no control. Management had no  
20 choice but to incur the costs or else it would fail its customers in terms of safety and  
21 reliability. Beyond that, Gulf Power had a moral responsibility to do what it could to  
22 prevent the spread of the virus. And third, Mr. Lawton's recommendation to offset Gulf  
23 Power's COVID Costs with its O&M savings is inconsistent with his recommendation

1 for FPUC.

2 **Q. What does OPC Witness Lawton recommend for FPUC?**

3 A. In an apparent reversal of positions, Mr. Lawton recommends that FPUC's cost  
4 increases since its last rate case be ignored. Mr. Lawton criticizes Gulf Power for not  
5 proposing a deferred credit for its cost savings. (See Direct Testimony of OPC Witness  
6 Daniel Lawton at page 9, lines 16-18.) While criticizing Gulf Power for not proposing  
7 a deferred credit for its cost savings, Mr. Lawton does not propose a deferred debit for  
8 FPUC's cost increases. He states that FPUC's failure to earn a reasonable return (for  
9 most of its business units) is not related to COVID-19 impacts, but rather, is related to  
10 other structural rate and cost recovery problems. (See Direct Testimony of OPC  
11 Witness Daniel Lawton at page 11, lines 18-22 and page 12, line 1.) Mr. Lawton further  
12 recommends that FPUC's COVID regulatory asset be determined without regard to its  
13 earnings. (See Direct Testimony of OPC Witness Daniel Lawton at page 12 lines 15-  
14 20.) This is clearly inconsistent with his financial integrity standard and his  
15 recommendation that Gulf Power's earnings should be considered to reject its requested  
16 regulatory asset.

17 **Q. Do you agree with OPC Witness Lawton?**

18 A. No, I cannot agree with a position which is internally inconsistent. However, I do agree  
19 that COVID Costs should not be increased for non-COVID cost increases. I likewise  
20 believe that COVID Costs should not be diminished for non-COVID cost savings, like  
21 Gulf Power's O&M savings. The overriding principle is that the regulatory asset  
22 should be only for COVID-related costs net of COVID-related savings, just as Gulf  
23 and FPUC are proposing. Non-COVID cost increases or non-COVID cost savings and

1 overall earnings levels are irrelevant to appropriately determine whether a COVID  
2 regulatory asset is appropriate.

3 **Q. Do you agree with Mr. Lawton that it would be a better regulatory practice for the**  
4 **utilities to not record deferred COVID Costs until after the Commission has a final**  
5 **order approving the requested deferred accounting and regulatory assets?**

6 A. No. Such an approach is completely impractical. This proceeding began last year and  
7 will not conclude until later this year. The vast majority of the COVID Costs at issue  
8 would likely not be available for recovery if the standard were to wait until a final order.  
9 The overriding considerations are two-fold. First, were the utilities correct to  
10 immediately take steps to protect their customers from the pandemic? The answer is  
11 yes, and regulatory procedure should not be an impediment for this outcome. Second,  
12 based on Commission precedent, is there a reasonable degree of confidence that such  
13 costs are eligible to be recorded as a regulatory asset? The answer is again, yes. This  
14 is particularly true in this case where there have been two previous orders approving the  
15 use of a regulatory asset for Gulf and one for FPUC, the last of which for each Company  
16 was protested. Simply stated, there should not be regulatory and/or procedural barriers  
17 to prevent the possibility of eventual recovery of all the necessary and prudent COVID  
18 Costs.

19 **Q. Does a utility's deferred accounting for costs like the COVID Costs prior to final**  
20 **Commission approval have a negative rate impact on utility customers?**

21 A. No. It simply allows the utility to track the costs subject to ultimate Commission  
22 approval.

23



1 **Q. Do you have any concluding thoughts on OPC Witness Lawton's proposals and**  
2 **recommendations?**

3 A. Yes. It is obvious that I have many disagreements with Mr. Lawton's proposals and  
4 recommendations. There is one revealing passage in Mr. Lawton's testimony which  
5 fairly encapsulates one of the most basic and fundamental reasons for my many  
6 disagreements. This passage is found in Mr. Lawton's introductory summary of his  
7 findings and conclusions related to Gulf Power's petition for approval of a regulatory  
8 asset. While this passage is included in his summary for Gulf Power, I believe it is fair  
9 to say that Mr. Lawton believes it is applicable to FPUC as well.

10

11 In this passage, Mr. Lawton concludes that Gulf Power (and any other regulated utility)  
12 should be treated like **all** other businesses in terms of business risk. He further concludes  
13 that any increases in expenses or decreases in revenues by exogenous factors should be  
14 borne by shareholders. (See Direct Testimony of OPC Witness Daniel Lawton at page  
15 7, lines 5-8.)

16

17 This statement and conclusion are inconsistent with the foundation for and the purposes  
18 of regulation, which is ultimately designed to protect customers and make regulatory  
19 decisions in their best long-term interests. Regulated utilities are fundamentally  
20 different from other businesses; hence they are regulated and need to be treated as such,  
21 consistent with sound and proven regulatory principles. It is too simplistic to conclude  
22 that all increases in expenses or reductions in revenues caused by exogenous factors  
23 should be borne by shareholders. I have discussed in my testimony that such changes

1           need to be viewed in light of the circumstances giving rise to those changes and in the  
2           context of the overall regulatory compact. As I describe in my testimony, decisions  
3           made inconsistent with that compact can be unfair, punitive, erode credit quality,  
4           potentially cause rate volatility, send incorrect signals to management, and limit needed  
5           Commission discretion. I further discussed how the use of a regulatory asset fairly  
6           balances the benefits and burdens of the COVID Costs between customers and  
7           shareholders, consistent with the regulatory compact. The ultimate goal of regulation  
8           is to have an essential service consistently provided at reasonable rates and at a high  
9           quality under all circumstances, including unforeseen ones like a pandemic. Mr.  
10          Lawton's recommendations are not consistent with this overall goal.

11       **Q. Does this conclude your rebuttal testimony?**

12       A. Yes.

1                   (Whereupon, prefiled direct testimony of  
2 Daniel J. Lawton was inserted.)

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 **DIRECT TESTIMONY OF**

2 **DANIEL J. LAWTON**

3 On Behalf of the Office of Public Counsel

4 Before the

5 Florida Public Service Commission

6 20200151-EI, 20200189-WS & 20200194-PU

7

8 **SECTION I: INTRODUCTION**

9

10 **Q1. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

11 **A.** My name is Daniel J. Lawton. My business address is 12600 Hill Country Boulevard,  
12 Suite R-275, Austin, Texas 78738.

13

14 **Q2. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND WORK**  
15 **EXPERIENCE.**

16 **A.** I have been working in the utility consulting business as an economist since 1983. My  
17 consulting engagements have included electric utility load and revenue forecasting,  
18 cost of capital analyses, financial analyses, revenue requirements/cost of service  
19 reviews, regulatory policy issues, and rate design analyses in litigated rate proceedings  
20 before federal, state and local regulatory authorities, and in court proceedings. I have  
21 worked with numerous municipal utilities developing electric rate cost of service  
22 studies for reviewing and setting rates. In addition, I have a law practice based in  
23 Austin, Texas. My main areas of legal practice include administrative law representing  
24 municipalities in electric and gas rate proceedings and other litigation and contract

1 matters. I have included a brief description of my relevant educational background and  
2 professional work experience in Exhibit DJL-1.

3  
4 **Q3. HAVE YOU PREVIOUSLY FILED TESTIMONY IN RATE PROCEEDINGS?**

5 **A.** Yes, I have, including a number of cases before the Florida Public Service Commission.  
6 A list of cases where I have previously filed testimony is included in Exhibit DJL-1. In  
7 these prior rate proceedings, I have addressed deferred accounting issues and the impact  
8 of the accounting requirements in the rate process.

9  
10 **A. BACKGROUND**

11  
12 **Q4. ON WHOSE BEHALF ARE YOU FILING TESTIMONY IN THIS**  
13 **PROCEEDING?**

14 **A.** I am filing expert testimony on behalf of the Office of the Public Counsel (“OPC”),  
15 which retained me to review and analyze the deferred accounting requests filed by the  
16 various Petitioners in consolidated Docket Nos. 20200151-EI, 20200189-WS, and  
17 20200194-PU. The Petitioners whose requests I will be addressing in this testimony  
18 are Gulf Power Company (“Gulf”), and the companies I collectively refer to in this  
19 testimony as Florida Public Utility Company (“FPUC”), i.e., Florida Public Utility  
20 Company (Electric Division), Florida Public Utilities Company (Gas Division), Florida  
21 Public Utilities Company – Indiantown (Gas Division), Florida Public Utilities  
22 Company – Ft. Meade (Gas Division), and Florida Division of Chesapeake Utilities

1 Corporation.<sup>1</sup>

2

3 **Q5. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

4 **A.** The purpose of my testimony in this proceeding is to address the alleged economic  
5 justification and potential regulatory policy impacts of the deferred accounting requests  
6 in these dockets. I will address each of the requested deferral amounts, earnings levels,  
7 and offsetting savings. In addition, as to each utility, I will address the deferral request  
8 as part of the business risk incorporated in the authorized equity return, the Company's  
9 financial integrity, and cash flow issues related to return and risk.

10

11 **Q6. WHAT MATERIALS DID YOU REVIEW AND RELY ON FOR THIS**  
12 **TESTIMONY?**

13 **A.** I have reviewed prior orders of the Florida Public Service Commission ("Commission"  
14 or "PSC"), the Petitioner's prior filings, Direct Testimony in these dockets, historical  
15 Earnings Surveillance Reports, other testimony and supporting schedules from other  
16 cases, depositions in this docket, Petitioner's responses to discovery requests, financial  
17 reports and other financial information available in the public domain. When relying  
18 on various sources, I have referenced such sources in my testimony and/or attached  
19 Exhibits and included copies or summaries in my exhibits and/or work papers.

<sup>1</sup> On or about March 30, 2021 Petitioner Utilities Inc. of Florida ("UIF") filed a Notice of Voluntary Dismissal Without Prejudice seeking to end its participation in this proceeding. At this time, the PSC has not issued an order regarding UIF's Notice. This testimony does not address UIF's petition.

1           **B.     SUMMARY**

2

3           **Q7.   WHAT STANDARDS SHOULD THE COMMISSION EMPLOY IN DECIDING**  
4           **WHETHER TO AUTHORIZE DEFERRED ACCOUNTING AND THE**  
5           **CREATION OF REGULATORY ASSETS IN THIS CASE?**

6           **A.**    Before authorizing deferred accounting some basic standards or rules of the road should  
7           be considered. I have identified three basic standards or requirements that go into the  
8           balance of the decision on deferred accounting. These three types of standards are: i)  
9           accounting requirements, ii) financial integrity requirements, and iii) the equity balance  
10          between customers and shareholder interest that all regulatory authorities must  
11          constantly weigh and evaluate.

12

13          By employing these three standards or guidelines, the Commission avoids permitting  
14          deferred accounting and the creation of regulatory assets without limitation. The  
15          regulatory authority should seek to avoid creating the expectation by regulated utilities  
16          that these unusual balances and expenses are always recoverable and part of the  
17          everyday regulatory process. The goal of the guidelines and standards is to avoid the  
18          normalization of a piecemeal, single-issue one-way approach.

19

20          Once rates are established through the test year ratemaking process, revenues,  
21          expenses, and investment will change through time, but the original rates stay in place  
22          until changed in the next rate case. Deferred accounting and the creation of a regulatory  
23          asset is not strictly a rate case proceeding, but rather it is an accounting procedure and

1 is a “single-issue” or “piecemeal” process. In this case, the subject utilities identified  
2 COVID-19 expenses that they contend were not previously included in revenue  
3 requirements or rates, along with a limited number of offsets (savings), to estimate an  
4 incremental COVID-19 expense deferral and creation of regulatory asset for future  
5 recovery. By eliminating the current expensing of these COVID-19 amounts (deferring  
6 to a regulatory asset for future expensing and collection), the utility’s current year  
7 financials and equity return are boosted. Nothing could be more single issue or  
8 piecemeal.

9  
10 But a deferred accounting order will carry with it a general presumption that the  
11 deferred costs, if prudent, are entitled to full recovery in rates (including the time value  
12 of money). The Commission’s assurance of the probability of recovery of a deferral is  
13 an important factor underlying the recognition of deferred accounting. Given the  
14 assurance of recovery requirement, the Commission should consider the total utility  
15 position, not just increased costs. For example, during 2020, Gulf had base O&M  
16 savings well over \$30 million.<sup>2</sup> These savings in O&M more than offset Gulf’s  
17 requested deferral.

18  
19 Obviously, it makes no sense to issue a deferred accounting order every time an  
20 expense or revenue item is different than anticipated in the rate setting process. Gulf  
21 could have filed a deferred accounting order request to share Gulf’s O&M savings with

<sup>2</sup> See NextEra Energy Website, Investor Relations, 4<sup>th</sup> Quarter and 2020 Results, Presentation, and Remarks 1/26/2021 at page 17. Base O&M savings were the primary driver of approximately 2 cents per share growth. 1.98333 billion shares times \$0.02 per share.



1 customers, but the Company did not make such a filing to share savings. Now, the  
2 Commission has the opportunity to consider these O&M savings at Gulf as part of the  
3 COVID-19 deferred accounting request. Deferred accounting cannot be the answer  
4 merely because a utility requests a cost increase. Deferred accounting should not be a  
5 one-way street.

6  
7 **1. GULF SUMMARY**

8  
9 **Q8. PLEASE SUMMARIZE YOUR FINDINGS AND CONCLUSIONS RELATED**  
10 **TO GULF’S PETITION FOR APPROVAL OF A REGULATORY ASSET.**

11 **A.** Gulf’s request for deferred accounting and the creation of “regulatory assets” and future  
12 amortization and collection of these deferred assets is not appropriate for several  
13 reasons and should be denied.

14  
15 First, the requested COVID-19 related deferred accounting requests may not satisfy the  
16 materiality requirements of the Uniform System of Accounts (“USOA”), and if the  
17 Commission determines the request is not material, the Gulf request should be denied.<sup>3</sup>

18  
19 Second, the deferral of these COVID-19 costs and the creation of regulatory assets is  
20 not necessary to maintain profits and financial integrity for Gulf, and all efforts to defer  
21 COVID-19 costs and create regulatory assets should cease until proven necessary.

22

<sup>3</sup> 18 CFR Part 101 General Instruction 7 “Extraordinary Items.”

1 Third, the COVID-19 costs provided by Gulf fail to identify any standards for approval,  
2 instead Gulf merely requested out of period costs solely because such costs are not  
3 included in existing rates.

4  
5 Fourth, Gulf like any regulated public utility, should be treated like **all** other businesses  
6 in terms of business risks. As business expenses and/or revenues rise and fall due to  
7 exogenous factors, shareholders bear the **business risk** in exchange for a previously  
8 authorized return and profit in a monopoly setting.

9  
10 Based on the above findings, I recommend that the Commission deny Gulf' request for  
11 a COVID-19 related accounting deferral order and deny the request for a COVID-19  
12 regulatory asset. The Gulf request provides nothing more than enhanced shareholder  
13 profits. Most importantly, Gulf's request fails to balance the benefits and burdens  
14 between the customers and shareholders. Instead, under Gulf's request, customers bear  
15 all burdens while shareholders capture all benefits.

16  
17 **Q9. DOES GULF'S DEFERRED ACCOUNTING REQUEST MEET THE**  
18 **ACCOUNTING STANDARDS?**

19 **A.** Under most estimates of COVID-19 costs, Gulf meets the materiality standard. The  
20 COVID-19 costs are i) unusual and ii) infrequent costs that were not previously  
21 recognized or included in rates. But the incremental COVID-19 expense (which  
22 includes offsets) is overstated for 2020. Given the issue with COVID-19 bad debt  
23 estimates discussed below, the 5 percent materiality threshold is met in the evaluations.

1 As I also discuss below, Gulf's financial integrity is not harmed; therefore, it is not  
2 important whether the preliminary accounting standards are ultimately met, as Gulf's  
3 financial integrity and profits are maintained without deferred accounting for COVID-  
4 19 costs, and so Gulf's Petition ultimately fails, regardless of the fact that the subject  
5 costs are unusual, infrequent, or not specifically identified in the last base rate case test  
6 year.

7  
8 **Q10. IS DEFERRED ACCOUNTING NECESSARY FOR GULF TO MAINTAIN**  
9 **FINANCIAL INTEGRITY?**

10 **A.** No deferred accounting is not necessary for Gulf to maintain its financial integrity. In  
11 terms of earnings, in 2020 Gulf's equity return exceeds the midpoint of the authorized  
12 level. Earnings in 2021 are projected to exceed 2020 levels. During 2021, Gulf is in the  
13 midst of a base rate case as part of Florida Power & Light Company ("FPL"), where  
14 all costs and revenues will be reviewed to set rates and profit levels for 2022 and  
15 beyond.

16  
17 **Q11. DID RATING AGENCIES ADDRESS THE GULF POWER FINANCIAL**  
18 **INTEGRITY AND COVID-19 IMPACTS DURING 2020?**

19 **A.** Yes. In a June 17, 2020 Update to Credit Analysis, Moody's viewed the Gulf Power  
20 financials favorably and stated the following:

21 **We expect Gulf Power to be resilient to recessionary pressures**  
22 **related to the coronavirus** because of its rate regulated business model.

23 ...

24 The effects of the pandemic could result in financial metrics that are  
25 weaker than expected, however, we see these issues as temporary and

1 not reflective of the long-term financial or credit profile of Gulf Power.<sup>4</sup>  
2 (emphasis added).  
3

4 Thus, rating agencies such as Moody's have not identified any substantial risk issues  
5 for Gulf Power as a result of COVID-19.  
6

7 **Q12. HOW DID GULF POWER PERFORM FINANCIALLY DURING 2020**  
8 **THROUGH THE COVID-19 PANDEMIC?**

9 **A.** Based on the transcript from the NextEra fourth quarter and full year 2020 earnings  
10 conference and call, Gulf Power performed remarkably well and profited at the higher  
11 end of the authorized return range.<sup>5</sup> NextEra reported that Gulf's 2020 net income was  
12 \$238 million, about 2 cents per share above 2019 levels on an adjusted basis.<sup>6</sup> NextEra  
13 stated: **“[b]ase O&M reductions were the primary driver of Gulf Power's 19%**  
14 **year-over-year growth in adjusted earnings<sup>7</sup>.... Gulf Power's O&M costs have**  
15 **declined 30 percent.”<sup>8</sup>** These Gulf Power cost reductions and savings have not been  
16 reflected as part of the Gulf COVID-19 request. Moreover, Gulf has never proposed a  
17 deferred liability to capture O&M savings for customers. It would seem that deferred  
18 accounting requests are filed only for increasing costs and not decreasing costs.  
19

<sup>4</sup> Moody's Investor Service, Credit Opinion, Gulf Power Company Update to Credit Analysis at 1 (June 17, 2020).

<sup>5</sup> See NextEra Energy Website, Investor Relations, 4<sup>th</sup> Quarter 2020 Results, Presentation, and Remarks (1/26/2021 at 7, 16, and 17).

<sup>6</sup> See NextEra Energy Website, Investor Relations, 4<sup>th</sup> Quarter 2020 Results, Presentation, and Remarks (1/26/2021 at 17).

<sup>7</sup> See NextEra Energy Website, Investor Relations, 4<sup>th</sup> Quarter 2020 Results, Presentation, and Remarks (1/26/2021 at 17).

<sup>8</sup> See NextEra Energy Website, Investor Relations, 4<sup>th</sup> Quarter 2020 Results, Presentation, and Remarks (1/26/2021 at 7).

1 The Gulf Power 2020 equity return for regulatory purposes is well within the authorized  
2 range for the 12-months ending December 2020, which is an equity range of 9.25% to  
3 11.25%.<sup>9</sup> All deferred accounting does is push the equity return to the higher end of the  
4 range. NextEra expects that Gulf will earn in the upper half of its authorized equity  
5 return range in 2021.<sup>10</sup> These results demonstrate that Gulf's shareholder profits are  
6 being enhanced through the COVID-19 pandemic.

7  
8 **Q13. HAVE YOU CONSIDERED THE THIRD STANDARD BALANCING THE**  
9 **INTERESTS OF GULF'S SHAREHOLDERS AND CUSTOMERS?**

10 **A.** Yes, I have. Given that Gulf is able to earn returns in the authorized return level, denial  
11 of the deferred accounting request will result in a balancing of shareholder and  
12 customer interest. Allowing Gulf to proceed with deferred accounting will result in  
13 Gulf earning an additional return. Such a result would not be in the public interest.

<sup>9</sup> See NextEra Energy Website, Investor Relations, 4<sup>th</sup> Quarter 2020 Results, Presentation, and Remarks (1/26/2021 at 17).

<sup>10</sup> See NextEra Energy Website, Investor Relations, 4<sup>th</sup> Quarter 2020 Results, Presentation, and Remarks (1/26/2021 at 17).

1                                   **2.      FPUC SUMMARY**

2

3       **Q14.   PLEASE SUMMARIZE YOUR FINDINGS AND CONCLUSIONS RELATED**  
4       **TO FPUC’S JOINT PETITION FOR APPROVAL OF REGULATORY ASSETS**  
5       **RELATIVE TO THE ACCOUNTING, FINANCIAL INTEGRITY, AND**  
6       **EQUITY STANDARDS.**

7       **A.**    As discussed below, correcting FPUC’s safety related O&M shown in Table 5, results  
8       in a negative overall cost value of (\$244,985). These adjusted COVID-19 related O&M  
9       do not meet the materiality threshold. The FPUC claimed COVID-19 related bad debts  
10      are overstated. It is difficult to determine what a reasonable level of bad debt for FPUC  
11      is for 2020. But based on the data available I cannot determine if the total FPUC  
12      COVID-19 costs are material.

13

14      **Q15.   DID YOU EVALUATE THE FINANCIAL INTEGRITY IMPACT OF**  
15      **DEFERRED ACCOUNTING ON FPUC?**

16      **A.**    Yes, and FPUC acknowledges that financial integrity is not threatened by these  
17      COVID-19 costs.<sup>11</sup> As to current earned returns on equity the results for FPUC are  
18      mixed at best. FPUC historical earnings as measured by overall rate of return and equity  
19      return for most business units do not reach the authorized return levels and in the case  
20      of Indiantown and Fort Meade gas operations are negative. These two gas operations  
21      have had negative returns since at least 2018 so financial integrity for these two  
22      operations is not related to COVID-19 impacts, but rather, is related to other structural

<sup>11</sup> FPUC response to OPC’s Interrogatory No. 13.

1 rate and cost recovery problems. The other two FPUC gas operations FPU Gas and  
2 Chesapeake have year-end equity returns of 8.80% and 10.94% respectively, and  
3 includes the impact of the deferral of a portion of the costs that are the subject of the  
4 deferred accounting request.<sup>12</sup> The year-end 2020 FPU Electric return is 7.82% and also  
5 includes a deferred accounting amount.<sup>13</sup>

6  
7 However, FPUC has not provided sufficient support to justify extraordinary deferred  
8 accounting treatment. A rate case where all costs and revenues are considered is the  
9 more appropriate solution to a persistent under-earning problem. Analysis of claimed  
10 COVID-19 O&M expenses, when properly adjusted show such request to be negative  
11 not positive costs. The bad debt claims rest on a faulty bad debt base line coupled with  
12 inflated estimates of future bad debts. This type of analysis cannot support  
13 extraordinary deferred Accounting allowances.

14  
15 Nevertheless, if deferred accounting is authorized for FPUC, I recommend that the  
16 Commission clearly delineate the exact type of costs and savings FPUC should employ  
17 in the deferral to only include COVID-19 safety-related items and incremental COVID-  
18 19 related bad debt write-offs, offset by COVID-19 related savings, without regard to  
19 earnings. I would further recommend that FPUC be required to report actual 2020  
20 write-offs for evaluation and determination.

<sup>12</sup> FPUC response to OPC's Interrog. Nos. 11, 14.

<sup>13</sup> FPUC response to OPC's Interrog. No. 11; also see FPUC response to OPC's Interrog. No. 18(g) where the 2020 COVID-19 deferral expenses on the books are \$1,503,895.

1       **SECTION II:    OVERVIEW OF THE CONCEPT OF DEFERRED ACCOUNTING**

2  
3       **Q16. PLEASE DESCRIBE THE ENVIRONMENT IN WHICH THE REQUESTED**  
4               **COVID-19 RELATED DEFERRED ACCOUNTING ORDER REQUESTS**  
5               **AROSE.**

6       **A.**     In the first half of 2020, the COVID-19 pandemic created significant economic  
7               upheaval, record unemployment, and business closures across the country and much of  
8               the world, leading to numerous impacts across the country and economy in general.  
9               While many consumers have faced loss of employment or (extended unemployment),  
10              many businesses have seen complete failure or extended shutdowns with limited  
11              capacity reopening. Given the economic uncertainty and potential for financial impacts,  
12              some utility operations across the country and in Florida have requested **extraordinary**  
13              **accounting deferral orders** and creations of regulatory assets associated with the  
14              COVID-19 related expenses, including but not limited to write-offs related to  
15              uncollected customer accounts.

16  
17              The impact of these added COVID-19 related expenses in 2020 was to lower net  
18              income for some utilities. In other words, because of increased expenses, cash flow,  
19              return, and profit will be lower. Like any expense increase, added COVID-19 costs,  
20              without increased revenues, may cause profits and returns to be lower.

21  
22       **Q17. PLEASE DESCRIBE DEFERRED ACCOUNTING ORDERS.**

23       **A.**     The types of requested deferred accounting orders at issue are just that - “accounting  
24               orders.” But such accounting orders should require extraordinary circumstances that



1 are “unusual in nature,” “infrequent in occurrence,” and “**material**” (where material is  
2 measured as 5 percent of income) to be considered extraordinary items.<sup>14</sup> The USOA  
3 extraordinary items requirement applies in this case since the Commission prescribes  
4 the USOA for public utilities in Florida.<sup>15</sup> Unfortunately, none of the deferred  
5 accounting filings by Petitioners address the USOA “Extraordinary Items” requirement  
6 that regulators traditionally require. Instead, Petitioners seem to take the position that  
7 because COVID-19 expenses occurred and were not part of the rate recovery process,  
8 such expenses must be recovered in the future.

9 An additional factor that must be considered is the financial integrity of each Petitioner.  
10 Certainly, if the Petitioner is earning profits within its authorized return levels, or is not  
11 otherwise experiencing a threat to financial integrity, then any additional return through  
12 deferred accounting orders and future recovery will likely only further enhance profits  
13 at the expense of consumers. Thus, if there is no financial reason or requirement for  
14 considering deferred accounting, the Commission should decline to provide any  
15 deferred accounting orders.

16  
17 **Q18. PLEASE SUMMARIZE THE IMPACT OF DEFERRED ACCOUNTING.**

18 **A.** The impact of deferred accounting is to enhance a company’s average overall rate of  
19 return. This is best illustrated by Gulf’s response to OPC Interrogatory No. 23, which  
20 demonstrates that allowing deferred accounting will boost Gulf’s average overall rate  
21 of return by 40 basis points and equity return by 93 basis points at December 31, 2020.

22 The result of deferred accounting is that current rates are not changed, but instead only

<sup>14</sup> See Uniform System of Accounts 18 CFR Part 101 General Instruction 7 “Extraordinary Items”.

<sup>15</sup> See Rule 25-6.014 F.A.C. Records and Reports in General.

1 the books and records are adjusted to defer current expenses for collection at a future  
2 date. Deferring expenses today enhances current financials – whether or not such  
3 financials need enhancement (note the Gulf 40 basis point ROR example above). The  
4 deferred expenses will be recovered from customers in the future through higher rates.  
5 To offset the impact on current profit levels and preserve the COVID-19 expenses for  
6 future recovery, each Petitioner has requested the suspension of recognition of 2020  
7 COVID-19 costs through a deferred accounting order. If such deferral order is  
8 approved, the identified COVID-19 costs will be removed from 2020 expenses, placed  
9 in a deferral account, and the regulatory asset will be recovered when future revenues  
10 can be included in rates to recover these deferred items. There is no enhancement to  
11 future financial integrity or profit because rate increases offset these deferred expenses.

12

13 **SECTION III: OVERVIEW OF THE GULF DEFERRED ACCOUNTING**  
14 **PETITION**

15

16 **Q19. PLEASE DESCRIBE THE REQUESTED COVID-19 DEFERRED**  
17 **ACCOUNTING ORDER REQUESTS BY THE PETITIONERS.**

18 **A.** On or about May 22, 2020, Gulf filed a petition for approval to defer COVID-19 costs  
19 and establish a regulatory asset to record the deferred COVID-19 costs. In its Petition,  
20 Gulf requested that incremental bad debt expenses and safety-related costs attributable  
21 to COVID-19 be authorized for deferral treatment. The Commission initially entered  
22 an Order granting Gulf’s request, but subsequently vacated the Order on November 27,  
23 2020. Order No. PSC-2020-0405-PCO-EI, vacating Order No. PSC-2020-0262-PCO-  
24 EI. The Commission subsequently entered Order No. PSC-2020-0406-PAA-EI,

1 granting Gulf's petition for approval of regulatory asset to record costs incurred due to  
2 COVID-19; this Order is the subject of the protest at issue in this proceeding.

3  
4 **Q20. PLEASE SUMMARIZE THE GULF DEFERRED ACCOUNTING REQUEST.**

5 **A.** The Gulf request for deferred accounting for COVID-19 costs consists of Gulf's  
6 calculations of safety related expenditures and bad debt expenses, both of which are  
7 offset by COVID-19 related savings to arrive at a net regulatory asset amount for  
8 deferral. According to Gulf, the safety related expenditures are new out-of-pocket  
9 expenses not included in current Gulf base rates. COVID-19 related savings reflect  
10 Gulf's calculation of reductions in expected costs (that are included in base rates), such  
11 as business travel, that resulted from travel restrictions during the pandemic.

12  
13 The third, and largest, category in Gulf's request is incremental bad debt. According to  
14 Gulf, this bad debt category represents a write-off of consumer amounts due, or  
15 receivables. An allowance for bad debts is generally included in base rate revenue  
16 requirements through a revenue expansion factor similar to other revenue expansion  
17 factors such as taxes.<sup>16</sup> These bad debt revenue expansion factors are generally based  
18 on a 3-year to 5-year historical average of bad debt write-offs. Gulf does not know the  
19 amount of bad debt expenses in current base rates because the basis for the current base  
20 rates is a "black box" settlement in the last case.<sup>17</sup>

21  
<sup>16</sup> See Gulf Power Company Docket No. 20160186-EI, Witness Ritenour Exhibit (SDR-1) Schedules 17 and 18 from Gulf's last base rate case.

<sup>17</sup> See Gulf's response to OPC's Interrog. No. 7.

1 To calculate incremental bad debt for the COVID-19 period, April 2020 through  
2 February 2021, Gulf first calculated the monthly historical bad debt write-offs for the  
3 three-year average for 2017, 2018, 2019.<sup>18</sup> The monthly three-year historical average  
4 was then compared to the “actual bad debt expense” for the corresponding month in  
5 2020 and early 2021.<sup>19</sup> The difference between the three-year average historical bad  
6 debt and the 2020 bad debt write-off value was recorded as the incremental bad debt  
7 related to COVID-19.<sup>20</sup>

8 The problem is Gulf did not compare the three-year average amount of write-offs with  
9 the 2020 **actual bad debt write-offs** to calculate incremental bad debt. Instead, the  
10 2020 comparative values were “Current Month Reserve Adjustments” or estimates of  
11 what Gulf calculated should be written off.<sup>21</sup> In other words, Gulf’s analysis consisted  
12 of comparing historical bad debt write-offs (based on a three-year average) to Gulf’s  
13 **estimates of write-offs** also known as “Current Month Reserve Adjustments.” Thus,  
14 the entire calculation is an estimate and not a good one when one considers actual  
15 values.

16  
17 The **actual** bad debt write-off for the March 2020 through March 2021 period was  
18 \$9,079,212.<sup>22</sup> The Gulf three-year average bad debt is \$3,577,105 and the CAMS  
19 adjustment of \$862,236 increases the historical or expected bad debt level to  
20 \$4,439,341 ( $\$3,577,105 + \$862,236$ ). The difference between the actual bad debt in

<sup>18</sup> See Direct Testimony Gulf witness Mitchell Goldstein at page 8 lines 16 – 22.

<sup>19</sup> See Direct Testimony Gulf witness Mitchell Goldstein at page 8 lines 16 – 22.

<sup>20</sup> It should be noted a slight downward adjustment (\$71,853) was made each month to reflect the change in Customer Accounts Management billing systems (“CAMS”) see Gulf witness Mitchell Goldstein at page 9 lines 9 – 18.

<sup>21</sup> Goldstein Deposition at page 68, lines 18-25 through page 69, lines 1-3.

<sup>22</sup> Gulf response to OPC’s Interrog. No. 28.

2020 of \$9,079,212 and the expected bad debt of \$4,439,341 equals \$4,639,871 (\$9,079,212 - \$4,439,341). Thus, given known data on Gulf's bad debt write-offs, the March 2020 – March 2021 period incremental write-off is actually \$4,639,871, not Gulf's claim or estimate of \$15,014,000. This bad debt calculation issue for Gulf is further addressed below.

**Q21. PLEASE ADDRESS THE GULF CLAIMED COVID-19 O&M EXPENSES?**

A. The Gulf request for deferred accounting for COVID-19 O&M costs consists of safety related expenditures and bad debt expenses, both of which are offset by COVID-19 related savings. The following Table 1 provides a brief summary of the impact or dollars at issue based on information by Gulf.

**TABLE 1**

**GULF POWER CLAIMED COVID-19 COSTS/ REGULATORY ASSET (\$000)<sup>23</sup>**

DESCRIPTION	AMOUNT APRIL 2020 - FEBRUARY 2021	AMOUNT MARCH 2021 DECEMBER 2021	TOTAL COVID-19 COSTS
<b>INCREMENTAL BAD DEBT</b>	\$15,014	\$3,936	\$18,950
<b>SAFETY RELATED COSTS</b>			
TESTING	\$1,189	\$824	\$2,013
PPE	\$ 689	\$400	\$1,089
TEMPERATURE SCREENINGS	\$1,021	\$0	\$1,021
FACILITY UPGRADE & CLEANING	\$516	\$131	\$647
OTHER	\$16	\$0	\$16
<b>TOTAL SAFETY COVID-19 COSTS</b>	\$3,431	\$1,354	\$4,785
<b>TOTAL ALL COVID-19 COSTS</b>	<b>\$18,445</b>	<b>\$5,290</b>	<b>\$23,735</b>
<b>LESS SAVINGS MEAL &amp; TRAVEL</b>	<b>(\$831)</b>	<b>(\$590)</b>	<b>(\$1,421)</b>
<b>LESS SAVINGS MEDICAL</b>	<b>(\$1,627)</b>	<b>\$0</b>	<b>(\$1,627)</b>
<b>TOTAL REGULATORY ASSET</b>	<b>\$15,987</b>	<b>\$4,700</b>	<b>\$20,687</b>

<sup>23</sup> See Gulf Power Company Direct Testimony Mitchell Goldstein, Exhibit MG-1, Page 1 of 1.

1 As can be seen from Table 1, the claimed actual Gulf COVID-19 safety expenses  
2 representing additional dollars expended by Gulf to date amount to \$3,431,000 in  
3 expenses over the 11-month April 2020 through February 2021 period. The forecasted  
4 amounts of safety expenses for the period March 2021 – December 2021 amount to  
5 \$1,354,000. These actual and estimated COVID-19 safety expenses amount to  
6 \$4,785,000, and are almost entirely offset by the actual and estimated COVID-19  
7 related savings of \$3,048,000 (\$1,421,000 + \$1,627,000). When actual and estimated  
8 COVID-19 safety related expenses are netted against COVID-19 related savings, the  
9 net COVID-19 O&M expenditures amount is \$1,737,000 (\$4,785,000 - \$3,048,000)  
10 over a 21-month (April 2020 – December 2021) period. As I discuss below, \$1,737,000  
11 of increased expenditures are not material, nor do they significantly impact Gulf's  
12 earnings, as the total amount represents less than 1% of Gulf's 2020 earnings.<sup>24</sup> As I  
13 discuss below, the bad debt write-offs must also be considered in the materiality  
14 analysis.

15

16 **Q22. WHY DO YOU STATE GULF'S PROPOSED BAD DEBT WRITE-OFF IS AN**  
17 **ESTIMATE AND NOT AN ACTUAL BAD DEBT WRITE-OFF?**

18 **A.** First, witness Goldstein acknowledges it is an estimate, "... it is our best estimate based  
19 on everything we know of what our future write-offs to be..."<sup>25</sup> Mr. Goldstein further  
20 explains that expectations of bad debt are a function of revenue and aging of accounts

<sup>24</sup> See NextEra Fourth Quarter & Full Year 2020 Earnings Conference Call transcript page 17 (1/26/21), NextEra Energy website. Gulf reported 2020 earnings of \$238 million about a 9.7 million increase over 2019 results.

<sup>25</sup> Goldstein Dep. p. 52, lines 16-18.

1 receivables.<sup>26</sup> Mr. Goldstein provides an example of how the bad debt write-off  
2 estimates are developed. Mr. Goldstein further explains that each month, Gulf bills  
3 customers for electric consumption, but knows not all customers will pay these bills.<sup>27</sup>  
4 Knowing that 100 percent of revenues billed will not be collected, Gulf estimates a bad  
5 debt write-off that is trued-up over time when actual bad debts are ultimately known.<sup>28</sup>

6  
7 Customers are allowed a certain amount of time to pay the bill, but if nonpayment  
8 persists, the customer service is cut off.<sup>29</sup> Then Gulf attempts over a several month  
9 period to collect the debt. If not collected the debt amount is written off as a bad debt.<sup>30</sup>  
10 Gulf's response to OPC's Interrogatory No. 9 states the collection to write-off process  
11 is approximately 90 days.

12  
13 To summarize, at the end of every month, Gulf develops an estimate of the amount that  
14 needs to be reserved for bad debts. This reserve analysis for bad debts is based on  
15 revenues, the aging of accounts receivable, and economic outlook.<sup>31</sup>

16  
17 **Q23. WHY ARE THESE BAD DEBT ESTIMATES A PROBLEM IN THIS CASE?**

18 **A.** Under normal operating conditions, the estimates of bad debt write-offs as actual bad  
19 debt is relatively stable over time. For example, in Gulf's last base rate case, Docket

<sup>26</sup> Goldstein Dep. p. 52, lines 12 -13.

<sup>27</sup> Goldstein Dep. p. 53, lines 24 -25 through page 54.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> Goldstein Dep. p. 53, lines 24 -25 through p. 68, lines 18 – 25.

1 No. 20160186-EI, Gulf estimated a test year bad debt level of \$3,994,413 for the 2017  
2 test year.<sup>32</sup> The actual annual bad debt write-offs for 2018 and 2019 were \$4,050,051  
3 and \$3,822,425 respectively.<sup>33</sup> Gulf's 2016 estimate based on historical values was  
4 quite consistent with bad debt levels following the test year during normal operations  
5 and general economic growth.

6  
7 Now, we have Gulf's estimates made in the midst of a pandemic, unprecedented  
8 economic collapse, and operating conditions never before experienced. It is no wonder  
9 that Gulf's bad debt estimates are overstated and do not reflect rapid economic recovery  
10 through 2021. Also, pandemic conditions and operating conditions have improved as  
11 well through 2021.

12  
13 **Q24. PLEASE ADDRESS FURTHER GULF'S CLAIMED COVID-19 RELATED**  
14 **COSTS – BAD DEBT.**

15 **A.** As shown in Table 1, Gulf claimed Bad Debt amounts of \$15,014,000 (actual) and  
16 \$3,936,000 (forecasted). Bad debt claims are by far the largest portions of the Gulf  
17 COVID-19 deferred accounting request. These are amounts billed that have been  
18 outstanding and have now been written off as uncollectible, i.e., bad debt. Further, these  
19 amounts of incremental bad debts are not actual bad debts, but rather are based entirely  
20 on estimates using a three-year average of actual bad debts as the baseline compared to  
21 estimates or monthly "Reserve Adjustments" for bad debts. **Again, the Company does**

<sup>32</sup> Gulf's response to OPC's Interrog. No. 6.

<sup>33</sup> Gulf's response to OPC's Req. for Production. No. 13, Attachment.



1           **not know how much bad debt is in base rates let alone how much bad debt is**  
2           **related to COVID-19.**

3  
4           More importantly, the amount of bad debt reported by Gulf appears to be substantially  
5           overstated. Gulf defines a bad debt or write off as follows:

6  
7                           Gulf Power’s write-off process begins at account closure, which can be  
8                           either due to a customer’s request to close his or her account or a failure  
9                           to make payment to reconnect service within ten days following  
10                          disconnection for non-payment. If any debt remains outstanding on the  
11                          account for at least 90 days after closure, the account debt is written  
12                          off.<sup>34</sup>

13  
14           Thus, it takes at least 90 days following account closure for the outstanding and owed  
15           balance to be written off and become a bad debt. Now, Gulf **“suspended customer**  
16           **disconnects for nonpayment and the associated write-offs from mid-March 2020**  
17           **through mid-November 2020.”**<sup>35</sup> On the one hand, Gulf claims to have suspended the  
18           disconnect and write-off process, but on the other hand Gulf claims large amounts of  
19           bad debts which require implementation of service disconnects and write-offs.

20  
21           The following Table 2 provides a summary of the Gulf claimed incremental bad debt  
22           amounts by month, as reported in the Earnings Surveillance Reports. In other words,  
23           Table 2 shows the Gulf claimed incremental, over and above the three-year (2017 –  
24           2019) average bad debt write-off.

<sup>34</sup> See Gulf’s response to OPC’s Interrog. No. 9.

<sup>35</sup> See Gulf’s response to OPC’s Interrog. No. 9.

TABLE 2<sup>36</sup>

## GULF POWER CLAIMED INCREMENTAL BAD DEBT COSTS

MONTH	AMOUNT
APRIL	\$1,673,598
MAY	\$2,001,364
JUNE	\$1,639,872
JULY	\$862,052
AUGUST	\$2,224,584
SEPTEMBER	\$1,916,365
OCTOBER	\$2,323,727
NOVEMBER	\$642,922
DECEMBER	\$605,729
TOTAL 2020	\$13,890,213
JANUARY 2021	\$810,719
FEBRUARY 2021	\$313,068 <sup>37</sup>
TOTAL ACTUALS <sup>38</sup>	\$15,014,000
FORECASTED MARCH – DECEMBER 2021	\$3,936,000
TOTAL ALL ACTUALS & FORECASTED	\$18,950,000

The above Table 2 shows substantial incremental bad debt write-offs in every month in 2020. If Gulf's policy is bad debt write-offs only occur 90-days after account disconnection, but customer disconnects were suspended, it is difficult to accept the accuracy of the estimate of substantial incremental write-offs claimed in Table 2. As I noted earlier, **Gulf acknowledges that the actual March 2020 through March 2021 write-offs totaled \$9,079,212.**<sup>39</sup>

<sup>36</sup> See Gulf Earnings Surveillance Report August 2020, Supplemental Sheet 2 data for April through August 2020.

<sup>37</sup> Calculated as 2020 total \$13,890,213 plus Jan. \$810,719 minus Total actuals \$15,014,000.

<sup>38</sup> Gulf Direct Testimony Gulf witness Mitchell Goldstein at Exhibit MG-1.

<sup>39</sup> Gulf Response to OPC's Interrog. No. 28.

1 The problem with Gulf's COVID-19 related bad debt proposal is that it is an estimate,  
2 not an actual bad debt write-off. In response to OPC's Interrogatory No. 28 on this  
3 matter, Gulf states:

4

5 Therefore, the write-off for an uncollectible account occurs  
6 several months after bad debt expense is recorded, and, as such,  
7 the change in the balance sheet provisions is not directly correlated  
8 with the write-offs in the same period. The amounts written off  
9 from March 2020 to present (March 2021) totaled \$9,079,212.  
10 These write-offs are not directly correlated to the increase in bad  
11 debt expense for the same period due to the timing variance  
12 explained above.  
13

14 Given the bad debt write-off actual numbers available for the March 2020 to March  
15 2021 period, then in order to be consistent with its interrogatory response above, the  
16 original Gulf claim of \$15,014,000 (Table 2 above) should instead be \$9,079,212, a  
17 reduction of \$5,935,000.

18

19 The Gulf three-year average bad debt baseline is \$3,577,105 and the CAMS adjustment  
20 of \$862,236 increases the historical or expected bad debt level to \$4,439,341  
21 (\$3,577,105 + \$862,236). The difference between the actual bad debt in 2020 of  
22 \$9,079,212 and the expected bad debt of \$4,439,341 equals \$4,639,871 (\$9,079,212 -  
23 \$4,439,341). Thus, given known data on Gulf's bad debt write-offs, the March 2020 –  
24 March 2021 period incremental write-off is \$4,639,871, not Gulf's claim or estimate  
25 of \$15,014,000. Accepting Gulf's forecast of bad debt write-offs in Table 1 of  
26 \$3,936,000 puts total bad debt at \$8,575,871 total, or about \$4,900,000 annualized.<sup>40</sup>

<sup>40</sup> (8,575,871/21 months) \* 12 months

1       **Q25. IF WE ACCEPT GULF’S CLAIMED TOTAL COVID-19 RELATED COSTS**  
2       **AS FILED, ARE THE CLAIMED TOTAL AVERAGE ANNUAL COVID-19**  
3       **COSTS MATERIAL OR A FINANCIAL BURDEN TO GULF?**

4       **A.**     The 2020 year-end earnings stated on Gulf’s earnings surveillance reports indicate  
5       \$175.7 million of operating income. The equity return is about \$145.4 million. This  
6       equity return was further reduced 93 basis points to reflect the impact of the deferral of  
7       COVID-19 costs. The resulting net income is about \$117.5 million. The resulting  
8       materiality measure is 5% of \$117.5 million or \$5.9 million. The total Gulf claimed  
9       actual and forecasted COVID-19 costs are \$20,687,000.<sup>41</sup> These COVID-19 costs  
10      annualized amount to \$11,821,000.<sup>42</sup> Comparing an annual average claimed COVID-  
11      19 costs to Gulf’s annual net income of about \$117.5 million indicates the COVID-19  
12      amount is higher than 5% of net income. Therefore, the COVID-19 request – if accurate  
13      (which it is not, as demonstrated above) -- would pass muster with the materiality  
14      threshold. If the Gulf requested deferred asset amount of \$20,687,000 is reduced for  
15      the \$5,935,000 actual bad debt actuals correction discussed above, the annualized  
16      COVID-19 costs of \$8,429,714 are greater than 5% of net income.<sup>43</sup> However, in no  
17      case does Gulf earn outside the authorized return range.<sup>44</sup> The Gulf returns stay in the  
18      authorized range.<sup>45</sup> The Gulf financial integrity is not threatened or diminished.

<sup>41</sup> Goldstein Direct Testimony at Exhibit MG-1.

<sup>42</sup> Total COVID-19 cost (\$20,867,000/ 21 months) \* 12 months annualized.

<sup>43</sup> The annualization is ((\$20.687 mm - \$5.935 mm)/21) \* 12 months = \$8,429,714.

<sup>44</sup> See Gulf’s Response to OPC’s Interrog. No. 23. The financial impact is much lower when corrected numbers for bad debts are included.

<sup>45</sup> See Gulf’s Response to OPC’s Interrog. No. 19.

1       **Q26. PLEASE SUMMARIZE THE GULF DEFERRED ACCOUNTING REQUEST**  
2       **AND ISSUES RAISED BY THE REQUEST**

3       **A.**     As shown in Table 1, Gulf’s request for deferred accounting totals \$20,687,000. Gulf  
4       claims its safety-related costs are \$4.785 million. When offset by the \$3.048 million  
5       savings amount listed by Gulf, the safety-related costs total approximately \$1.7 million  
6       – not a significant amount warranting deferred accounting. The largest amounts  
7       proposed by Gulf for deferral are the bad debt write-off amounts, but these are  
8       essentially all estimated.

9  
10       Also, Gulf experienced substantial O&M savings in 2020 – all the while earning within  
11       the authorized return range with or without deferred accounting. A deferred accounting  
12       order is not necessary and will only serve to further enhance profits, at the expense of  
13       Gulf’s customers.

14  
15       Other utility company operations had similar reactions to COVID-19 costs based on a  
16       materiality analysis. For example, Emera Incorporated, which owns Tampa Electric  
17       and Peoples Gas System in Florida among other regulated operations, stated the  
18       following with regard to the COVID-19 Pandemic impact on operations:

19  
20               Some of Emera’s utilities have been impacted more than others.  
21               However, on a consolidated basis these unfavorable **impacts have not**  
22               **had a material financial impact to net earnings** primarily due to a  
23               change in the mix of sales across customer classes. ... Favourable  
24               weather in 2020, particularly in Florida, has further reduced the

1 consolidated impact. **The Company has not deferred any costs for**  
2 **future recovery as a result of the pandemic.**<sup>46</sup> (emphasis added)  
3

4 Materiality of these expenses is just the first step of the analysis -- a point well  
5 demonstrated by Emera Incorporated.  
6

7 **SECTION IV: OVERVIEW OF THE FPUC DEFERRED ACCOUNTING**  
8 **PETITION**  
9

10 **Q27. WHAT ARE THE FPUC CLAIMED COVID-19 COSTS AND REGULATORY**  
11 **ASSET REQUEST?**

12 **A.** The FPUC deferral cost estimate has been all over the map and FPUC still does not  
13 have a reasonable dollar amount of deferrals to put before the Commission. The  
14 problem is that FPUC seems to have changing theories (FPUC refers to these changing  
15 theories as refinements in the calculations) of what should or should not be included in  
16 COVID-19 costs. The changing theories or refinements on COVID-19 costs has over  
17 time led to enormous increases in FPUC's COVID-19 estimates.  
18

19 It is important to keep these COVID-19 expenses in perspective. When the pandemic  
20 hit in early 2020, the cost concern was primarily incremental PPE costs, incremental  
21 cleaning costs, incremental safety related cost, and incremental bad debt write-offs all  
22 offset by savings. For FPUC these simple costs have morphed into hazard or bonus  
23 pay, lost business opportunities, the entire elimination of savings offsets, and inflated

<sup>46</sup> Emera Incorporated, Management's Discussion & Analysis, page 15 (February 16, 2021).

1 estimates of bad debt costs. As I discuss below, it is difficult to accept FPUC's  
2 estimates as a realistic COVID-19 cost estimate for purposes of deferred accounting.

3 To demonstrate some of the problems with FPUC's COVID-19 cost estimates, I present  
4 in Table 4 the changes in the claimed COVID-19 calculations over time from the FPUC  
5 filed COVID-19 cost reports filed in this docket.<sup>47</sup>

6  
7 **TABLE 4**

8 **FPUC BREAKDOWN OF COVID-19 COSTS JUNE 2020 – FEBRUARY 2021<sup>48</sup>**

MONTH	COVID-19 EXPENSES	BAD DEBT EXPENSES	SAVINGS	TOTAL
JUNE 2020 <sup>49</sup>				<b>\$428,000</b>
OCTOBER 2020	<b>\$194,523</b>	<b>\$1,027,838</b>	<b>(\$743,308)</b>	<b>\$479,053</b>
NOVEMBER 2020	<b>\$553,526</b>	<b>\$1,200,813</b>	<b>(\$779,846)</b>	<b>\$974,493</b>
DECEMBER 2020	<b>\$1,154,947</b>	<b>\$2,375,780</b>	<b>(\$791,431)</b>	<b>\$2,739,296</b>
JANUARY 2021 <sup>50</sup>	<b>\$42,176</b>	<b>\$145,517</b>	NOT REPORTED	<b>\$187,693</b>
FEBRUARY 2021	<b>\$103,862</b>	<b>(\$86,005)</b>	NOT REPORTED	<b>\$17,857</b>

9  
10 Table 4 shows that the FPUC COVID-19 periodic filings with the Commission reflect  
11 a dramatic and unexplained increase through the 2020 period. For example, the  
12 November 2020 to December 2020 one month period shows over 180% increase in

<sup>47</sup> Since FPUC filed its March 2021 COVID-19 expense and savings information on May 3, 2021, just prior to the filing of this testimony, it has not been addressed in this testimony. However, I note that in the March 2021 report, the year-to-date Incremental Bad Debt Expense is (\$238,045), and the Total Preliminary COVID-19 Impact is (\$269,804) including offsetting savings.

<sup>48</sup> See Joint Petition for Approval of Regulatory Assets to Record Costs Incurred Due to COVID-19 by Florida Public Utilities Company (Electric and Gas Divisions) and the Florida Division of Chesapeake Utilities Corporation (8/11/20) at page 9 Exhibit A "Breakdown of Costs among FPU Companies" (through June 2020). Data for the months of October, November, and December 2020 can be found in the FPUC periodic filings in the Docket No. 20200194-PU see December 1, 2020 Doc. No. 13044, January 4, 2021 Doc. No. 00251, February 1, 2021 Doc. No. 01830, March 1, 2020 Doc. N Doc. No. 03185o. 02526, and April 1, 2021

<sup>49</sup> The 2020 June through December COVID-19 costs reflect cumulative costs.

<sup>50</sup> The 2021 COVID-19 costs reflect monthly incremental costs.

1 claimed COVID-19 costs for deferral (\$974,493 in November 2020 to \$2,739,296 for  
2 December 2020). However, these are not month-to-month changes in COVID-19 costs,  
3 but rather a change or “refinement” in how FPUC calculates COVID-19 costs. For  
4 example, Table 4 shows COVID-19 specific O&M expenses increasing from \$553,526  
5 in November 2020 to \$1,154,947 in December 2020 – a \$601,421 month-to-month  
6 increase. The FPUC most recent discovery response reports December 2020 COVID-  
7 19 related expenses of \$48,038 for the five FPUC companies – much lower than the  
8 claimed \$601,421 amount shown in Table 4.<sup>51</sup> The transition into 2021 shows numbers  
9 on an incremental basis and savings are no longer reported – another new theory. The  
10 bottom line is that the FPUC filed COVID-19 costs referenced in Table 4 do not appear  
11 reliable or reasonable for evaluation in this case.

12

13 **Q28. HAS FPUC FILED REVISED COVID-19 COST DATA IN DISCOVERY?**

14 **A.** Yes, they have. A review of the FPUC discovery responses shows more detail, more  
15 new theories on COVID-19 costs, and many more questions regarding the FPUC  
16 COVID-19 costs and proposed deferral. The current problem is that there is no one  
17 place where the Commission can find an FPUC total dollar deferral request. Unlike the  
18 Gulf COVID-19 cost of \$20.687 million presentation discussed in Table 1, there is no  
19 overall request by FPUC so the Commission knows what is being requested for possible  
20 approval for FPUC. Without a requested amount, it is difficult to know what is being  
21 approved.

22

<sup>51</sup> See FPUC response to OPC’s Interrog. No. 18(b) attachment for December 2020.



1 To address the issues regarding the FPUC COVID-19 request, I start with Table 5  
 2 which represents the most current data related to FPUC's COVID-19 O&M costs for  
 3 each of the five FPUC companies.

4  
 5 **TABLE 5**  
 6 **COVID-19-SPECIFIC O&M EXPENSES BY BUSINESS UNIT**

7

A	B	C	D	E	F
<b>FPUC BUSINESS UNIT</b>	<b>FPUC<sup>52</sup> REQUESTED TOTAL COVID-19 COSTS MARCH 2020 FEB 2021</b>	<b>HAZZARD PAY<sup>53</sup></b>	<b>OTHER INSURANCE COST<sup>54</sup></b>	<b>SAVINGS<sup>55</sup></b>	<b>ADJUSTED TOTAL COST</b>
<b>FLORIDA NATURAL GAS</b>	<b>\$698,082</b>	<b>\$62,685</b>	<b>\$159,048</b>		
<b>CENTRAL NATURAL GAS</b>	<b>\$226,685</b>	<b>25,524</b>	<b>\$63,054</b>		
<b>INDIANTOWN</b>	<b>\$3,389</b>	<b>1,236</b>	<b>\$941</b>		
<b>FORT MEADE</b>	<b>\$2,688</b>	<b>\$541</b>	<b>\$941</b>		
<b>TOTAL GAS</b>	<b>\$930,844</b>	<b>\$283,466</b>	<b>\$223,984</b>	<b>(\$584,162)</b>	<b>(\$160,768)</b>
<b>ELECTRIC</b>	<b>327,966</b>	<b>\$123,978</b>	<b>\$80,936</b>	<b>(\$207,269)</b>	<b>(\$84,217)</b>
<b>TOTAL FPUC</b>	<b>\$1,258,810</b>	<b>\$407,444</b>	<b>\$304,920</b>	<b>(\$791,431)</b>	<b>(\$244,985)</b>

8

9 Table 5 column B shows the latest data for COVID-19 O&M costs (excludes bad debt  
 10 costs) by business unit. If these costs were accepted, it would amount to \$1,258,810.  
 11 But there are at least three problems outlined in columns C, D, and E with FPUC  
 12 updated COVID-19 cost calculations. First, column C "Hazzard Pay" represents added  
 13 payment to employees designated as front-line employees.<sup>56</sup> Employees have wage  
 14 agreements, were provided PPE and other safety measures to follow and the added pay

<sup>52</sup> See FPUC Response to OPC's Interrog. Nos. 18 A and 18 B.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> FPUC Regulatory Asset Filing Data Document No. 02526, filed on March 1, 2021 for the December 2020 period.

<sup>56</sup> See FPUC response to OPC's Interrog. No. 18 e.

1 does not appear necessary. Further, FPUC provides no analysis to show that hazard pay  
2 or COVID-19 bonus pay has caused FPUC payroll to exceed the level of payroll in  
3 current base rates. This deferral request is designed to be an effort to capture  
4 incremental **COVID-19** costs. Just because FPUC or Chesapeake came up with this  
5 bonus concept and paid \$407,444 dollars to employees does not in and of itself make  
6 this an incremental amount. For the above reason, I have removed \$407,444 by  
7 business unit as shown in Column C.

8  
9 Second, Column D reflects a claimed “lost business opportunity” associated with  
10 casualty related insurance premiums.<sup>57</sup> Based on FPUC response to OPC Interrogatory  
11 No.18 f, FPUC claims that in 2019 the Company sought alternative bids for casualty  
12 insurance cost. The bids indicated that cost savings would amount to \$330,000. When  
13 COVID-19 hit the economy, these bids were withdrawn by insurance providers and  
14 FPUC assert these lost insurance savings are a COVID-19 cost due to the lost business  
15 opportunity to lower insurance costs. This is not a COVID-19 cost. Insurance cost is  
16 included in base rate charges; there are no increased costs. Further, the lost opportunity  
17 to lower costs is not a new cost facing FPUC. For the above reasons, \$304,920 in  
18 Column D is removed from COVID-19 costs.

19  
20 Third, Column E reflects savings related to COVID-19 which represent an offset to  
21 COVID-19 costs. Earlier FPUC filings with the Commission in this docket calculated  
22 saving achieved to offset COVID-19 costs. Now in response to OPC Interrogatory No.

<sup>57</sup> See FPUC response to OPC’s Interrog. No. 18 f.

1 19 FPUC states; **“If the Company had exceeded its allowed earnings, we would**  
2 **have reduced the amount deferred in the Regulatory Asset. At this time, the**  
3 **Companies have determined that there are no incremental savings that would**  
4 **have directly offset the incremental expenses already charged to the regulatory**  
5 **asset.”**<sup>58</sup> (Emphasis added). FPUC had previously reported savings through at least  
6 December 2020. Now a new and yes, a novel theory has been developed which  
7 eliminates all savings and somehow ties savings to excess earnings. The existence of  
8 savings is not dependent on whether there are excess earnings. There is no basis to  
9 exclude savings. So, savings should offset COVID-19 costs. This case involves an  
10 accounting order request not an opportunity to increase rates and return levels like a  
11 base rate case.

12  
13 Savings should be included as an offset to COVID-19 costs. I have included in Table  
14 5 the FPUC December 2020 calculated level of COVID-19 related savings of \$791,431  
15 previously filed with the Commission.

16  
17 The bottom line is that making three obvious adjustments; i) remove bonus pay, ii)  
18 removing a claimed lost business opportunity, and iii) including the FPUC savings  
19 calculated through December 2020 results in negative (\$244,985) COVID-19 related  
20 O&M costs. I should note that FPUC has included other questionable O&M costs such  
21 as communication cost, legal fees, consultant fees to name a few. I have not had  
22 sufficient data to make these added adjustments at this time. The end result is that

<sup>58</sup> See FPUC response to OPC Interrogatory No. 19.

1 COVID-19 O&M costs are negative and probably should be more negative. The  
2 unfortunate incidence of a pandemic should not be seen as an opportunity to load up  
3 questionable costs onto the customers who are suffering the impacts of a pandemic.  
4

5 **Q29. HAVE YOU REVIEWED THE FPUC BAD DEBT EXPENSE ESTIMATES?**

6 **A.** Yes, I have. A review of the FPUC discovery responses shows more detail on bad debt  
7 and more new theories on bad debt calculations related to COVID-19. As I discuss  
8 below, the bad debt data write-off data presented by FPUC is not a reliable estimate.  
9

10 **Q30. PLEASE DESCRIBE THE PROBLEMS YOU HAVE IDENTIFIED WITH**  
11 **FPUC'S BAD DEBT WRITE-OFF ESTIMATES?**

12 **A.** The first problem is that FPUC employs a three-year average bad debt amount as the  
13 baseline for calculating incremental bad debt related to COVID-19.<sup>59</sup> To calculate the  
14 incremental COVID-19 bad debt, the three-year base line is subtracted from the  
15 corresponding month of 2020 bad debt.<sup>60</sup> The use of a three-year average of bad debt  
16 write-offs for all FPUC operations has inflated the FPUC bad debt calculation. Gulf  
17 used this method because Gulf's base rates were based on a black box settlement and  
18 specific bad debt levels were not known. However, FPUC knows the bad debt amounts  
19 included in base rates for the three largest entities.<sup>61</sup> The impact of FPUC's use of the  
20 wrong or incorrect bad debt amounts are shown in Table 6 below.  
21

<sup>59</sup> Direct Testimony FPUC witness David Craig at page 10, lines 5 – 13.

<sup>60</sup> Direct Testimony FPUC witness David Craig at page 10, lines 5 – 13.

<sup>61</sup> See FPUC Response to OPC Interrog. No. 2. Bad debt amounts for Indiantown and Fort Meade cannot be determined.

Table 6

**FPUC HISTORICAL BASE LINE BAD DEBT WRITE-OFF CALCULATIONS**

<b>FPUC BUSINESS</b>	<b>3-YEAR AVG<sup>62</sup></b>	<b>AUTHORIZED BAD DEBT LEVEL<sup>63</sup></b>	<b>ADJUSTED BAD DEBT<sup>64</sup></b>
CHESAPEAKE	\$46,961	\$41,832	\$41,832
INDIANTOWN	\$1,987	\$0	\$1,987
FORT MEADE	\$1,978	\$0	\$1,978
FPUC GAS	\$231,267	\$522,322	\$522,322
TOTAL GAS	\$282,193	\$564,154	\$568,119
TOTAL ELECTRIC	\$239,591	\$221,975	\$221,975
TOTAL FPUC	\$521,784	\$786,129	\$790,094

In Table 6, the 3-year average column shows FPUC's bad debt base line based on a 3-year historical average. The next column shows the current authorized bad debt levels by business unit. Only Indiantown and the Fort Meade gas operations have no current authorized bad debt levels in base rates. The third column reflects authorized bad debt levels that were known and 3-year average bad debt levels for the two business units where authorized bad debt in base rates is not known. By employing a lower 3-year average of \$521,784 as a base line, versus an alternative analysis that included bad debts included in base rates \$790,094, FPUC was able to inflate the bad debt calculation by \$268,310 (\$790,094 - \$521,784) on an annual basis.

<sup>62</sup> See FPUC Response to OPC Interrog. No. 3 Attached file.

<sup>63</sup> See FPUC Response to OPC Interrog. No. 2.

<sup>64</sup> Employed authorized level in base rates otherwise employed 3-year average.

1       **Q31. DID FPUC CALCULATE ACTUAL WRITE-OFFS OF BAD DEBT OR DID**  
2       **FPUC CALCULATE WRITE-OFF ESTIMATES?**

3       **A.**     Like Gulf's calculation of bad debt described earlier, FPUC calculated estimates of bad  
4       debt write-offs. Now, FPUC witness Galtman would have one believe that these are  
5       actual bad debt expenses.<sup>65</sup> In reality, like the situation with Gulf, bad debts were not  
6       known for each month and an estimate was employed. Mr. Galtman points out the  
7       increase in aged accounts receivable balances, but this does not mean all such  
8       receivables are ultimately write-offs.<sup>66</sup> To see how out of line these estimates of bad  
9       debt write-offs are one need only examine FPUC's current estimate of these costs.

<sup>65</sup> FPUC Direct Testimony Michael Galtman at page 4, lines 15 – 20.

<sup>66</sup> FPUC Direct Testimony Michael Galtman at page 4, lines 20 – 23.

Table 7

**FPUC MONTHLY BAD DEBT WRITE-OFFS**

**BASELINE CALCULATIONS**

<b>MONTH</b>	<b>FPUC NEW MONTHLY BAD DEBT ESTIMATE<sup>67</sup></b>
MAR. 2020	\$3,913
APR. 2020	\$38,172
MAY 2020	\$38,369
JUN. 2020	\$633,433
JUL. 2020	\$31,572
AUG. 2020	\$553,500
SEP. 2020	\$332,143
OCT. 2020	\$27,980
NOV. 2020	\$30,961
DEC. 2020	\$1,148,478
TOTAL 2020 MAR-DEC	\$2,838,522
JAN. 2021	\$47,518
FEB. 2021	\$36,196

The FPUC latest bad debt estimates above shows substantial bad debt claims in some months. The December 2020 value of \$1,148,478 is more than 10 times the level of any actual monthly write-off shown in the historical actual data.<sup>68</sup> This result is even more suspect when one looks at the two months prior and two months following December 2020, these months are more than 25 times lower than December 2020. Given the improvement in the economy since mid-year 2020 and the progress made on

<sup>67</sup> See FPUC Response to OPC's Interrog. No. 18 b, Attachment Bad Debt 4-19.

<sup>68</sup> See FPUC Response to OPC's Interrog. No. 3, Attachment file "ROG1 #3" for bad debt expense.

1 the pandemic, one would expect the COVID-19 costs to decline. This appears true for  
2 all FPUC costs except the December 2020 bad debt outlier. This is the result of using  
3 the inflated bad debt base line discussed earlier and relying on estimates rather than  
4 actual bad debts. FPUC's estimates just cannot be supported.

5

6 **Q32. WHAT ARE YOUR CONCLUSIONS WITH REGARD TO THE SPECIFIC**  
7 **FPUC COVID-19 REQUESTS?**

8 **A.** Correcting FPUC's safety related O&M shown in Table 5, results in a negative overall  
9 cost value of (\$244,985). The FPUC attempts to quantify actual bad debts are not based  
10 on actual write-offs and are overstated. It is difficult to determine what a reasonable  
11 level of bad debt for FPUC is for 2020. I would recommend that FPUC report actual  
12 2020 write-offs for evaluation. But based on the data available, I cannot determine if  
13 the FPUC COVID-19 costs are material. More important is that based on the data  
14 available FPUC has not provided sufficient evidence that the COVID-19 impact is  
15 material and qualifies for a deferral. Further, FPUC has failed to demonstrate any harm  
16 to financial integrity caused by COVID-19 impacts. There just is no basis to conclude  
17 FPUC should be granted deferred accounting in this case.



1     **SECTION V:     REGULATORY AND POLICY ISSUES REGARDING DEFERRED**  
2                                 **ACCOUNTING**

3  
4     **Q33. PLEASE EXPLAIN THE DEFERRED ACCOUNTING CONCEPT AS IT**  
5                                 **RELATES TO THE REGULATORY PROCESS.**

6     **A.**     Both Petitioners in the consolidated dockets appear to suggest that during the pandemic,  
7                                 they incurred expenses related to COVID-19 that were not specifically identified in the  
8                                 test year when their rates were last set. As such, they each claim the impact of these  
9                                 added COVID-19 expenses in 2020 was to lower their net income. In other words,  
10                                 because of increased expenses the bottom-line cash flow, return, and profit will be  
11                                 lower. However, all that occurred is that like any expense increase, COVID-19 costs  
12                                 caused profits and return to be lower.

13  
14                                 To offset the impact on profit and preserve the COVID-19 expenses for future recovery,  
15                                 both Petitioners have requested the suspension of recognition of 2020 COVID-19 costs  
16                                 through a deferred accounting order. If such deferral orders are approved, the identified  
17                                 COVID-19 costs will be removed from each Company’s 2020 expenses and beyond,  
18                                 placed in a deferral account and be recovered when future revenues can be included in  
19                                 rates to recover these deferred items. According to both Petitioners, there is no effect  
20                                 on future financial integrity or profit because future revenues offset this future expense  
21                                 recovery.

22  
23                                 Even if an authorization to establish a deferred accounting regulatory asset has no  
24                                 immediate impact on a utility’s rates, there are still serious consequences to the use of

1 the deferral mechanism and establishment of a regulatory asset. A deferred accounting  
2 order carries with it **a general presumption that the deferred costs, if prudent, are**  
3 **entitled to future recovery in rates.** This factual presumption is based on Generally  
4 Accepted Accounting Principles (“GAAP”) that govern the accounting practices of the  
5 Utilities regulated by the Commission. Specifically, Accounting Standards  
6 Codification (“ASC”) 980-340-25-1 (Recognition of Regulatory Assets”) provides the  
7 regulations that govern regulatory assets and reads as follows:

8  
9 25-1 Rate actions of a regulator can provide reasonable assurance of the  
10 existence of an asset. An entity shall capitalize all or part of an incurred cost  
11 that would otherwise be charged to expense if both of the following criteria are  
12 met:

- 13  
14 a. It is probable (as defined in Topic 450) that future revenue in an amount at least  
15 equal to the capitalized cost will result from inclusion of that cost in allowable  
16 cost for rate-making purposes.
- 17  
18 b. Based on available evidence; the future revenue will be provided to permit  
19 recovery of the previously incurred cost rather than to provide for expected  
20 levels of similar future costs. If the revenue will be provided through an  
21 automatic rate-adjustment clause, this criterion requires that the regulator’s  
22 intent clearly be to permit recovery of the previously incurred cost.
- 23

1 A cost that does not meet these asset recognition criteria at the date the cost is  
2 incurred shall be recognized as a regulatory asset when it does meet those  
3 criteria at a later date.<sup>69</sup>

4  
5 When the Commission authorizes the creation of a regulatory asset, the Commission is  
6 also prejudging that it is probable pursuant to (“ASC”) 980-340-25-1 (Recognition of  
7 Regulatory Assets) the utility will be allowed to collect the incremental COVID-19  
8 costs recorded in the deferral account. In other words, absent a finding of imprudent  
9 management action, the presumption of probable recovery is essentially a guarantee of  
10 recovery.

11  
12 In addition, as discussed earlier, the USOA requires that only “extraordinary items” be  
13 included in a deferral.<sup>70</sup> This requirement is most problematic for the Petitioners when  
14 they fail to address the basic requirement that the COVID-19 expenses meet the USOA  
15 Extraordinary Items requirement of materiality discussed earlier. Even if the  
16 materiality requirement is met, next a Petitioner is also required to satisfy the second  
17 question of whether a deferral is necessary to protect the financial integrity of the  
18 Petitioner.

<sup>69</sup> Electronic Application of Duke Energy Kentucky, Inc. For an Order Approving The Establishment of a Regulatory Asset or Liability Associated with Pension Settlement, Commonwealth of Kentucky Public Service Commission, Cause No. 2019-00352, (March 30, 2020) at page 2.

<sup>70</sup> 18 CFR Part 101 General Instruction 7 “Extraordinary Items”.

1       **Q34. IS A COMMISSION ORDER REQUIRED FOR DEFERRED ACCOUNTING?**

2       **A.**     The short answer is yes. Evidence to support the Commission Order requirement for  
3               deferred accounting first includes the fact that the Petitioners have filed these cases  
4               with the Commission requesting deferred accounting orders. Second, FPUC witness  
5               Craig’s testimony quotes a prior Commission Order that states; “To create a regulatory  
6               asset or liability, **a regulated company must have the approval of its regulator.**”<sup>71</sup>  
7               (emphasis added) So, in this case, FPUC cites to a 2008 Commission Order authorizing  
8               deferral accounting pursuant to a request from FPUC, and the 2008 Order explicitly  
9               states that deferred accounting requests require this Commission’s approval. That alone  
10              should be enough to show a Commission Order is required.

11  
12             Therefore, absent a regulatory order, the ability to record the deferral for financial  
13             reporting purposes can certainly be questioned in an annual audit.

14  
15             This audit issue is an important point regarding Commission Orders and accounting  
16             requirements, and is addressed in the NextEra 2020 Annual Report by the accountant  
17             auditors, Delloitte & Touche LLP where they state: “FPL follows the accounting  
18             guidance that allows regulators to create assets and impose liabilities, based on the  
19             probability of future cash flows, that would not be recorded by non-rate regulated  
20             entities.”<sup>72</sup>

<sup>71</sup> FPUC Direct Testimony D. Craig p. 6, lines 20-21, citing a prior FPUC Deferred Accounting request before the PSC, Order No. PSC-08-0134-PAA-PU at page 3 (March 3, 2008).

<sup>72</sup> See NextEra 2020 annual Report, by the accountant auditors, Delloitte & Touche LLP, *Critical Audit Matter Description*, page 59.

1 Deferred accounting is unique to regulated operations, but there are several  
2 requirements to safeguard proper financial reporting. Such safeguards include a  
3 Commission Order assuring future revenues to recover the deferral.

4  
5 **Q35. WHY ARE THESE ACCOUNTING REQUIREMENTS AND SAFEGUARDS**  
6 **IMPORTANT TO FOLLOW?**

7 **A.** General accounting and reporting rules provide assurance that a particular company's  
8 reported financial results are what they purport to be – no hidden traps or pitfalls for  
9 the investor or consumer of such information. As I noted above, non-regulated entities  
10 may not use deferred accounting, as there is no regulatory authority standing behind  
11 deferrals to assure higher revenue through higher rates, thus create a substantial  
12 probability of collecting the deferrals.

13  
14 A famous quote by Warren Buffett illustrates the importance of these accounting rules  
15 at times of economic crisis: **“It’s only when the tide goes out that you learn who’s**  
16 **been swimming naked.”**<sup>73</sup> (emphasis added). The requirements to qualify for deferred  
17 accounting, including the requirement to have a Commission Order, all help assure that  
18 a company's reported financials, books and records are what they purport to be.  
19 However, the accounting rules and requirements only work if they are followed.  
20 Otherwise, a financial crisis or other extraordinary event will not reveal a company's  
21 other financial weakness that was previously hidden by a high tide.

<sup>73</sup> Berkshire Hathaway, Inc. 1992 Letter to the Shareholders of Berkshire Hathaway Inc. see <https://www.berkshirehathaway.com/letters/1992.html>

1       **Q36. WHAT STANDARDS SHOULD THE COMMISSION EMPLOY IN DECIDING**  
2       **WHETHER TO AUTHORIZE DEFERRED ACCOUNTING AND THE**  
3       **CREATION OF REGULATORY ASSETS IN THIS CASE?**

4       **A.** Once rates are established through the test year ratemaking process, revenues,  
5       expenses, and investment will change through time, but the original rates stay in place  
6       until changed in the next rate case. The process of deferred accounting and creation of  
7       a regulatory asset is not a rate proceeding, but rather, it is an accounting mechanism.  
8       The creation of a regulatory asset is a “single-issue” or “piecemeal” process. In this  
9       proceeding, COVID-19 expenses that have not been included in revenue requirements  
10      or rates, along with a limited number of offsets (savings), have been identified to  
11      estimate an incremental COVID-19 expense deferral and creation of a regulatory asset  
12      for future recovery. When a company eliminates the current expensing of these  
13      COVID-19 amounts, i.e., when it defers the costs to a regulatory asset for future  
14      expensing and collection, the utility’s current year financials and equity return are  
15      boosted. Nothing could be more single issue or piecemeal.

16  
17      Nonetheless, a deferred accounting order will carry with it a general presumption that  
18      the deferred costs, if prudent, are entitled to full recovery in rates (including the time  
19      value of money). As noted above, the Commission’s assurance of probable recovery of  
20      a deferral is an important factor underlying the recognition of deferred accounting.  
21      Given the assurance of recovery requirement, the Commission should consider the total  
22      utility position, not just increased costs. For example, during 2020, Gulf had base O&M

1 savings well over \$30 million.<sup>74</sup> These savings in O&M more than offset the amount  
2 for which Gulf requested deferral.

3  
4 Obviously, it makes no sense to issue a deferred accounting order every time an  
5 expense or revenue item is different than anticipated in the rate setting process. But  
6 Gulf could have filed a deferred accounting order request to share Gulf's O&M savings  
7 with customers. Now, the Commission has the opportunity to consider Gulf's O&M  
8 savings as part of the deferred accounting request. Deferred accounting should not be  
9 automatically granted upon a utility's unsubstantiated request. Deferred accounting  
10 cannot be a one-way street.

11  
12 Therefore, some basic standards or rules of the road are required. I have identified three  
13 standards that factor into the decision on deferred accounting which I have applied in  
14 my analysis above. These three standards are: i) accounting requirements, ii) financial  
15 integrity requirements, and iii) the equity balance between customers and shareholder  
16 interests that all regulatory authorities must constantly weigh and evaluate.

17  
18 By employing these three standards, the Commission avoids unfettered deferred  
19 accounting and creation of regulatory assets. The regulatory authority should seek to  
20 avoid creating the expectation by regulated utilities that any unusual balances or  
21 expenses will always be recoverable on demand or as a matter of course. The point of

<sup>74</sup> See NextEra Energy Website, Investor Relations, 4<sup>th</sup> Quarter and 2020 Results, Presentation, and Remarks (1/26/2021 at page 17. Base O&M savings were primary driver of approximately 2 cents per share growth. 1.98333 billion shares times \$0.02 per share.

1 having guidelines and standards is to avoid the normalization of a piecemeal, single-  
2 issue one-way approach.

3  
4 **Q37. PLEASE EXPLAIN THE FIRST ACCOUNTING STANDARD.**

5 **A.** Deferred accounting should be used sparingly when extraordinary events occur. A  
6 Commission Order should be required before deferrals are created on the books of the  
7 Company. As I noted earlier, this Commission has historically required a deferred  
8 accounting Order.

9  
10 The accounting requirements for the creation of a regulatory asset is set forth in ASC  
11 980-340-25-1 Recognition of Regulatory Assets has already been explained above. The  
12 key requirements from this accounting rule is that the regulator assure that it is probable  
13 that the capitalized cost (regulatory asset) will be recovered from future revenue as part  
14 of allowable costs in the rate-making process.

15  
16 The USOA accounting criteria is that the expenses to be deferred must be: i) of unusual  
17 nature, ii) have infrequent occurrence, and iii) be material in size (5 percent of income)  
18 to be considered extraordinary and subject to deferred accounting treatment.<sup>75</sup>

19 By employing these basic straightforward accounting standards to the facts and  
20 circumstances of each case, the Commission can be assured whether the expense in  
21 question meet an “extraordinary” accounting threshold.

22  
<sup>75</sup>18 CFR Part 101 General Instruction 7 “Extraordinary Items”.



1       **Q38. PLEASE EXPLAIN THE FINANCIAL INTEGRITY STANDARD.**

2       **A.**     Once a Petition for deferred accounting and regulatory asset creation meets the  
3               accounting standard above, the inquiry should continue to consideration of the financial  
4               integrity of the Petitioner. Clearly, it is a mathematical certainty that once deferred  
5               accounting is authorized, a Petitioner’s financial integrity will improve. However,  
6               improving financial integrity in and of itself should not be the goal. In order to balance  
7               the interest of customers and shareholders, the regulatory authority should authorize  
8               deferred accounting only if necessary, to protect the utility’s financial integrity. Thus,  
9               a utility’s financial integrity should be evaluated to determine whether financial  
10              enhancement is necessary. The financial integrity evaluation should consider the  
11              shareholder return earned relative to authorized return or range levels. Financial  
12              integrity can also be reviewed through the lens of rating agency reports (such as  
13              Moody’s Investor Services, Standard & Poor’s, and Fitch) evaluating credit risks and  
14              cash flow on an historical, current and forecasted basis.

15  
16              Regulatory agencies have authority to grant deferred accounting treatment to protect a  
17              regulated utility’s financial integrity due to the impact of regulatory lag. For example,  
18              a utility is generally allowed a reasonable opportunity to recover its operating expenses  
19              together with a reasonable return on invested capital. This return requirement is met  
20              when the return is sufficient to assure confidence in the financial integrity of the firm  
21              so as to maintain credit and attract capital on reasonable market terms.<sup>76</sup>

<sup>76</sup> *Federal Power Comm’n v. Hope Natural Gas Co.* 320 U.S. 591, 603, 64 S. Ct. 281, 288, 88 L. Ed. 333 (1944)  
also see *Bluefield Water works Improvement Co. v. Public Serv. Comm’n of the State of West Virginia*, 262 U.S.  
679, 692-93, 43 S. Ct. 675, 678-79, 67 L. Ed 1176 (1923).

1  
2 The basic goal of the financial integrity standard is to establish that deferred accounting  
3 is necessary to ensure that the utility needs such special treatment to meet the  
4 opportunity to recover costs and have an opportunity to earn a return on investment  
5 consistent with authorized levels. This standard seeks to eliminate those situations  
6 where the utility may incur an unusual or extraordinary cost, but is still earning profits  
7 at a high level well within current authorized return levels. Such firms that experience  
8 no threat to financial integrity do not require additional risk reducing measures and  
9 return enhancements.

10  
11 On the other hand, a firm experiencing extraordinary costs along with strained financial  
12 integrity, such as bond rating reductions and limits on reasonable access to capital on  
13 reasonable terms and prices may be a good candidate for deferred accounting. Again,  
14 the first hurdle is the accounting criteria thresholds and once those are met, the second  
15 standard is financial integrity or financial need.

16  
17 It is important that Gulf has acknowledged that it will maintain financial integrity and  
18 a return within its authorized range, **even if deferred accounting is denied.**<sup>77</sup> FPUC  
19 acknowledges that its financial integrity is not undermined by COVID-19 costs.<sup>78</sup> It  
20 would appear deferred accounting is not necessary in either of these dockets.

21  
22 Applying the standards related to accounting rules and financial integrity assures a

<sup>77</sup> See Gulf Response to OPC's Interrog. No. 19.

<sup>78</sup> See FPUC Response to OPC's Interrog. No. 13.

1 consistent application of deferred accounting, and avoids the problematic *ad hoc*  
2 ratemaking which may lead to unjust results.

3

4 **Q39. PLEASE DESCRIBE THE THIRD STANDARD FOR DEFERRED**  
5 **ACCOUNTING THE EQUITY BALANCE BETWEEN CUSTOMERS AND**  
6 **SHAREHOLDER INTEREST.**

7 **A.** The regulatory process in general involves a balancing of investor or shareholder  
8 interests and customer interests. All regulatory authorities balance the rights of the  
9 utility's investors to recover costs, and the opportunity to earn a fair rate of return on  
10 investment with the rights of consumers to pay no more than reasonable rates for  
11 quality service from the utility. Such balancing of interests between investor and  
12 customer interests typically takes place during a general base rate case or rate setting  
13 proceedings where all revenues and expenditures are evaluated.

14

15 However, in single-issue accounting proceedings such as petitions for regulatory assets,  
16 it is more important than ever to maintain the balancing of interests between investors  
17 and customers. It is important to weigh the potential financial impact on shareholders,  
18 as well as the impact of the rate deferral and future rate impacts on customers. This  
19 evaluation includes whether the utility is able to demonstrate that the financial impact  
20 is known, measurable, and substantial on the financial integrity of the company. The  
21 burden of proof is on the petitioning utility, so a utility's failure to establish with  
22 credible evidence that the alleged extraordinary costs are having a known, measurable,  
23 and substantial impact on its financial integrity (and are thus by definition

1 extraordinary) means the balance of fairness should favor the customer interests, and  
2 requires denial of the request for a regulatory asset.

3  
4 **Q40. PLEASE PROVIDE A SUMMARY OF THE ACCOUNTING, FINANCIAL**  
5 **INTEGRITY, AND EQUITY BALANCING GUIDELINES.**

6 **A.** The general ratemaking process of setting and establishing just and reasonable rates is  
7 not perfect, but does include protections for both shareholders and customers. Between  
8 rate cases many events occur that cause costs and revenues to change. In cases such as  
9 the current proceeding there must be basic standards to assure that investors have an  
10 opportunity to earn a reasonable return, utilities continue to maintain financial integrity,  
11 and customers receive quality service at reasonable prices. The three standards outlined  
12 above will assure that rates continue to be reasonable and customer along with  
13 shareholder interests are protected.

14  
15 **Q41. WHAT IS THE IMPACT OF APPLYING THE ACCOUNTING STANDARD,**  
16 **THE FINANCIAL INTEGRITY STANDARD, AND THE EQUITY**  
17 **BALANCING STANDARD TO THE GULF REQUEST?**

18 **A.** I would say at the outset that it is a better approach to wait for an authoritative  
19 commission order before recording deferred accounting. I will leave for others to opine  
20 whether Florida law requires this. The Commission decision in this case will determine  
21 how this issue should be handled in the future. As to the Accounting Standard I have  
22 shown earlier, that the Gulf COVID-19 request when adjusted for actuals is not material  
23 and therefore does not meet the extraordinary standard set forth in USOA 107 when

1 the \$238 million 2020 earnings is employed. But if the earnings surveillance report  
2 regulatory earnings are employed the Gulf request is material. Materiality cannot be  
3 determined for FPUC.

4  
5 As to the financial integrity standard, I addressed above how both Gulf and FPUC have  
6 acknowledged that financial integrity will not be impaired. Given that the evidence  
7 does not support materiality and financial integrity is not an issue, basic equity leads to  
8 the conclusion that the deferrals should be denied. The basic process of regulation  
9 involves a balancing of investor or shareholder interest and customer interests.

10  
11 **SECTION VI: COVID-19 IMPACTS ON THE ECONOMY**

12  
13 **Q42. DO CURRENT ECONOMIC CONDITIONS WARRANT THE**  
14 **AUTHORIZATION OF DEFERRED ACCOUNTING?**

15 **A.** In my opinion, no. Prior to the COVID-19 pandemic, the U.S. economy was doing  
16 quite well with historically low unemployment, low inflation, and record setting equity  
17 markets. However, following the closure of a significant amount of economic activity  
18 at the early stages of the pandemic (Quarter 1 2020), real GDP fell in the second quarter  
19 of 2020 by about 31.4%. Unemployment spiked to 14.7% the highest post WWII level  
20 and remains elevated today. Many workers in certain industries such as leisure, hotel,  
21 and travel have faced prolonged hardship due to the closures required by the pandemic.

22  
23 Since these early 2020 events, the economy has made substantial recoveries. Both  
24 monetary policy and fiscal policy stimulus have driven economic recovery. I discuss

1 below, a number of monetary and fiscal policy efforts driving economic recovery. Such  
2 policies include two major efforts at fiscal stimulus including cash payments to  
3 taxpayers, enhanced unemployment stimulus, payments to impacted business under  
4 Paycheck Protection Programs and direct grants and loans to struggling businesses.

5  
6 Most of the Federal Reserve action in 2020 combined a lower federal funds rate with  
7 quantitative easing to address the impact of COVID-19 impacts on the economy.

8  
9 Prior to the pandemic, during the second half of 2019 and into January 2020, Federal  
10 Reserve Federal FOMC statements and monetary policy announcements signaled  
11 accommodative monetary policy and continued low interest rates.<sup>79</sup> The Federal  
12 Reserve's actions to lower the federal funds rate during the last half of 2019 were in  
13 response to slower economic growth, both domestically and globally.<sup>80</sup> Then in March  
14 2020, the Federal Reserve's monetary policy action recognized the impact of COVID-  
15 19 on the economy.<sup>81</sup> On or about March 3, 2020, the Federal Reserve lowered the  
16 Federal Funds rate by 50 basis points from 1.5% - 1.75%, down to 1.0% - 1.25%.<sup>82</sup>  
17 Then less than two weeks later, on March 15, 2020, the Federal Reserve took

<sup>79</sup> Board of Governors of the Federal Reserve System, FOMC Statement Press Release, June 19, 2019; July 31, 2019; September 18, 2019; October 30, 2019, December 11, 2019 and January 29, 2020. These press releases and the Federal Reserve economic projections referred to herein have been included as Exhibit DJL-2. They can also be found at <https://www.federalreserve.gov/newsevents/pressreleases.htm>.

<sup>80</sup> See Exhibit DJL-2, Board of Governors of the Federal Reserve System, FOMC Statement Press Release, July 31, 2019.

<sup>81</sup> See Exhibit DJL-2, Board of Governors of the Federal Reserve System, FOMC Statement Press Release, March 3, 2020 and March 15, 2020.

<sup>82</sup> See Exhibit DJL-2, Board of Governors of the Federal Reserve System, FOMC Statement Press Release, March 3, 2020.

1 emergency action and lowered the federal funds rate to **zero**.<sup>83</sup> In addition, the Federal  
 2 Reserve stated that Quantitative Easing tools would be employed to maintain credit  
 3 flows.<sup>84</sup> Thus, over this period the FOMC has been easing monetary policy to  
 4 accelerate economic growth - first in response to slower growth and now since March  
 5 2020 in response to COVID-19 impacts on the economy. The following Table 8  
 6 provides a summary of the monthly average 30-year U.S. Treasury Yields in 2020.

7  
 8 **TABLE 8<sup>85</sup>**

9 **30-Year U.S. Treasury Yields (Monthly)**

10	<b><u>MONTH</u></b>	<b><u>YIELD (%)</u></b>
11	<b>JAN.</b>	<b>2.015</b>
12	<b>FEB.</b>	<b>1.671</b>
13	<b>MAR.</b>	<b>1.351</b>
14	<b>APR.</b>	<b>1.266</b>
15	<b>MAY</b>	<b>1.407</b>
16	<b>JUN</b>	<b>1.409</b>
17	<b>JUL</b>	<b>1.198</b>
18	<b>AUG</b>	<b>1.452</b>
19	<b>SEP</b>	<b>1.451</b>
20	<b>OCT</b>	<b>1.640</b>
21	<b>NOV</b>	<b>1.573</b>
22	<b>DEC</b>	<b>1.646</b>
23		

<sup>83</sup> See Exhibit DJL-2, Board of Governors of the Federal Reserve System, FOMC Statement Press Release, March 15, 2020.

<sup>84</sup> See Exhibit DJL-2, Board of Governors of the Federal Reserve System, FOMC Statement Press Release, March 15, 2020.

<sup>85</sup> Yahoo Finance *see* [www.finance.yahoo.com/quote/%5ETYS/history](http://www.finance.yahoo.com/quote/%5ETYS/history)

1           The 30-year U.S. Treasury yields were substantially lower in 2020 as a result of Federal  
2           Reserve policy actions addressing COVID-19 impacts on the economy. Current yields  
3           in 2021 are back to 2.25% levels.

4

5           **Q43. DID REGULATORY AUTHORITIES AROUND THE COUNTRY**  
6           **RECOGNIZE THE DECLINING COST OF EQUITY AND DEBT CAPITAL IN**  
7           **SETTING RATES FOR THE 2020 PERIOD?**

8           **A.**    Yes. Many regulatory authorities have established equity returns reflective of the  
9           declining cost of equity, such that the average authorized equity return continues to be  
10          well below 10%. Regulatory authority cost of equity decisions for regulated electric  
11          utility operations during calendar year 2019 averaged about 9.7%.<sup>86</sup> The national  
12          average electric equity return for the year 2020 declined to about **9.4%**.<sup>87</sup> **The cost of**  
13          **utility capital declined during 2020 while COVID-19 impacted the economy.**

14          The end result is that cost of capital for utility operations declined to historically low  
15          levels during 2020, but these savings are not recognized as part of either Gulf's or  
16          FPUC's COVID-19 cost and savings analysis.

<sup>86</sup> Edison Electric Institute (EEI), Quarterly Financial Updates, Rate Review Data 4<sup>th</sup> Quarter 2020, citing *S&P Global Market Intelligence/ Regulatory Research Associates and EEI Finance Department*.

<sup>87</sup> See Exhibit DJL-2; see also, Edison Electric Institute (EEI), Quarterly Financial Updates, Rate Review Data 4<sup>th</sup> Quarter 2020, citing *S&P Global Market Intelligence/ Regulatory Research Associates and EEI Finance Department*.



1       **Q44. WERE ELECTRIC UTILITY STOCK PRICES IMPACTED BY THE**  
2       **COVID-19 INFLUENCE ON THE ECONOMY DURING 2020?**

3       **A.**     Yes, there were substantial impacts on equity markets in general and utility markets in  
4       particular. The EEI notes that between January and March 2020 the COVID-19  
5       pandemic drove market indices down about 35%.<sup>88</sup> EEI stated that “Emergency Fed  
6       rate cuts, massive fiscal stimulus and vaccine optimism powered a dramatic rebound  
7       over the rest of 2020.”<sup>89</sup>

8  
9       The EEI also reported on its own EEI Index performance for 2020 and states: “The EEI  
10      Index’s -1.2% 2020 return would have been lower **without NextEra Energy’s 30%**  
11      **gain**. NextEra accounted for 17% of the EEI Index at year end. Most utility shares fell  
12      more than 5% in 2020.”<sup>90</sup> (emphasis added) Thus, while electric utilities did see stock  
13      price declines in 2020 NextEra did not suffer stock price losses.<sup>91</sup>

14  
15      **Q45. DID REGULATED UTILITIES FACE A GENERAL ECONOMIC HARDSHIP**  
16      **AS A RESULT OF COVID-19 DURING 2020?**

17      **A.**     In my opinion, no. As I discussed earlier, the economy took a hard hit in early 2020  
18      due to economic closures. Through the remainder of 2020 recovery has been quick, but  
19      certainly not complete.

<sup>88</sup> Edison Electric Institute (EEI), Quarterly Financial Updates, EEI Stock Index 2020, Quarter 4 2020 Stock Performance.

<sup>89</sup> Edison Electric Institute (EEI), Quarterly Financial Updates, EEI Stock Index 2020, Quarter 4 2020 Stock Performance.

<sup>90</sup> Edison Electric Institute (EEI), Quarterly Financial Updates, EEI Stock Index 2020, Quarter 4 2020 Stock Performance.

<sup>91</sup> Gulf Power is part of the NextEra Company assets.

1 In the June 10, 2020 FOMC press release the Federal Reserve states: “financial  
2 conditions have improved, in part reflecting policy measures to support the economy  
3 and the flow of credit to U.S. households and business.”<sup>92</sup> Again, in the July 31, 2020  
4 FOMC press release, the FOMC stated: “following sharp declines, economic activity  
5 and employment have picked up somewhat in recent months.”<sup>93</sup> The most recent  
6 FOMC press release of April 28, 2021 states; “amid progress on vaccinations and  
7 strong policy support, indications of economic activity and employment have  
8 strengthened.”<sup>94</sup> This most recent FOMC statement is supported by the recent reports  
9 of gross Domestic Product (GDP) growth of 6.4%.<sup>95</sup> Also, the U.S. Bureau of Labor  
10 statistics reports an unemployment rate of 6.0% and declining.<sup>96</sup>

11  
12 Thus, while the pandemic hit the economy hard in March 2020 through the second  
13 quarter of 2020, since June of 2020 economic activity has developed substantially  
14 through the end of the year. Moreover, the first quarter of 2021 has showed continued  
15 improvement. Given the above it is difficult to accept the FPUC projections of  
16 worsening costs through the end of 2020. I have seen no particular hardship impacts  
17 that have directly impacted the utility industry in general. I discussed above that utility  
18 cost of capital actual declined during 2020 as a result of COVID-19 impacts on the  
19 economy and Federal Reserve monetary policy responses.

20

<sup>92</sup> See Board of Governors of the Federal Reserve System, FOMC Statement Press Release, June 10, 2020.

<sup>93</sup> See Board of Governors of the Federal Reserve System, FOMC Statement Press Release, July 31, 2020.

<sup>94</sup> See Exhibit (DJL-2) also see Board of Governors of the Federal Reserve System, FOMC Statement Press Release, April 28, 2021.

<sup>95</sup> See Exhibit (DJL-2) U.S. Bureau of Economic Analysis Gross Domestic Product First Quarter 2021.

<sup>96</sup> See Exhibit (DJL-2).

1       **Q46. DOES THIS CONCLUDE YOUR TESTIMONY?**

2       **A.**     Yes, it does.

1           CHAIRMAN CLARK: All right. Our two  
2 witnesses, Mr. Deason, Mr. Goldstein, are you on  
3 the line?

4           MR. GOLDSTEIN: Yes, sir. This is Mitch  
5 Goldstein from Gulf Power, and I am available.

6           CHAIRMAN CLARK: Mr. Deason.

7           MR. DEASON: Mr. Chairman, this is -- this is  
8 Terry Deason. I am also available.

9           CHAIRMAN CLARK: All right. Let me swear you  
10 both in.

11 Whereupon,

12                           MITCHELL P. GOLDSTEIN

13                           J. TERRY DEASON

14 were called as a witness, having been first duly sworn  
15 to speak the truth, the whole truth, and nothing but the  
16 truth, was examined and testified as follows:

17           CHAIRMAN CLARK: All right. Consider yourself  
18 sworn in.

19           All right. I am going to ask counsel for Gulf  
20 to please introduce your witnesses.

21           MR. BAKER: Certainly.

22           Here we have Mitchell Goldstein on behalf of  
23 Gulf Power, and Terry Deason also on behalf of Gulf  
24 Power, who are available to answer any questions  
25 that you might have. As you heard, their prefiled

1 testimony has been entered, and they are available.

2 CHAIRMAN CLARK: All right. Thank you very  
3 much, Mr. Baker.

4 OPC, any questions? Ms. Morse?

5 MS. MORSE: No thank you, Mr. Chair.

6 CHAIRMAN CLARK: Staff, questions?

7 MR. STILLER: No, Chair.

8 CHAIRMAN CLARK: Commissioners, do you have  
9 any of questions for the witnesses?

10 All right. I believe that will conclude.

11 Gulf, would you like your witnesses excused?

12 MR. BAKER: Yes, we would, Chairman Clark.

13 Thank you.

14 CHAIRMAN CLARK: All right. Thank you very  
15 much. Gulf witnesses are excused.

16 (Witnesses excused.)

17 CHAIRMAN CLARK: My apologies. I keep looking  
18 up for you, Mr. Baker, to be sitting out here. I  
19 can't find you here a couple times today.

20 MR. BAKER: I would have liked to have been  
21 there, Chairman Clark. Thank you, though.

22 CHAIRMAN CLARK: Understood.

23 All right. Next up we will move into Docket  
24 No. 20200194-EI. Exhibits, Mr. Still.

25 MR. STILLER: As noted above, staff has

1 prepared a Comprehensive Exhibit List which  
2 includes Exhibits 1 through 20. Mr. Chair, we have  
3 a exhibit to add to this exhibit list for FPUC this  
4 morning. This exhibit has been distributed to the  
5 parties, to the court reporter and to the  
6 Commissioners. It is label Exhibit A at the top.  
7 It is one page. It is meant to be an exhibit to  
8 the settlement agreement, which itself is an  
9 attachment to the motion. This one page was not  
10 filed with the Clerk's Office, and FPUC is asking  
11 that it be entered into the record this morning.  
12 It's -- and Ms. Keating is here for further  
13 explanation on that.

14 CHAIRMAN CLARK: Ms. Keating, any comment?

15 MS. KEATING: First I would like to begin by  
16 apologizing. The last exhibit was -- these  
17 microphones are not -- I realize the exhibit was  
18 not attached last night. I have spoken with Ms.  
19 Christensen. She doesn't have any issue. She's  
20 seen the exhibit. It's really just demonstrative  
21 to show the allocation of the amount and the  
22 regulatory asset between the different FPU  
23 Chesapeake business units, but in order to make  
24 sure that the settlement was complete, I wanted to  
25 make sure you had it, and had the opportunity to

1 see it, and that it was in the record.

2 CHAIRMAN CLARK: Very good.

3 Are there any objections to including it?

4 (Whereupon, Exhibit No. 21 was marked for  
5 identification.)

6 CHAIRMAN CLARK: Mr. Stiller.

7 MR. STILLER: It is staff's understanding that  
8 the parties do not object to the entry of Exhibits  
9 5 through 9, 19, and now Exhibit 21 into the  
10 record. Staff requests that Exhibits 5 through 9,  
11 19 and 21 be entered into the record at this time.

12 CHAIRMAN CLARK: Without objection, they are  
13 entered into the record.

14 (Whereupon, Exhibit Nos. 5-9, 19 & 21 were  
15 received into evidence.)

16 CHAIRMAN CLARK: Move to witnesses.

17 MR. STILLER: It is staff's understanding that  
18 the prefiled testimony of all witnesses in this  
19 case has been stipulated to by all the parties, and  
20 the witnesses may be excused from attending today's  
21 hearing.

22 That being the case, staff would request that  
23 the prefiled direct and rebuttal testimony on  
24 behalf of FPUC witnesses Galtman and Craig,  
25 rebuttal testimony of joint rebuttal witness Deason

1 as it relates to FPUC, and the direct testimony of  
2 OPC witness Lawton be inserted into the record as  
3 though read.

4 FPUC witnesses Galtman and Craig are available  
5 to speak in support of the settlement agreement and  
6 to answer any questions by the Commissioners.

7 (Whereupon, prefiled direct testimony of  
8 Michael D. Galtman was inserted.)

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



1                   **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2                   **DIRECT TESTIMONY OF MICHAEL D. GALTMAN**

3                   **ON BEHALF OF FLORIDA PUBLIC UTILITIES COMPANY AND THE FLORIDA**  
4                   **DIVISION OF CHESAPEAKE UTILITIES CORPORATION**

5                   **DOCKET NO. 20200194-PU**

6

7                   **Q.     Please state your name and business address.**

8                   A.     My name is Michael D. Galtman. My business address is 100 Commerce Drive,  
9                   Suite 200, Newark, DE 19713.

10                  **Q.     By whom are you employed and in what capacity?**

11                  A.     I am employed by Chesapeake Utilities Corporation, the corporate parent of Florida  
12                  Public Utilities Company, as Vice President and Chief Accounting Officer.

13                  **Q.     Could you give a brief description of your background and business experience?**

14                  A.     In 1997, I received a Bachelor of Science in Accounting from Rutgers University in  
15                  Camden, New Jersey and am a licensed Certified Public Accountant in Pennsylvania.  
16                  I have been in my current position as Vice President and Chief Accounting Officer of  
17                  Chesapeake Utilities Corporation since April 2019. In my role I have responsibility  
18                  for the SEC reporting, accounting policy, tax, financial planning and analysis and  
19                  strategic modeling departments. Prior to joining Chesapeake Utilities Corporation I  
20                  held various accounting leadership roles, including the role of Chief Accounting  
21                  Office at Sunoco Logistics Partners LP, which was a subsidiary of Energy Transfer.  
22                  Sunoco Logistics Partners LP owned and operated midstream assets that served to  
23                  transport crude oil, refined products and natural gas liquids and had certain assets that  
24                  were regulated by the FERC and the respective state public service commission where  
25                  the assets were located.

1 **Q. Have you provided testimony before?**

2 A. No. This will be my first time providing testimony since joining Chesapeake  
3 Utilities Corporation in April 2019.

4 **Q. What is the purpose of your testimony?**

5 A. My testimony will provide the reasoning and methodology utilized by Florida Public  
6 Utilities, Florida Public Utilities-Indiantown Division, Florida Public Utilities-Fort  
7 Meade, and Florida Public Utilities-Electric Division, as well as the Florida Division  
8 of Chesapeake Utilities Corporation (collectively, “the Companies”) to support the  
9 establishment of a regulatory asset for costs related to the COVID-19 pandemic.

10 **Q. Under what circumstances is it appropriate to recognize a regulatory asset based**  
11 **on the guidance contained within ASC 980 – Regulated Operations?**

12 A. It is appropriate to recognize a regulatory asset under the accounting guidance defined  
13 within *ASC 980 – Regulated Operations* (“ASC 980”) when the costs being deferred  
14 have both been incurred and are allowable based on supporting evidence.

15 Under ASC 980, an incurred cost is defined as one which has arisen from cash being  
16 paid out or an obligation to pay for an acquired asset or service, a loss from a cause  
17 that has been sustained and has been or must be paid for. The costs that should be  
18 included in the Company’s pandemic response regulatory asset relate to the period  
19 after the Company began implementing its emergency response plan in March 2020  
20 in response to the COVID-19 pandemic.

21 The guidance in ASC 980 indicates that a regulated utility should only recognize a  
22 regulatory asset for incurred costs if it is probable that future revenue in an amount at  
23 least equal to the capitalized cost will result from inclusion of that cost in allowable

1 costs for rate-making purposes. The accounting guidance further stipulates that there  
2 are varying degrees of evidence which assist in determining whether deferral of costs  
3 is an appropriate course of action. An approved rate order specifying that the incurred  
4 costs are allowed for recovery in the future are traditionally seen as the highest and  
5 best form of evidence to proceed with recognition of a regulatory asset. However,  
6 there are other forms of evidence that can support recognition of regulatory assets  
7 including whether the incurred costs have been treated as allowable cost of service in  
8 prior regulatory filings.

9 **Q. What accounting policy considerations support establishment of this regulatory**  
10 **asset?**

11 A. While not identical, the Company believes the costs incurred in relation to the  
12 pandemic are akin to those brought about by natural disasters such as hurricanes.  
13 Although there was no loss of service to our customers as a result of the pandemic, it  
14 was imperative to incur additional costs to maintain operations during the pandemic  
15 and ensure the safety of our employees, customers and communities.

16 Based on the accounting guidance provided within ASC 980, the establishment of a  
17 regulatory asset related to pandemic response costs is appropriate. The costs have been  
18 incurred and were deemed allowable for inclusion in a regulatory asset based on an  
19 issued, FPSC order, albeit one that has now been protested, and the creation of this  
20 regulatory asset is consistent with the practice for other natural disasters.

21 **Q. Describe the types of costs that should be included in the Companies' pandemic**  
22 **response regulatory asset and the methodology utilized in calculating the balance**  
23 **of the regulatory asset?**

1 A. As the FPSC outlines in its initial order, the costs included should be those costs  
2 associated with incremental bad debt expense and safety-related expenses. Safety-  
3 related expenses limited to those expenses directly pertaining to the protection of the  
4 Company's employees and customers, such as costs associated with testing,  
5 monitoring, acquiring personal protective equipment (PPE), and incremental costs for  
6 cleaning and sanitizing Company property, should also be included in the regulatory  
7 asset. In addition to these costs, the Companies have also considered incremental costs  
8 which were necessary to maintain our employees' well-being, as well as our operations  
9 throughout the pandemic including incremental information technology costs for  
10 employees working remotely and higher insurance costs as a result of the pandemic  
11 environment.

12 **Q. What methodology did the Companies employ in calculating the bad debt**  
13 **expense included in this regulatory asset?**

14 A. In an effort to remain consistent with current rate-making practices, the Companies  
15 reviewed bad debt expense over the three preceding years and calculated average bad  
16 debt expense. Once the three-year historical average for bad debt expense had been  
17 determined it was then compared to bad debt expense incurred since the onset of the  
18 pandemic. Any amounts during the period of time for which the pandemic was  
19 ongoing that were in excess of the calculated historical amount were segregated and  
20 included in the regulatory asset recognized by the Companies. Since the pandemic  
21 began, there has been a significant increase in the Companies' aged accounts  
22 receivable balances which has resulted in significantly higher levels of bad debt  
23 expense above historical averages.

1 **Q. Is the methodology used for calculating safety-related costs consistent with that**  
2 **of the bad debt expense?**

3 A. Yes. The Companies analyzed their historical safety-related expenses over the past  
4 three years and compared those to safety expenses incurred throughout the course of  
5 the pandemic. Any safety-related expenses that exceeded the historical average were  
6 included as a component of the regulatory asset. If the Companies incurred a safety-  
7 related cost that they had not historically, but was incurred directly as a result of the  
8 pandemic (i.e. testing, acquiring PPE, additional healthcare costs and completing  
9 COVID specific sanitizing), the total amount of those costs are also appropriate for  
10 inclusion in the regulatory asset.

11 **Q. Are costs for incremental labor appropriate for inclusion in this regulatory asset?**

12 A. Yes. The Companies have incurred incremental labor costs for our field employees  
13 who have been customer-facing throughout the pandemic. These incremental labor  
14 costs are due largely to the significant changes experienced by the Companies in  
15 serving their residential business over the course of the pandemic as many of our  
16 customers transitioned to working from home or adjusted their schedules to  
17 accommodate children who were remote learning. This transition led to a greater  
18 demand for service technicians at customer residences and put our employees at  
19 greater risk of exposure to Covid. In order to ensure we could continue to provide safe,  
20 reliable, and responsive service to our customers, the Companies issued incentive pay  
21 to some of our employees. This was the right thing to do for our customers to ensure  
22 minimal disruption in service and responsiveness, in line with our culture and  
23 commitment to our customers and local communities, as well as our employees who

1           were asked to put themselves at greater risk of exposure in order to maintain our high  
2           standard of service.

3   **Q.   Should the same methodology be consistently applied across all business units?**

4   **A.**   Yes. In analyzing the costs involved and determining the costs that would be  
5           appropriate for inclusion in the regulatory asset, the Companies have consistently  
6           applied the aforementioned calculation across all of its regulated business units within  
7           Florida, including Florida Public Utilities Company, Florida Public Utilities Company  
8           – Indiantown Division, Florida Public Utilities Company – Fort Meade, and Florida  
9           Public Utilities Company – Electric Division, as well as the Florida Division of  
10          Chesapeake Utilities Corporation.

11 **Q.   Does this conclude your testimony?**

12 **A.**   Yes, it does.

1                   (Whereupon, prefiled rebuttal testimony of  
2 Michael D. Galtman was inserted.)

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1                    **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2                    **REBUTTAL TESTIMONY OF MICHAEL D. GALTMAN**

3                    **ON BEHALF OF FLORIDA PUBLIC UTILITIES COMPANY AND THE FLORIDA**  
4                    **DIVISION OF CHESAPEAKE UTILITIES CORPORATION**

5                    **DOCKET NO. 20200194-PU**

6                    **MAY 21, 2021**

7  
8                    **SECTION I. INTRODUCTION**

9                    **Q.     Please state your name and business address.**

10                  A.     My name is Michael Galtman. My business address is 100 Commerce Drive, Newark  
11                  DE, 19713.

12                  **Q.     Have you previously filed direct testimony in this docket?**

13                  A.     Yes, I filed direct testimony on behalf of Florida Public Utilities Company (all  
14                  divisions) and the Florida Division of Chesapeake Utilities Corporation, which I refer  
15                  to herein jointly as either "the Companies" or "FPUC."

16                  **Q.     Has your employment status and job responsibilities remained the same since**  
17                  **discussed in your previous testimony?**

18                  A.     Yes.

19                  **Q.     Are you providing any exhibits with your rebuttal testimony?**

20                  A.     No.

21                  **II. PURPOSE AND SUMMARY OF TESTIMONY**

22                  **Q.     What is the purpose of your rebuttal testimony?**



1 A. The purpose of my testimony is to rebut various conclusions contained in the direct  
2 testimony of OPC's witness Daniel J. Lawton pertaining to the Companies' accounting  
3 positions, which resulted in recognition of the Companies' pandemic-related  
4 regulatory assets and to address various misinterpretations included in Mr. Lawton's  
5 testimony related to the Companies' accounting positions that resulted in recognition  
6 of the regulatory deferrals being requested for approval.

7 **Q. Do you agree with witness Lawton's proposed "basic standards" for the**  
8 **establishment of a regulatory asset with respect to the accounting requirements?**

9 A. No. In considering the appropriateness of recording a regulatory asset, the Companies  
10 considered the accounting guidance defined within ASC 980 – Regulated Operations  
11 ("ASC 980"). Under ASC 980, it would be appropriate to defer costs to a regulatory  
12 asset when they have been incurred and allowable based on supporting evidence. The  
13 guidance in ASC 980 further indicates that a regulated utility should only recognize a  
14 regulatory asset for incurred costs if it is probable that future revenue, in an amount at  
15 least equal to the capitalized cost, will include that cost as allowable for rate-making  
16 purposes. The accounting guidance further stipulates that there are varying degrees of  
17 evidence which assist in determining whether deferral of costs is an appropriate course  
18 of action. An approved rate order specifying that the incurred costs are allowed for  
19 recovery in the future is traditionally seen as the highest and best form of evidence to  
20 proceed with recognition of a regulatory asset. However, there are other forms of  
21 evidence that can support recognition of regulatory assets including whether an  
22 accounting order has been issued and if the incurred costs have been treated as  
23 allowable cost of service in prior regulatory filings. In addition to these accounting

1       considerations, I note that Witness Deason is also providing rebuttal testimony on the  
2       appropriate regulatory and Commission policy considerations when establishing a  
3       regulatory asset.

4       **Q.    Why do you believe the incremental costs incurred as a result of the COVID-19**  
5       **pandemic, which Mr. Lawton has referred to as “questionable,” should be**  
6       **included in FPUC’s request for deferred treatment?**

7       A.    The incremental costs incurred in connection with the COVID-19 pandemic meet the  
8       requirements contained within the Uniform System of Accounts (“USOA”) as being  
9       both extraordinary and material.

10       Per the Item 7 of the General Instructions of the USOA an extraordinary item is one  
11       that is “unusual” in nature and “infrequent” in occurrence. “Unusual” within the  
12       USOA is defined as an item possessing a high degree of abnormality and of a type  
13       clearly unrelated to the ordinary and typical activities of the entity. An “infrequent”  
14       item is defined as something that is not reasonably expected to recur in the foreseeable  
15       future.

16       As defined, the pandemic clearly meets the definition of an extraordinary item. The  
17       arrival of the novel coronavirus in the United States resulted in an unprecedented  
18       number of restrictions put in place to aid in curtailing its transmission and has  
19       fundamentally altered all in-person interactions over the past 14 months. To my  
20       knowledge, no event in recent history has had such sweeping and significant impacts  
21       worldwide. The incremental costs FPUC has incurred in order to continue to safely  
22       carry on operations during this pandemic are clearly unrelated to the ordinary and

1 typical activities of the entity. Therefore, the unusual requirement of the extraordinary  
2 item classification is also satisfied. Additionally, the infrequent nature of the pandemic  
3 is clearly evidenced through the efforts that states and the federal government have  
4 undertaken to accelerate production of personal protective equipment (“PPE”), testing  
5 supplies and develop multiple vaccines which received emergency authorization to be  
6 distributed. Efforts have also been taken to establish strong public health task forces  
7 with a focus on epidemics and pandemics to ensure the nation is capable of mitigating  
8 future potential outbreaks. The aforementioned actions all serve to indicate that a  
9 pandemic of a similar scale is not expected to occur in the foreseeable future.

10 Finally, as to witness Lawton’s assertion regarding the materiality standard, the USOA  
11 stipulates that for an item to be deemed extraordinary, it should equate to more than  
12 approximately five percent of income, computed before extraordinary items, which  
13 the Companies total COVID-related costs net of savings do exceed. In the event an  
14 item is less than five percent of income, the Commission may nonetheless approve  
15 treating the item as extraordinary.

16 **Q. Witness Lawton suggests that the Companies’ calculations of COVID-19 related**  
17 **expenses are unreliable and inflated because they have changed over time. Do**  
18 **you agree?**

19 **A.** No, I do not. The Companies have continued to improve upon their calculation in light  
20 of new information which has enabled them to track the impacts of the pandemic and  
21 to provide more accurate data to the Commission. The pandemic was an  
22 unprecedented event which has continued to evolve since social distancing restrictions  
23 were first instituted in the first quarter of 2020. The Companies have continuously

1 adapted to the changing environment to ensure natural gas and electric services were  
2 delivered to its customers safely and reliably while continuing to ensure the wellbeing  
3 of its employees. Given the extraordinary circumstances surrounding the pandemic,  
4 the process for collecting information related to incremental costs, and any identified  
5 cost savings, has continued to evolve, which in turn resulted in adjustments to  
6 originally reported information.

7 **Q. Could you please explain in greater detail why the Companies refined their**  
8 **calculations?**

9 A. Since the first quarter of 2020, processes were established to identify, track and report  
10 on the impacts that the pandemic has had on the Companies operating costs. The  
11 processes have included utilization of internal and external data to identify and track  
12 costs that resulted from the pandemic and the associated social distancing restrictions  
13 which have been implemented. For example, internally, the Companies established  
14 unique coding within the respective general ledgers to code items that were  
15 specifically identified as incremental costs associated with the pandemic. From an  
16 external standpoint, the Companies have worked with their healthcare provider to  
17 obtain the necessary data to identify and track healthcare claims related to COVID-19.  
18 In addition to tracking the pandemic related costs, the Companies also continued to  
19 consider how costs savings that were the result of the pandemic would be calculated.  
20 Ultimately, in December 2020, we determined that the most appropriate way to  
21 calculate cost savings was by comparing the actual costs since the pandemic began to  
22 the historical average for the 3 years ended 2017 through 2019.

1 **Q. Does witness Lawton correctly categorize the difference between bad debts and**  
2 **actual write-offs?**

3 **A.** Witness Lawton correctly identifies that there is a difference between bad debt expense  
4 recorded and actual write-offs. However, his categorization of bad debt expense being  
5 an inappropriate estimate of potential write-offs is not correct.

6 **Q. Can you please explain the difference between bad debt expense and write-offs?**

7 **A.** Yes. In connection with the accounting for trade receivables resulting from natural  
8 gas or electric distribution services, the Companies are required to assess  
9 recoverability of outstanding balances and accrue for a loss for uncollectible  
10 receivables if a loss is probable and the amount of the loss can be reasonably estimated  
11 under ASC 450 – Contingencies (“ASC 450”). In addition, beginning in the first  
12 quarter of 2020, the Companies adopted the provisions of ASC 326 “Financial  
13 Instruments-Credit Losses”. This new guidance requires entities to develop an  
14 estimate of expected credit losses (including trade receivables) and to consider  
15 relevant and available information when doing so. The guidance specifies that an  
16 entity should include internal information, external information, or a combination of  
17 both relating to past events, current conditions, and reasonable and supportable  
18 forecasts when developing an estimate for expected credit losses. Factors that are  
19 considered when assessing collectability of outstanding balances include the age of  
20 outstanding receivables, historical payment history and other specific factors which  
21 may impact probability of collection (e.g. bankruptcy filings). To the extent the  
22 Companies’ estimate that outstanding trade receivables will not be collected and the  
23 loss amount can be reasonably estimated, bad debt expense is recorded along with an

1 allowance for doubtful accounts which is a valuation account on the Companies'  
2 balance sheets that is used to arrive at the net realizable value of trade receivables.

3 Bad debt expense represents those amounts included in trade receivables which have  
4 a reduced likelihood of collection. The basis for the Companies recording bad debt  
5 expense is largely dependent upon the age of the outstanding balance relative to the  
6 original due date of the invoice. Typically, the likelihood of payment decreases as an  
7 invoice ages beyond the initial invoice date. As noted above, bad debt expense and a  
8 corresponding allowance for doubtful accounts is recorded for amounts which are  
9 deemed unlikely to be collected.

10 Write offs represent those amounts owed by customers, that after exhausting all  
11 available credit mitigation options, have been determined will not be paid and the  
12 outstanding balance is formally removed from the Companies' financial records.  
13 Typically, a customer's outstanding balance would be recorded to bad debt expense  
14 after being unpaid for 90 days beyond the original date due but may not be formally  
15 written off until reaching 180 days past due without payment as the Companies  
16 continue to execute collection efforts.

17 **Q. Do the Companies believe that the incremental increase in bad debt expense is**  
18 **directly related to the COVID-19 pandemic?**

19 A. Yes, prior to the onset of the COVID-19 pandemic the Companies had experienced  
20 exceptionally immaterial levels of bad debt expense relative to amounts billed for  
21 natural gas and electric distribution services. Based on analysis, the Companies noted  
22 exponential growth in customer accounts receivables aged beyond 90 days beginning

1 in the second quarter of 2020 and continuing through December of 2020. The  
2 Companies have continued to analyze their customer accounts receivable aging data  
3 into 2021 and have noted improvement during the first quarter of 2021 which resulted  
4 in a reduction to the regulatory assets initially recognized in December 2020.

5 **Q. Have the Companies calculated the bad debt amounts consistently across all**  
6 **entities, or are some alternate methodologies employed dependent on type of**  
7 **settlement in previous rate proceedings?**

8 A. Yes, the Companies have consistently applied the same calculations for recording bad  
9 debt expense.

10 **Q. Under normal operating conditions, does the calculation of bad debt represent**  
11 **actual write offs or is it an estimate based on historical payment trends with**  
12 **consideration given to current economic conditions?**

13 A. FPUC is a subsidiary of Chesapeake Utilities Corporation, an investor owned publicly  
14 traded utility and adheres to the policy of its parent entity in completing a  
15 comprehensive calculation for its allowance for uncollectible accounts on a quarterly  
16 basis. This approach is employed primarily to coincide with the Companies' parent  
17 entity's quarterly financial reporting requirements with the Securities and Exchange  
18 Commission ("SEC"). Additionally, a quarterly review of trade receivable aging  
19 allows FPUC to more accurately understand how balances are progressing through the  
20 aging cycle.

21 The quarterly calculation of bad debt expense is an estimate which takes into account  
22 historical trends in payment activity relative to the age of a past due balance. The

1 longer a balance has gone without payment since initially being invoiced, the lower  
2 the likelihood of collection. This results in an increased estimate of bad debt expense.  
3 In addition, the Companies also consider several external economic factors when  
4 developing their estimate for bad debt. Given the significant negative changes in  
5 economic indicators, such as unemployment data throughout the pandemic and the  
6 significant increase in aged customer receivables, the Companies estimates for non-payment  
7 on customer receivable balances increased resulting in higher bad debt expense.

8 **Q. Do you agree with Witness Lawton that hazard pay costs are not incremental costs**  
9 **which resulted from COVID-19?**

10 A. No. The Companies have incurred incremental labor costs to employees that were  
11 implemented due to the significant changes experienced by the Companies in serving their  
12 residential business over the course of the pandemic as many of the Companies customers  
13 transitioned to working from home or adjusted their schedules to accommodate children who  
14 were remote learning. This transition led to a greater demand for service technicians at  
15 customer residences and put our employees at greater risk of exposure to COVID-19. In  
16 order to ensure we could continue to provide safe, reliable, and responsive service to  
17 customers, the Companies issued incentive pay to some employees. This was intended to  
18 ensure minimal disruption in service and responsiveness, in line with our culture and  
19 commitment to our customers and local communities, as well as our employees who were  
20 asked to put themselves at greater risk of exposure in order to maintain our high standard of  
21 service. This pay program was specific to the pandemic and therefore represents and  
22 incremental cost.

23 **Q. Do you agree with Witness Lawton that other insurance costs are not incremental costs**  
24 **which resulted from COVID-19?**



1 A. No. Since 2019, we had been working with insurance brokers to negotiate a reduction  
2 to the Companies' insurance premiums. A new broker with experience for energy  
3 delivery companies was selected and a plan was developed during the fourth quarter  
4 of 2019, with an alternative renewal strategy planned for the beginning of 2020 once  
5 an alternative renewal option would become available within the existing policy. The  
6 new broker had already identified alternative carriers that had provided options with  
7 lower premiums. An estimated cost savings of \$330,000 had been quantified through  
8 discussions with these alternative carriers (insurance premiums are negotiated for all  
9 of Chesapeake Utilities Corporation, not just the Florida companies). Once COVID-  
10 19 hit, however, insurance companies were unwilling to write new policies (in addition  
11 to multiple carriers going out of business). Therefore, COVID created an opportunity  
12 cost to the Company of \$330,000 because the Company was on the path to achieving  
13 this reduction in insurance premiums, as well as an additional \$72,000 due to an  
14 increase in excess casualty insurance that would not have happened if a new insurance  
15 agreement had been realized.

16 **Q. Could you please explain why there were significant increases in costs between**  
17 **November and December of 2020 reflected in the Companies' filings?**

18 A. As I previously noted, the COVID-19 pandemic is an extraordinary event with which  
19 we have no previous experience. As such, the process for collecting information  
20 related to incremental costs, and any identified cost savings, had evolved over time  
21 resulting in adjustments to originally reported information. As it relates to the specific  
22 increases in pandemic-related costs reflected in the reports submitted to the  
23 Commission between November and December 2020, these changes were driven by

1 several different factors. The first relates to the addition of various costs in December  
2 which had not been reflected in the November report, but which the Companies believe  
3 were within the scope of the accounting order for inclusion for deferral. These were  
4 primarily composed of incremental increases in employee health claims and insurance  
5 premiums. The second factor contributing to the increase was continued growth in the  
6 Companies aged customer trade receivables. The balance of past due receivables aged  
7 in excess of 90 days increased by over 30% in natural gas distribution and by over  
8 97% in the electric operations between September 2020 and December 2020. The  
9 Companies prepare their bad debt expense analysis on a quarterly basis and these  
10 significant increases in the balance of aged receivables translated directly into an  
11 increase in the bad debt expense recorded.

12 **Q. Could you explain how the Companies accounted for cost savings in the tracking**  
13 **of COVID-19 financial impacts?**

14 A. During 2020, cost savings were evaluated by analyzing the year-to-date balance of the  
15 relevant cost centers identified as having experienced savings and comparing them to  
16 a three-year average. The three-year average was adjusted to ensure comparability on  
17 a year-to-date basis (i.e. YTD September 2020 was compared to the three full year  
18 average for 2017-2019 divided by nine). The same expense categories were analyzed  
19 each month and the incremental change was included in the reports submitted to the  
20 Commission.

21 **Q. Does Commission approval to allow establishment of regulatory assets for the**  
22 **Companies equate to a determination of prudence for the costs included therein?**

1 A. No. While the incremental pandemic response costs included in the regulatory assets  
2 of the Companies qualify for deferral recognition under the accounting guidance  
3 included in ASC 980 (“Regulatory Operations”), under the applicable guidance, a  
4 utility is eligible to recognize a regulatory asset for an incurred cost if it is probable  
5 that the specific cost is subject to recovery in future revenues. Certainly, recognition  
6 of a regulatory asset requires judgement and must be supported by evidence, but it  
7 does not guarantee recovery of the full amount included in the regulatory asset.

8 Based upon the Commission’s statements in its initial PAA order, Order No. PSC  
9 2020-0404-PAA-PU, the Commission deemed certain incremental pandemic response  
10 costs eligible for deferral and, potentially, for subsequent recovery. The Commission’s  
11 order was, however, an “accounting order” as defined in ASC 980 and more explicitly  
12 described in the interpretive guidance included in Price Waterhouse Coopers  
13 comprehensive guide to power and utilities entities, which, on a standalone basis, does  
14 not provide a complete basis for deferral of costs. The Companies, therefore,  
15 considered additional evidence, such as historical precedent for deferral of costs  
16 associated with catastrophic weather events such as hurricanes. When considered  
17 together, the combination of these factors continues to serve as FPUC’s basis for  
18 maintaining the regulatory assets recognized. In the event the Commission were to  
19 conclude that regulatory asset treatment was not appropriate, the Companies would  
20 reverse amounts previously recorded and record the necessary expense.

21

1 **Q. Do the Companies believe that ASC 980-340-25-1 is the primary factor to be**  
2 **considered in the establishment of a regulatory asset? If not, what other**  
3 **considerations are made?**

4 A. From an accounting perspective, the Companies believe that the guidance contained  
5 in ASC 980-340-25-1 related to the establishment of a regulatory asset serves as the  
6 primary framework in determining if recognition of a regulatory asset is appropriate.  
7 This accounting guidance taken in conjunction with publications developed by  
8 nationally acknowledged accounting firms identifies what evidence can be relied upon  
9 when recognizing costs for regulatory deferral. To that end, Price Waterhouse Coopers  
10 comprehensive guide to accounting for power and utilities organizations stipulates that  
11 the highest and best form of evidence is an approved rate order. However, in the  
12 absence of an approved rate order various other forms of evidence when combined can  
13 provide a reasonable basis for recognition of a regulatory asset. Those include  
14 accounting orders, historical precedent that similar costs have been approved by the  
15 regulator, discussions with the regulator with respect to the specific incurred cost  
16 where the utility has obtained assurances that those costs will be approved for recovery  
17 and opinions obtained from outside legal counsel outlining the basis for the incurred  
18 cost being probable of being allowed in future rates. FPUC initially obtained an  
19 accounting order from the Florida PSC with respect to the deferral of pandemic related  
20 incremental costs and has likened the incurred costs associated with the pandemic to  
21 those experienced after a catastrophic weather event which have received regulatory  
22 approval in the past for recovery.

1 **Q. Do you believe that the Companies have adhered to the accounting rules when**  
2 **recording a regulatory asset related to incremental costs associated with the**  
3 **impacts of the pandemic?**

4 A. Yes, the Companies considered the accounting guidance contained within ASC 980  
5 when recording a regulatory asset related to incremental costs associated with the  
6 impacts of the pandemic. The Companies believe the accounting order initially  
7 approved by the PSC, along with historical precedent for approving recovery of  
8 incremental costs associated with other natural emergencies (e.g. hurricanes), meets  
9 the probable threshold for recovery in future rates.

10 **Q. Does this conclude your rebuttal testimony?**

11 A. Yes.

1                   (Whereupon, prefiled direct testimony of  
2   Derrick M. Craig was inserted.)

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1                   **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**  
2                   **DIRECT TESTIMONY OF DERRICK M. CRAIG**  
3                   **ON BEHALF OF FLORIDA PUBLIC UTILITIES COMPANY**  
4                   **DOCKET NO. 20200194-PU**

5   **Q.   Please state your name and business address.**

6   A.   My name is Derrick M. Craig. My business address is 208 Wildlight Avenue, Yulee,  
7       Florida, 32097.

8   **Q.   By whom are you employed and in what capacity?**

9   A.   I am employed as a Senior Regulatory Analyst by Florida Public Utilities Company  
10       ("FPUC").

11   **Q.   Could you give a brief description of your background and business experience?**

12   A.   In 1991, I received a Bachelor of Electrical Engineering degree from the Georgia  
13       Institute of Technology in Atlanta, Georgia and in 1997, I received a Masters of  
14       Business Administration from the University of Virginia (Darden Graduate Business  
15       School) in Charlottesville, Virginia. I have worked in various engineering and  
16       financial analysis roles for several utilities, including Baltimore Gas and Electric,  
17       Oglethorpe Power Company and Southern Company. I have been in my current  
18       position as a Senior Regulatory Analyst with Florida Public Utilities Company  
19       (FPUC) since April 2019. My responsibilities include the fulfillment of many  
20       regulatory activities for FPUC, which range from financial and other analysis to  
21       making regulatory filings (Purchased Gas Adjustment, Swing Service and the Gas  
22       Reliability Infrastructure Program) before the Florida Public Service Commission.

23   **Q.   Have you provided testimony before the Florida Public Service Commission**  
24       **(FPSC)?**

1 A. Yes, I have provided written, pre-filed testimony. I have provided testimony in  
2 various dockets before this Commission for Purchased Gas Adjustment Docket No.  
3 20200003, Gas Reliability Infrastructure Program (GRIP) –Docket No. 20200207  
4 and the Swing Service-Docket No. 20200203.

5 **Q. What is the purpose of your testimony?**

6 A. My testimony will explain the unusual and unanticipated costs incurred by Florida  
7 Public Utilities, Florida Public Utilities-Indiantown Division, Florida Public Utilities-  
8 Fort Meade, and Florida Public Utilities-Electric Division, as well as the Florida  
9 Division of Chesapeake Utilities Corporation (collectively, “the Companies”) as a  
10 direct result of the COVID-19 pandemic and why the Companies should be allowed  
11 to record these costs as a regulatory asset.

12 **Q. Please provide context for this proceeding.**

13 A. As the Commission is well-aware, the Novel Coronavirus Disease 2019, or COVID-  
14 19, is an extremely contagious virus which can be potentially deadly for many  
15 individuals. Since its outbreak in late 2019, nations around the world, including the  
16 U.S., have implemented international guidelines for global pandemics in an effort to  
17 stem the tide of the virus. Until the relatively recent release of vaccines, the primary  
18 means of reducing the spread of the virus were social distancing, personal protective  
19 equipment (PPE), and quarantine.

20 As noted in the Companies’ Petition, in response to this serious threat, Governor Ron  
21 DeSantis took decisive action to declare a public health emergency on March 1, 2020.<sup>1</sup>  
22 Thereafter, on March 9, the Governor declared a state of emergency and directed that

<sup>1</sup> Executive Order No. 20-51.



1 the State's Emergency Management Plan be implemented, which order has  
2 subsequently been extended 6 times, most recently by Executive Order 20-316, issued  
3 December 29, 2020.<sup>2</sup> On March 16, 2020, then-President Donald Trump and the  
4 Centers for Disease Control ("CDC") advised individuals to adopt social distancing  
5 measures and to avoid gatherings of more than 10 people in an effort to mitigate the  
6 spread of COVID-19. Governor DeSantis issued additional Executive Orders  
7 pertaining to the protection of Florida's citizens and efforts to mitigate the spread of  
8 COVID-19, including, on April 1, 2020, Executive Order No. 20-91, declaring the  
9 implementation of "Safer at Home" requirements, whereby it was recommended that  
10 Florida's most at-risk citizens stay at home and take all precautions to avoid exposure  
11 to the COVID-19 virus, and all others were advised to limit their movements and  
12 personal interactions outside their home to only those necessary to obtain or provide  
13 essential services or essential activities. On May 8, 2020, Governor DeSantis issued  
14 Executive Order number 20-114, extending the state of emergency declaration an  
15 additional 60 days.

16 **Q. How was the Florida economy affected by COVID-19?**

17 A. The economy of the state, as well as the nation, has been adversely impacted as a result  
18 of the necessity to adhere to social distancing guidelines and other precautionary  
19 measures designed to slow the spread of the virus. According to the U.S. Bureau of  
20 Labor Statistics, Florida's unemployment rate tripled from 4.4% in March of 2020 to  
21 13.8% in April of 2020. These numbers reflect that consistent with the CDC's  
22 guidance and the Governor's Executive Orders, businesses not considered essential

<sup>2</sup> Executive Order 20-52, extended by Executive Orders 20-114, 20-166, 20-192, 20-213, 20-276, and 20-316.

1 were either closed or assumed limited operations. While the state is now rebounding,  
2 and Florida's unemployment rate for January 2021 decreased to 4.8 percent, the impact  
3 of the pandemic can still be seen across the state. For example, according to the  
4 Florida Department of Economic Opportunity (DEO), as of March 29, DEO has paid  
5 2.3 million claimants over \$25 billion in "Reemployment Assistance." Over 5.5  
6 million claims have been processed, representing 99.1 percent of claims submitted.  
7 Pandemic Emergency Unemployment Compensation (PEUC) and Pandemic  
8 Unemployment Assistance (PUA) benefit programs have been extended to September  
9 6, 2021.<sup>3</sup> According to the Florida Chamber of Commerce, the impact on Florida's  
10 small businesses, which make up 35.7% of Florida's total employment, has been  
11 particularly significant.<sup>4</sup>

12 **Q. What processes and procedures have the Companies incorporated in order to**  
13 **protect their employees from the risks of the pandemic?**

14 A. The Companies implemented an emergency response plan to the pandemic that took  
15 extraordinary measures including enabling as many employees as possible to work  
16 from home, cancelling all business travel, stopping movement of employees between  
17 offices, postponing face to face meetings and events, instituting health reporting  
18 protocols, providing paid time off to employees that become infected or exposed to  
19 COVID-19 and could not work, providing needed personal protective equipment  
20 ("PPE") to employees, and implementing social distancing practices. Based on the  
21 recommendations provided by the CDC, Department of Health ("DOH"), and other

<sup>3</sup> Florida Department of Economic Opportunity, [www.floridajobs.org](http://www.floridajobs.org).

<sup>4</sup> The Impact of Covid-19 on Florida's Small Businesses, October 2020, (Florida Chamber, SBDC Florida, Haas Center/University of West Florida). [COVID-Impact-Survey\\_October.pdf \(flchamber.com\)](https://www.flchamber.com/COVID-Impact-Survey_October.pdf)

1 agencies, and consistent with the State of Florida's orders, the Companies have  
2 undertaken additional steps to preserve the health and safety of its employees,  
3 contractors, and customers. These actions include, but are not limited to, the  
4 following: (1) the testing for COVID-19 and antibodies for some at-risk employees;  
5 (2) the purchase of other equipment, materials and supplies to protect employees and  
6 customers' health and safety; and (3) the purchase of additional cleaning and sanitation  
7 supplies. While many of its employees were able to work from home, the Companies'  
8 field operations teams were still required to perform essential services. As such, the  
9 Companies provided each such employee with social distancing and health protection  
10 training, as well as necessary PPE and disinfectant supplies. Also, for a few months,  
11 as a way to compensate for the additional risk that some employees endured, the  
12 Companies paid additional salary to the essential, front-line employees whose jobs  
13 could not be performed remotely and required exposure to both the customers, as well  
14 as other employees.

15 **Q. How did the Companies respond to the economic impact of COVID-19?**

16 A. Recognizing that many of its customers were facing economically challenging times,  
17 the Companies announced on March 16, 2020, that customer late fees and  
18 disconnections would be suspended temporarily – a proactive approach taken by many  
19 utilities across the state and the country. The Companies did not reinstate late fees  
20 and disconnections until January 2021.

21 **Q. Have the Companies returned to normal billing practices?**

22 A. Yes. During the month of November 2020, the Companies informed their customers  
23 (by bill inserts and E-Blast) that delinquent notice issuances to customers with past

1 due balances would resume in December 2020 and all collection activities (including  
2 the assessment of late fees and service disconnections) would resume in January  
3 2021. At the same time, the Companies have also made available flexible payment  
4 plans for struggling customers. In addition to these steps, the Companies opened  
5 additional payment channels so that customers could make payments remotely.

6 **Q. What have the Companies requested of the FPSC in this proceeding?**

7 A. The Company has asked for permission to employ deferral accounting because of the  
8 significant and increasing nature of the Companies' incremental COVID-19 related  
9 costs. Specifically, the Company has asked for approval to establish a regulatory asset  
10 to record and preserve its COVID-19 related costs, including bad debt expense.

11 **Q. Have the Companies requested recovery of lost revenues?**

12 A. No, except to the extent that the Company did ask to recover late fees.

13 **Q. Why is deferral accounting treatment appropriate for COVID-19 costs?**

14 A. Deferral accounting treatment, and specifically the utilization of regulatory assets, has  
15 historically been used to address exogenous events. The FPSC has approved  
16 regulatory assets for FPUC, as well as for other utilities, for a wide array of situations  
17 ranging from pension costs to litigation expense to early retirement of coal generation  
18 units.<sup>5</sup> As the FPSC noted in its approval of a regulatory asset for FPUC to address  
19 unanticipated changes to its pension benefits and post retirement costs:

20 To create a regulatory asset or liability, a regulated company must have the  
21 approval of its regulator. This concept of deferral accounting allows  
22 companies to defer costs due to events beyond their control and seek recovery  
23 through rates at a later time. The alternative would be for the Company to

<sup>5</sup> See, for instance, Dockets Nos. 20060733-EI, 20080029-PU, 20120227-EI, 20160039-EI, and 2017274-EI

1 seek a rate case or a limited proceeding each time it experiences an exogenous  
2 event.

3 Order No. PSC-08-0134-PAA-PU, issued March 3, 2008, in Docket No. 080029-PU.

4 In addition, as stated by the Maryland Public Service Commission (from Order No.  
5 89542), “deferral of [COVID-19] costs is appropriate because the current catastrophic  
6 health emergency is outside the control of the Utility and a non-recurring event.”

7 Finally, deferral treatment of these costs via the establishment of a regulatory asset in  
8 no way eliminates or replaces the prudence review. Historically, the prudence review  
9 of these types of actions is accomplished in a company’s base rate proceeding or  
10 limited proceeding filing. The appropriateness of deferral accounting for COVID-19  
11 costs will be further discussed in the testimony of the Companies’ witness Galtman.

12 **Q. Do the Companies have knowledge of any other jurisdictions that have allowed**  
13 **a regulatory asset for COVID-19 costs?**

14 A. The Companies are a part of the Chesapeake Utilities Corporation, which also has  
15 utility companies located in the states of Delaware and Maryland. Both states’ public  
16 service commissions have allowed for the establishment of regulatory assets for the  
17 tracking of COVID-19 costs. In addition, according to the May 28 issue of S&P  
18 Global Market Intelligence, 22 jurisdictions out of 53 had approved some form of  
19 deferral accounting for incremental costs related to the pandemic, with states including  
20 Arkansas, Connecticut, Delaware, Hawaii, Maryland, Pennsylvania, Texas, and  
21 Virginia (among other states) specifically calling for the establishment of a regulatory  
22 asset as the format for the deferral of incremental costs.

23 **Q. What types of costs do the Companies believe are appropriate to receive deferral**  
24 **accounting treatment?**

1 A. The Companies believe that all incremental costs directly attributable to the COVID-  
2 19 pandemic are appropriate for deferral accounting treatment. Examples of these  
3 incremental costs include, but are not limited to, items such as incremental bad debt  
4 expense, incremental personal protective equipment, incremental safety costs,  
5 incremental cleaning costs, incremental IT costs, higher insurance premiums, and  
6 incremental compensation for employees at higher risk. These costs are incremental  
7 to the Company and are not being recovered by base rates. The reasons for the  
8 appropriateness of these costs will be more fully covered in witness Galtman's  
9 testimony.

10 **Q. What effect did the pandemic have on the Companies' bad debt expense?**

11 A. The economy of the state, as well as the nation as a whole, has been adversely  
12 impacted as a result of the necessity to adhere to social distancing guidelines and other  
13 precautionary measures designed to slow the spread of the virus. According to the U.S.  
14 Bureau of Labor Statistics, Florida's unemployment rate had tripled from 4.4% in  
15 March of 2020 to 13.8% in April of 2020. According to Statista.com, the end of year  
16 unemployment rate for the state more than doubled from 3.3% at the end of 2019 to  
17 7.7% at the end of 2020. These numbers reflect that, consistent with the CDC's  
18 guidance and the Governor's Executive Orders, businesses not considered essential  
19 had either been closed or had implemented limited operations. This higher  
20 unemployment and business shut-downs served to impact our customers' ability to pay  
21 their debt and as a result the Companies realized an increase in bad debt expense.

22 **Q. Why should the incremental costs for the additional salary paid to "higher risk"**  
23 **employees be included in the regulatory asset?**

1 A. Due to the nature of their jobs, many of the Companies' employees meet the definition  
2 of "front line, essential" workers. As stated in a March 28, 2020, communication from  
3 the Cybersecurity & Infrastructure Security Agency ("CISA") of the Department of  
4 Homeland Security, "Promoting the ability of such [critical infrastructure] workers to  
5 continue to work during periods of community restriction, access management, social  
6 distancing, or closure orders/directives is crucial to community resilience." To  
7 encourage and assist these workers as they maintain part of the state's critical  
8 infrastructure, the Companies found it necessary to additionally compensate these  
9 employees to ensure sufficient coverage and maintenance of the system. Therefore,  
10 the Companies have incurred incremental expense for salaries related to their "front  
11 line essential" employees who were required to keep working during the period of  
12 community restrictions. Additional information on the appropriateness of this expense  
13 in the regulatory asset will be discussed in the testimony provided by witness Galtman.

14 **Q. Do the Companies have any incremental cost savings related to COVID that  
15 should be used to offset COVID related expenses?**

16 A. No. Any costs savings attributable to COVID would not create excess earnings and  
17 therefore are not deemed incremental COVID savings. All Companies are still earning  
18 within their allowable range of returns or significantly under-earning.

19 **Q. Have the Companies established procedures to effectively identify all relevant  
20 expenditures?**

21 A. Yes. The Companies are tracking incremental COVID-19 related costs directly with  
22 the use of specially-created accounting codes. Other procedures and methodologies

1 used for identifying and calculating COVID-related costs are more completely  
2 covered in witness Galtman's testimony.

3 **Q. How should the bad debt expense appropriate for inclusion in the regulatory**  
4 **asset be calculated?**

5 A. The Companies propose to calculate bad debt expenses in the following manner:

6 A) Determine the average bad debt expense for each Company from the same time  
7 frame for the preceding three years;

8 B) Subtract the average bad debt expense, as calculated in (A) above, from the  
9 corresponding month(s) in 2020. For example, the bad debt expense for April 2020  
10 would be the total bad debt expense for that month less the three-year average of the  
11 bad expenses from April 2017, April 2018, and April 2019.

12 More detailed information for this calculation of the bad debt expense in the regulatory  
13 asset will be discussed in the testimony provided by witness Galtman.

14 **Q. What time frame should the proposed regulatory asset cover?**

15 A. As the COVID-19 pandemic is still ongoing, the Companies believe that the relevant  
16 time frame for the proposed regulatory asset should be from March 9, 2020, which,  
17 as was mentioned earlier in this testimony, was the effective date of the first Florida  
18 State of Emergency order, until a date that is 60 days after the date when the  
19 governor lifts the State of Emergency.

20 **Q. Does this conclude your testimony?**

21 A. Yes.



1                   (Whereupon, prefiled rebuttal testimony of  
2   Derrick M. Craig was inserted.)

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1                   **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**  
2                   **REBUTTAL TESTIMONY OF DERRICK M. CRAIG**  
3                   **ON BEHALF OF FLORIDA PUBLIC UTILITIES COMPANY**  
4                   **AND THE FLORIDA DIVISION OF CHESAPEAKE UTILITIES CORPORATION**  
5                   **DOCKET NO. 20200194-PU**  
6                   **MAY 21, 2021**

7   **I.     INTRODUCTION AND QUALIFICATIONS**

8   **Q.     Please state your name and business address.**

9   A.     My name is Derrick M. Craig. My business address is 208 Wildlight Avenue, Yulee,  
10         Florida 32097.

11 **Q.     Have you previously filed direct testimony in this docket?**

12 A.     Yes.

13 **Q.     Are you providing any exhibits with your rebuttal testimony?**

14 A.     No.

15 **II.    PURPOSE AND SUMMARY OF TESTIMONY**

16 **Q.     What is the purpose of your rebuttal testimony?**

17 A.     The purpose of my testimony is to respond to certain assertions and positions in the  
18         direct testimony of OPC's witness Daniel J. Lawton as it pertains to Florida Public  
19         Utilities Company (all divisions) and the Florida Division of Chesapeake Utilities  
20         Corporation ("FPUC" or "Companies"). Specifically, I will also address Witness  
21         Lawton's concerns with the Companies' tracking and reporting of COVID-related  
22         costs and explain how the company utilized new information to analyze the COVID-

1 related costs. I will also address Witness Lawton's adjustments to the Companies'  
2 COVID-related costs.

3 **Q. In issuing the order to establish the COVID regulatory asset, did the Commission**  
4 **prescribe a specific format required on the monthly tracking of incremental**  
5 **COVID-related expenses?**

6 A. No, it did not. Per the order, the Companies are to identify the amount of costs  
7 incurred, any assistance or benefits received and any cost savings realized that had  
8 been recorded to the regulatory assets. The Companies reported the costs,  
9 commencing on March 9, 2020, in a simplified format according to these  
10 specifications, except reports for January 2021 and February 2021, which excluded  
11 savings.

12 **Q. Could you explain why savings were initially shown and subsequently removed**  
13 **from the monthly tracking reports filed with the Commission?**

14 A. In an effort to improve the accuracy of the reports, the Companies changed the  
15 methodology to a 3-year average. The 3-year average methodology is more historically  
16 consistent with how utilities are required to account for certain categories of expenses,  
17 such as those related to hurricanes, which are typically considered extraordinary  
18 events. The Companies also reevaluated the savings identified and new savings to date  
19 to ensure the savings were COVID-related, as well as consistent and identifiable under  
20 the 3-year methodology. This was done in an effort to more accurately reflect COVID-  
21 related savings. Failure to include the savings was due largely to the timing of our  
22 internal review of the costs and savings using the 3-year methodology. The  
23 Companies anticipated that additional reports would contain the necessary savings

1 data, so, perhaps erroneously, the first quarter reports were not updated or revised to  
 2 include the savings data, but subsequent reports have since included the appropriate  
 3 savings data.

4 **Q. If approved, should the Companies be required to continue to report to the**  
 5 **Commission regarding the costs in the regulatory assets?**

6 A. Yes, the FPUC Companies should continue to file reports, which should contain detail  
 7 of the incremental COVID-related costs as described in the Direct Testimony of  
 8 Derrick Craig and Rebuttal Testimony of Michael Galtman. The Companies believe  
 9 that the incremental costs should be based upon a three-year average, similar to costs  
 10 for hurricanes. Any incremental COVID-related savings should also be included and  
 11 calculated based on the same three-year-average basis. The Companies respectfully  
 12 suggest that quarterly reporting should be sufficient.

13 **Q. Witness Lawton asserts that FPUC has not provided a reasonable dollar amount**  
 14 **of deferrals. Do you agree?**

15 A. No. The total COVID-related costs and savings for 2020 and year-to-date as of  
 16 February 28, 2021, were provided in FPUC Response to OPC's Second and Third Set  
 17 of Interrogatories, No.18 and 26, respectively. Please refer to Table 1 below for the  
 18 costs and savings provided:

<b><u>TABLE 1</u></b>				
Division	Other Costs	Bad Debt	Savings	Total Net of Savings
Florida Public Utilities – Florida Natural Gas	\$698,082	\$800,094		
Florida Public Utilities – Central Florida Gas	\$226,685	\$122,465		
Florida Public Utilities - Indiantown	\$3,389	\$1,534		

<u>TABLE 1</u>				
Division	Other Costs	Bad Debt	Savings	Total Net of Savings
Florida Public Utilities – Fort Meade	\$2,688	\$2,901		
<b>Total Gas</b>	\$930,845	\$926,994	(\$733,426)	\$1,124,413
Florida Public Utilities - Electric	\$327,966	\$1,532,500	(\$246,840)	\$1,613,616
Subtotal	\$1,258,810	\$2,459,494	(\$980,266)	\$2,738,038

1

2

3 **Q. Do you agree with any of Mr. Lawton’s cost exclusions in his Table 5?**

4 A. No. Witness Lawton removes the costs of hazard pay and the increased insurance  
 5 premium from the total. The Companies’ Witness Galtman will address the insurance  
 6 premiums and hazard pay more specifically. However, I note that Witness Lawton  
 7 suggests that hazard pay was unnecessary due to the mere existence of “labor  
 8 agreements” and because the Companies provided employees with PPE. On the  
 9 contrary, the fact that the Companies’ had to provide employees with PPE  
 10 demonstrates the existence of an increased safety risk. Furthermore, to the best of my  
 11 knowledge, Witness Lawton has not reviewed the Companies’ employee labor  
 12 agreements in order to assess whether the increased safety risk is otherwise adequately  
 13 addressed in those agreements. In addition, Witness Lawton’s amounts reflected for  
 14 hazard pay in his Table 5 are also incorrect for FPU Natural Gas and the Florida  
 15 Division of Chesapeake Utilities Corporation (referred to by Witness Lawton as  
 16 “Central Natural Gas”). The more accurate amounts for that column of his Table 5 are  
 17 below:

18

1

<u>TABLE 2</u>	
	<u>Hazard Pay</u>
<b>FPU Natural Gas</b>	\$208,032
<b>Central Natural Gas</b>	\$73,657
<b>Indiantown</b>	\$1,236
<b>Fort Meade</b>	\$541
<b>Total Gas</b>	\$283,466
<b>FPU Electric</b>	\$123,978
<b>Total FPUC</b>	\$407,444

2

3 Furthermore, OPC Witness Lawton made an adjustment for savings for which the  
4 basis is unclear. While Witness Lawton reflects total savings of \$791,431, the  
5 Companies determined that the amount should be \$766,288 as of the end of 2020,  
6 which is consistent with discovery responses provided to the OPC.

7 **Q. Does this conclude your testimony?**

8 **A. Yes.**

9

1                   (Whereupon, prefiled rebuttal testimony of J.  
2 Terry Deason was inserted.)

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

**GULF POWER COMPANY**

**FLORIDA PUBLIC UTILITIES COMPANY**

**REBUTTAL TESTIMONY OF J. TERRY DEASON**

**DOCKET NOS. 20200151-EI AND 20200194-PU**

**MAY 21, 2021**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23



1 **I. INTRODUCTION**

2

3 **Q. Please state your name and business address.**

4 A. My name is Terry Deason. My business address is 4377 NW Torreya Park Road,  
5 Bristol, Florida 32321.

6 **Q. Did you previously submit direct testimony in this proceeding?**

7 A. Yes. I submitted written direct testimony on April 2, 2021, on behalf of Gulf Power  
8 Company (“Gulf Power”).<sup>1</sup> In my direct testimony, I supported the use of a regulatory  
9 asset approach from an overall regulatory policy perspective to appropriately address  
10 the net incremental bad debt and safety-related cost increases with the COVID-19  
11 pandemic (the “COVID Costs”).

12 **Q. For whom are you submitting rebuttal testimony in this proceeding?**

13 A. Gulf Power and Florida Public Utilities Company (“FPUC”).

14 **Q. Do you have any exhibits to your rebuttal testimony?**

15 A. No.

16 **Q. What is the purpose of your rebuttal testimony?**

17 A. The purpose of my rebuttal testimony is to address policy arguments raised in the  
18 testimony of Office of Public Counsel (“OPC”) Witness Daniel Lawton filed in Docket  
19 Nos. 20200151-EI and 20200194-PU regarding the petitions for approval of regulatory  
20 assets associated with COVID-19 related costs filed by Gulf Power and FPUC.

---

<sup>1</sup> Florida Power & Light Company (“FPL”) and Gulf Power were merged legally on January 1, 2021, but Gulf Power continues to exist as a separate ratemaking entity. On January 11, 2021, pursuant to Rule 25-9.044, F.A.C., FPL submitted a notice of the change in ownership of Gulf Power effective January 1, 2021 and FPL’s adoption and ratification of Gulf Power’s existing rates and tariffs on file with the Commission.

1           **II. RESPONSES TO OPC WITNESS LAWTON’S POLICY ARGUMENTS**

2

3   **Q.    Do you agree with the testimony filed by OPC Witness Daniel Lawton?**

4    A.    No. As I will discuss further in greater detail in my rebuttal testimony, Mr. Lawton  
5           does not correctly describe and apply Commission policy and precedent for creation  
6           and approval of a regulatory asset to address significant unforeseeable costs such as the  
7           costs experienced with the COVID-19 pandemic. Following Mr. Lawton’s  
8           recommendations would distort the existing balance between customers and  
9           shareholders and place unnecessary and burdensome requirements that would impede  
10          the Commission’s ability to proactively respond to emergency conditions and set rates  
11          which are fair and reasonable. I do agree with Mr. Lawton’s testimony that the COVID  
12          Costs are unusual, infrequent, and were not previously recognized or included in rates.  
13          (See Direct Testimony of OPC Witness Daniel Lawton at page 7, lines 19-21.)

14   **Q.    OPC Witness Lawton’s testimony asserts that the Gulf Power and FPUC requests**  
15          **are designed only to enhance shareholder earnings. Do you agree?**

16    A.    No, and this is but one example of Mr. Lawton’s inappropriate focus on earnings instead  
17          of the fundamental purpose of a regulatory asset. Gulf Power’s and FPUC’s requests  
18          are not designed to enhance earnings, rather they are designed to maintain earnings at  
19          their existing levels as if the pandemic had not occurred. This is an appropriate outcome  
20          given that the COVID Costs are unusual, infrequent, and were not previously  
21          recognized or included in rates. The regulatory asset tool is also appropriate because  
22          it allows Gulf Power and FPUC management to promptly take all necessary and  
23          reasonable steps to protect customers, employees, and vendors from the impacts of the

1 pandemic without regard to potential impacts on the companies' earnings. As a matter  
2 of regulatory policy, customer protections should be the number one priority, and a  
3 utility's management should be afforded the tools to achieve this objective without the  
4 utility having to diminish its return. The use of a regulatory asset enables this to be  
5 accomplished. Gulf Power and FPUC are simply seeking to employ a valid and useful  
6 regulatory accounting tool that, if approved by the Commission, would serve to maintain  
7 existing earnings and protect their customers.

8 **Q. OPC Witness Lawton's testimony asserts that the Gulf Power and FPUC requests**  
9 **fail to balance the benefits and burdens between the customers and shareholders.**  
10 **Do you agree?**

11 A. No. Gulf Power's and FPUC's requests equitably balance the benefits and burdens  
12 between customers and shareholders. Without question, the COVID pandemic has  
13 placed burdens on both companies and their customers. The question is how to address  
14 these burdens within the context of a regulatory compact that is designed to balance the  
15 interests of utilities and their customers. Within that compact, utilities are required to  
16 provide quality service to all customers and at all times (even during pandemics). Also,  
17 within this compact, customers are required to pay reasonable rates which include the  
18 recovery of all necessary and prudent expenses (including pandemic-related expenses)  
19 plus a reasonable return on the investments made to serve them. Gulf Power's and  
20 FPUC's requests to use a regulatory asset to account for the net incremental costs of  
21 the pandemic are consistent with this compact and result in an equitable balance.

22 **Q. Please describe this equitable balance.**

23 A. As fully acknowledged by Mr. Lawton, the COVID Costs are not included in Gulf

1 Power's and FPUC's rates. Therefore, there needs to be a fair mechanism to allow for  
2 eventual recovery of these costs, as deemed appropriate by the Commission. The  
3 requested regulatory assets are the appropriate mechanisms to accomplish this. Gulf  
4 Power and FPUC customers receive the benefit of continued reliable and safe service  
5 during the pandemic, but also have the burden to pay for all reasonable and necessary  
6 costs. The customers also receive the benefit that any eventual rate impacts will likely  
7 be implemented post-pandemic over a number of years in the future when customers  
8 should be in a better position to pay. Gulf Power and FPUC have the burden to continue  
9 to provide safe and reliable service during the pandemic and to incur all reasonable and  
10 necessary costs of so doing. Gulf Power and FPUC will receive the benefit of eventual  
11 cost recovery with no adverse impact on their earnings, but certainly no enhancement  
12 of their earnings.

13 **Q. OPC Witness Lawton recommends that the Commission adopt a standard**  
14 **requiring a financial integrity test before a regulatory asset can be implemented**  
15 **in Florida. Should Witness Lawton's recommendation be adopted?**

16 A. No, such a standard would be ill-advised, and I oppose it for many reasons. First,  
17 requiring a financial integrity test before implementing a regulatory asset is not current  
18 Commission policy, and there are good reasons for this, which I detail below.  
19 Moreover, to adopt such a standard of general applicability in this proceeding would  
20 be beyond the scope of this proceeding.

21

22 Second, such a standard is not consistent with ratemaking in Florida and the use of a  
23 rate of return range to set and monitor earnings. Florida typically sets rates at the mid-

1 point of the return on equity (“ROE”) range. It is hoped and anticipated that the  
2 resulting rates will be reasonable for multiple years, thereby avoiding the need for  
3 another rate case until the cumulative effect of the moderate swings in revenues and  
4 costs over several years results in earnings either above or below the ROE range. The  
5 range is not set to anticipate and allow for recovery of major infrequent, unanticipated,  
6 and essential costs, like responding to a pandemic. Applying Mr. Lawton’s standard  
7 would disrupt this approach and would likely result in more frequent rate cases for costs  
8 that could be appropriately recognized with a regulatory asset. This could result in  
9 more rate volatility and a loss of the rate-smoothing benefits of regulatory assets.

10

11 Third, Mr. Lawton’s recommended standard would be impractical and burdensome –  
12 essentially opening a relatively straight-forward request to establish a regulatory asset  
13 to a review of earnings and the rate case-type issues that would be sure to follow. This  
14 would add costs and ultimately delay a Commission decision. This is particularly  
15 troubling when time is of the essence to respond to an emergency situation like a  
16 pandemic.

17

18 Fourth, Mr. Lawton’s recommended standard could overly complicate matters and  
19 eliminate much needed Commission discretion to utilize regulatory assets. For  
20 example, the Commission regularly approves the deferral of rate case expenses from  
21 the period incurred and allows them to be recovered in rates over a number of years in  
22 the future. This would not be possible under Mr. Lawton’s standard because rates  
23 would have just been set, and it would be unlikely that the rate case expenses would

1 cause the affected utility to earn below its just established ROE range.

2 **Q. Are there other areas where adoption of OPC Witness Lawton's financial**  
3 **integrity standard could threaten established Commission practice?**

4 A. Yes. Witness Lawton's financial integrity standard would impact and potentially  
5 imperil any Commission action to approve use of deferred accounting to set fair and  
6 reasonable rates. A notable example would be hurricane restoration costs. Like a  
7 pandemic, hurricanes do not occur every year. However, when they do, their impacts  
8 can be catastrophic. The Commission has often included an allowance in rates to fund  
9 a storm damage reserve. When hurricane frequency or the severity of their impacts  
10 exceed those anticipated by the reserve, reserve deficiencies can and do result. In such  
11 situations, the Commission has allowed such costs in excess of the reserve (and  
12 amounts to replenish the reserve) to be deferred for future recovery through a surcharge  
13 mechanism. This is done without regard to the level of earnings currently being  
14 achieved by the effected utility. However, a financial integrity standard could threaten  
15 this well-established mechanism by making such deferred recovery subject to a  
16 mechanical financial standard as defined by Mr. Lawton.

17 **Q. How does OPC Witness Lawton define financial integrity?**

18 A. Mr. Lawton uses two approaches to define or measure financial integrity for purposes  
19 of his proposed financial integrity standard. His first approach is to require reported  
20 earnings to be below the bottom of the company's ROE range. Thus, his standard  
21 would be for the company in question to be on the verge of having to file a rate case  
22 before it would be eligible to seek a regulatory asset. In other words, he would expect  
23 a company to incur all of the unanticipated and significant costs to protect its customers

1 from a pandemic (or to restore service from a hurricane as the case may be) while  
2 limiting the recovery of such historical costs. His approach would only allow recovery  
3 of future costs that may still be incurred and included in a company's test year in a rate  
4 case. The only time a regulatory asset would be considered is if the company is eligible  
5 to file a rate case but chooses not to do so and gets authorization to establish a  
6 regulatory asset. However, the regulatory asset would be only for the amount of costs  
7 which cause earnings to fall below the minimum of the company's ROE range. This  
8 strikes me as being unfair and borderline punitive. It would certainly be inconsistent  
9 with Florida's regulatory approach of encouraging its utilities to do the right thing for  
10 its customers.

11 **Q. What is the second way that OPC Witness Lawton defines financial integrity?**

12 A. Mr. Lawton uses bond ratings and the ability of a company to access capital. He  
13 concludes that candidates for deferred accounting should be limited to those companies  
14 that have experienced bond rating reductions or otherwise experienced limitations on  
15 access to capital on reasonable terms. (See Direct Testimony of OPC Witness Daniel  
16 Lawton at page 47 lines 11-13.)

17 **Q. Do you agree with these qualifiers before a company could be eligible for deferred  
18 accounting?**

19 A. No. Access to capital on reasonable terms is essential for all companies, but especially  
20 for utilities which are by their nature capital intensive. Regulated utilities must provide  
21 service to all customers at all times and must have reasonable access to capital to fulfill  
22 this obligation, in both good times and bad. A strong bond rating is a good tool to  
23 maintain reasonable access to capital and is a prized possession which greatly benefits

1 customers and should be jealously guarded. Obtaining and maintaining such a rating  
2 takes sustained effort over a long period of time. However, it can be quickly eroded,  
3 to the detriment of a company's customers. Mr. Lawton's proposed approach to wait  
4 until there is a bond rating downgrade is analogous to favoring the use of the fire  
5 department to put out a fire over taking reasonable steps (building maintenance,  
6 installing sprinklers, etc.) to avoid a fire in the first place. In other words, the damage  
7 is already done under Mr. Lawton's approach, with great effort needed to repair and  
8 rebuild the damage.

9 **Q. What has been Florida's regulatory approach to bond ratings?**

10 A. Regulation in Florida has consistently recognized the need for strong bond ratings for  
11 its regulated utilities. This is founded in the fact that strong bond ratings are essential  
12 to enable access to capital needed to provide safe, efficient, and reliable service. In  
13 short, Florida has recognized that strong bond ratings are good for customers. As such,  
14 Florida has taken steps to proactively support bond ratings, where it can reasonably do  
15 so. I can think of no instance where Florida has made a conscious decision to deny  
16 regulatory support until there has been a bond rating downgrade.

17 **Q. Does OPC Witness Lawton cite a credit analysis report from Moody's?**

18 A. Yes, he cites a June 17, 2020 Update to Credit Analysis from Moody's. Based on his  
19 interpretation of this report, Mr. Lawton concludes there are no substantial risk issues  
20 for Gulf Power as a result of COVID-19.

21 **Q. Is OPC Witness Lawton's interpretation correct?**

22 A. The Moody's report needs to be viewed in the context in which it was presented. First,  
23 the Moody's report was written very early in the pandemic, at a time when the course



1 of the pandemic was unknown. In addition, the Moody's analyst had no actual  
2 information on the incremental bad debt and other COVID-related expenses that Gulf  
3 Power was incurring, making any of the report's conclusions preliminary.

4  
5 Second, the Moody's report was not presented as supporting a denial of deferred  
6 accounting for Gulf Power's COVID Costs. It was presented to investors within the  
7 context of Moody's understanding that Gulf Power is a Florida regulated utility and  
8 that this Commission's regulatory policies would impact recovery of COVID Costs.  
9 Moody's is fully aware of Florida's regulatory policies supporting credit quality and  
10 that Florida has used deferred accounting to permit possible recovery of such  
11 unanticipated expenses. I believe it is likely that Moody's took Florida's regulatory  
12 climate into consideration when issuing its report.

13 **Q. What would be the impact on Gulf Power's bond rating should the Commission**  
14 **adopt OPC Witness Lawton's standard to deny deferred accounting until there is**  
15 **a bond rating downgrade?**

16 A. A company's bond rating determination is intricate with many factors and metrics  
17 affecting the outcome. Included in this process would be both quantitative as well as  
18 qualitative considerations. A single decision on deferred accounting would not  
19 significantly "move the needle" on Gulf Power's bond rating. However, an adoption  
20 of a standard as proposed by Mr. Lawton would be a significant shift in Florida's  
21 regulatory climate and would be noted by Moody's and other bond rating agencies. It  
22 is fair to say that the adoption of such a standard would not be viewed favorably.

23

1 **Q. What does OPC Witness Lawton recommend for the general O&M savings, not**  
2 **related to COVID-19 impacts, achieved by Gulf Power since its last rate case?**

3 A. First, let me say that the O&M savings achieved by Gulf Power are precisely the type  
4 of efficiencies and cost-savings that Florida's regulatory approach incentivizes. Gulf  
5 Power was able to identify costs previously included in its rates and take managerial  
6 action to reduce them and create efficiencies and savings. However, Mr. Lawton  
7 recommends that the Commission take these savings, which it has encouraged, and use  
8 them to offset COVID costs. Such a position would clearly send the wrong message to  
9 utility management that it should not seek to reduce O&M expenses overall for the  
10 utility in the face of unusual and unforeseen costs such as the COVID Costs.

11 **Q. Beyond sending the wrong message, are there any other reasons why it would be**  
12 **improper to offset the COVID costs with O&M savings?**

13 A. Yes, there are at least three reasons. First, Mr. Lawton is mixing apples and oranges.  
14 The COVID Costs are unusual, infrequent, and were not previously recognized or  
15 included in rates. In contrast, the O&M costs which Gulf Power has reduced are usual  
16 in nature, frequently incurred, and were previously included in its rates. Second, the  
17 O&M savings achieved by Gulf Power were the result of managerial actions taken over  
18 which management had discretion and control. In contrast, the COVID Costs were the  
19 result of a pandemic over which management had no control. Management had no  
20 choice but to incur the costs or else it would fail its customers in terms of safety and  
21 reliability. Beyond that, Gulf Power had a moral responsibility to do what it could to  
22 prevent the spread of the virus. And third, Mr. Lawton's recommendation to offset Gulf  
23 Power's COVID Costs with its O&M savings is inconsistent with his recommendation

1 for FPUC.

2 **Q. What does OPC Witness Lawton recommend for FPUC?**

3 A. In an apparent reversal of positions, Mr. Lawton recommends that FPUC's cost  
4 increases since its last rate case be ignored. Mr. Lawton criticizes Gulf Power for not  
5 proposing a deferred credit for its cost savings. (See Direct Testimony of OPC Witness  
6 Daniel Lawton at page 9, lines 16-18.) While criticizing Gulf Power for not proposing  
7 a deferred credit for its cost savings, Mr. Lawton does not propose a deferred debit for  
8 FPUC's cost increases. He states that FPUC's failure to earn a reasonable return (for  
9 most of its business units) is not related to COVID-19 impacts, but rather, is related to  
10 other structural rate and cost recovery problems. (See Direct Testimony of OPC  
11 Witness Daniel Lawton at page 11, lines 18-22 and page 12, line 1.) Mr. Lawton further  
12 recommends that FPUC's COVID regulatory asset be determined without regard to its  
13 earnings. (See Direct Testimony of OPC Witness Daniel Lawton at page 12 lines 15-  
14 20.) This is clearly inconsistent with his financial integrity standard and his  
15 recommendation that Gulf Power's earnings should be considered to reject its requested  
16 regulatory asset.

17 **Q. Do you agree with OPC Witness Lawton?**

18 A. No, I cannot agree with a position which is internally inconsistent. However, I do agree  
19 that COVID Costs should not be increased for non-COVID cost increases. I likewise  
20 believe that COVID Costs should not be diminished for non-COVID cost savings, like  
21 Gulf Power's O&M savings. The overriding principle is that the regulatory asset  
22 should be only for COVID-related costs net of COVID-related savings, just as Gulf  
23 and FPUC are proposing. Non-COVID cost increases or non-COVID cost savings and

1 overall earnings levels are irrelevant to appropriately determine whether a COVID  
2 regulatory asset is appropriate.

3 **Q. Do you agree with Mr. Lawton that it would be a better regulatory practice for the**  
4 **utilities to not record deferred COVID Costs until after the Commission has a final**  
5 **order approving the requested deferred accounting and regulatory assets?**

6 A. No. Such an approach is completely impractical. This proceeding began last year and  
7 will not conclude until later this year. The vast majority of the COVID Costs at issue  
8 would likely not be available for recovery if the standard were to wait until a final order.  
9 The overriding considerations are two-fold. First, were the utilities correct to  
10 immediately take steps to protect their customers from the pandemic? The answer is  
11 yes, and regulatory procedure should not be an impediment for this outcome. Second,  
12 based on Commission precedent, is there a reasonable degree of confidence that such  
13 costs are eligible to be recorded as a regulatory asset? The answer is again, yes. This  
14 is particularly true in this case where there have been two previous orders approving the  
15 use of a regulatory asset for Gulf and one for FPUC, the last of which for each Company  
16 was protested. Simply stated, there should not be regulatory and/or procedural barriers  
17 to prevent the possibility of eventual recovery of all the necessary and prudent COVID  
18 Costs.

19 **Q. Does a utility's deferred accounting for costs like the COVID Costs prior to final**  
20 **Commission approval have a negative rate impact on utility customers?**

21 A. No. It simply allows the utility to track the costs subject to ultimate Commission  
22 approval.

23

1 **Q. Do you have any concluding thoughts on OPC Witness Lawton's proposals and**  
2 **recommendations?**

3 A. Yes. It is obvious that I have many disagreements with Mr. Lawton's proposals and  
4 recommendations. There is one revealing passage in Mr. Lawton's testimony which  
5 fairly encapsulates one of the most basic and fundamental reasons for my many  
6 disagreements. This passage is found in Mr. Lawton's introductory summary of his  
7 findings and conclusions related to Gulf Power's petition for approval of a regulatory  
8 asset. While this passage is included in his summary for Gulf Power, I believe it is fair  
9 to say that Mr. Lawton believes it is applicable to FPUC as well.

10

11 In this passage, Mr. Lawton concludes that Gulf Power (and any other regulated utility)  
12 should be treated like **all** other businesses in terms of business risk. He further concludes  
13 that any increases in expenses or decreases in revenues by exogenous factors should be  
14 borne by shareholders. (See Direct Testimony of OPC Witness Daniel Lawton at page  
15 7, lines 5-8.)

16

17 This statement and conclusion are inconsistent with the foundation for and the purposes  
18 of regulation, which is ultimately designed to protect customers and make regulatory  
19 decisions in their best long-term interests. Regulated utilities are fundamentally  
20 different from other businesses; hence they are regulated and need to be treated as such,  
21 consistent with sound and proven regulatory principles. It is too simplistic to conclude  
22 that all increases in expenses or reductions in revenues caused by exogenous factors  
23 should be borne by shareholders. I have discussed in my testimony that such changes

1           need to be viewed in light of the circumstances giving rise to those changes and in the  
2           context of the overall regulatory compact. As I describe in my testimony, decisions  
3           made inconsistent with that compact can be unfair, punitive, erode credit quality,  
4           potentially cause rate volatility, send incorrect signals to management, and limit needed  
5           Commission discretion. I further discussed how the use of a regulatory asset fairly  
6           balances the benefits and burdens of the COVID Costs between customers and  
7           shareholders, consistent with the regulatory compact. The ultimate goal of regulation  
8           is to have an essential service consistently provided at reasonable rates and at a high  
9           quality under all circumstances, including unforeseen ones like a pandemic. Mr.  
10          Lawton's recommendations are not consistent with this overall goal.

11       **Q. Does this conclude your rebuttal testimony?**

12       A. Yes.

1                   (Whereupon, prefiled direct testimony of  
2 Daniel J. Lawton was inserted.)

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25





1 matters. I have included a brief description of my relevant educational background and  
2 professional work experience in Exhibit DJL-1.

3

4 **Q3. HAVE YOU PREVIOUSLY FILED TESTIMONY IN RATE PROCEEDINGS?**

5 **A.** Yes, I have, including a number of cases before the Florida Public Service Commission.

6 A list of cases where I have previously filed testimony is included in Exhibit DJL-1. In

7 these prior rate proceedings, I have addressed deferred accounting issues and the impact

8 of the accounting requirements in the rate process.

9

10 **A. BACKGROUND**

11

12 **Q4. ON WHOSE BEHALF ARE YOU FILING TESTIMONY IN THIS**  
13 **PROCEEDING?**

14 **A.** I am filing expert testimony on behalf of the Office of the Public Counsel (“OPC”),

15 which retained me to review and analyze the deferred accounting requests filed by the

16 various Petitioners in consolidated Docket Nos. 20200151-EI, 20200189-WS, and

17 20200194-PU. The Petitioners whose requests I will be addressing in this testimony

18 are Gulf Power Company (“Gulf”), and the companies I collectively refer to in this

19 testimony as Florida Public Utility Company (“FPUC”), i.e., Florida Public Utility

20 Company (Electric Division), Florida Public Utilities Company (Gas Division), Florida

21 Public Utilities Company – Indiantown (Gas Division), Florida Public Utilities

22 Company – Ft. Meade (Gas Division), and Florida Division of Chesapeake Utilities

1 Corporation.<sup>1</sup>

2

3 **Q5. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

4 **A.** The purpose of my testimony in this proceeding is to address the alleged economic  
5 justification and potential regulatory policy impacts of the deferred accounting requests  
6 in these dockets. I will address each of the requested deferral amounts, earnings levels,  
7 and offsetting savings. In addition, as to each utility, I will address the deferral request  
8 as part of the business risk incorporated in the authorized equity return, the Company's  
9 financial integrity, and cash flow issues related to return and risk.

10

11 **Q6. WHAT MATERIALS DID YOU REVIEW AND RELY ON FOR THIS**  
12 **TESTIMONY?**

13 **A.** I have reviewed prior orders of the Florida Public Service Commission ("Commission"  
14 or "PSC"), the Petitioner's prior filings, Direct Testimony in these dockets, historical  
15 Earnings Surveillance Reports, other testimony and supporting schedules from other  
16 cases, depositions in this docket, Petitioner's responses to discovery requests, financial  
17 reports and other financial information available in the public domain. When relying  
18 on various sources, I have referenced such sources in my testimony and/or attached  
19 Exhibits and included copies or summaries in my exhibits and/or work papers.

<sup>1</sup> On or about March 30, 2021 Petitioner Utilities Inc. of Florida ("UIF") filed a Notice of Voluntary Dismissal Without Prejudice seeking to end its participation in this proceeding. At this time, the PSC has not issued an order regarding UIF's Notice. This testimony does not address UIF's petition.

1           **B.     SUMMARY**

2

3       **Q7.   WHAT STANDARDS SHOULD THE COMMISSION EMPLOY IN DECIDING**  
4       **WHETHER TO AUTHORIZE DEFERRED ACCOUNTING AND THE**  
5       **CREATION OF REGULATORY ASSETS IN THIS CASE?**

6       **A.**    Before authorizing deferred accounting some basic standards or rules of the road should  
7       be considered. I have identified three basic standards or requirements that go into the  
8       balance of the decision on deferred accounting. These three types of standards are: i)  
9       accounting requirements, ii) financial integrity requirements, and iii) the equity balance  
10      between customers and shareholder interest that all regulatory authorities must  
11      constantly weigh and evaluate.

12

13      By employing these three standards or guidelines, the Commission avoids permitting  
14      deferred accounting and the creation of regulatory assets without limitation. The  
15      regulatory authority should seek to avoid creating the expectation by regulated utilities  
16      that these unusual balances and expenses are always recoverable and part of the  
17      everyday regulatory process. The goal of the guidelines and standards is to avoid the  
18      normalization of a piecemeal, single-issue one-way approach.

19

20      Once rates are established through the test year ratemaking process, revenues,  
21      expenses, and investment will change through time, but the original rates stay in place  
22      until changed in the next rate case. Deferred accounting and the creation of a regulatory  
23      asset is not strictly a rate case proceeding, but rather it is an accounting procedure and

1 is a “single-issue” or “piecemeal” process. In this case, the subject utilities identified  
2 COVID-19 expenses that they contend were not previously included in revenue  
3 requirements or rates, along with a limited number of offsets (savings), to estimate an  
4 incremental COVID-19 expense deferral and creation of regulatory asset for future  
5 recovery. By eliminating the current expensing of these COVID-19 amounts (deferring  
6 to a regulatory asset for future expensing and collection), the utility’s current year  
7 financials and equity return are boosted. Nothing could be more single issue or  
8 piecemeal.

9  
10 But a deferred accounting order will carry with it a general presumption that the  
11 deferred costs, if prudent, are entitled to full recovery in rates (including the time value  
12 of money). The Commission’s assurance of the probability of recovery of a deferral is  
13 an important factor underlying the recognition of deferred accounting. Given the  
14 assurance of recovery requirement, the Commission should consider the total utility  
15 position, not just increased costs. For example, during 2020, Gulf had base O&M  
16 savings well over \$30 million.<sup>2</sup> These savings in O&M more than offset Gulf’s  
17 requested deferral.

18  
19 Obviously, it makes no sense to issue a deferred accounting order every time an  
20 expense or revenue item is different than anticipated in the rate setting process. Gulf  
21 could have filed a deferred accounting order request to share Gulf’s O&M savings with

<sup>2</sup> See NextEra Energy Website, Investor Relations, 4<sup>th</sup> Quarter and 2020 Results, Presentation, and Remarks 1/26/2021 at page 17. Base O&M savings were the primary driver of approximately 2 cents per share growth. 1.98333 billion shares times \$0.02 per share.

1 customers, but the Company did not make such a filing to share savings. Now, the  
2 Commission has the opportunity to consider these O&M savings at Gulf as part of the  
3 COVID-19 deferred accounting request. Deferred accounting cannot be the answer  
4 merely because a utility requests a cost increase. Deferred accounting should not be a  
5 one-way street.

6  
7 **1. GULF SUMMARY**

8  
9 **Q8. PLEASE SUMMARIZE YOUR FINDINGS AND CONCLUSIONS RELATED**  
10 **TO GULF’S PETITION FOR APPROVAL OF A REGULATORY ASSET.**

11 **A.** Gulf’s request for deferred accounting and the creation of “regulatory assets” and future  
12 amortization and collection of these deferred assets is not appropriate for several  
13 reasons and should be denied.

14  
15 First, the requested COVID-19 related deferred accounting requests may not satisfy the  
16 materiality requirements of the Uniform System of Accounts (“USOA”), and if the  
17 Commission determines the request is not material, the Gulf request should be denied.<sup>3</sup>

18  
19 Second, the deferral of these COVID-19 costs and the creation of regulatory assets is  
20 not necessary to maintain profits and financial integrity for Gulf, and all efforts to defer  
21 COVID-19 costs and create regulatory assets should cease until proven necessary.

22

<sup>3</sup> 18 CFR Part 101 General Instruction 7 “Extraordinary Items.”

1 Third, the COVID-19 costs provided by Gulf fail to identify any standards for approval,  
2 instead Gulf merely requested out of period costs solely because such costs are not  
3 included in existing rates.

4  
5 Fourth, Gulf like any regulated public utility, should be treated like **all** other businesses  
6 in terms of business risks. As business expenses and/or revenues rise and fall due to  
7 exogenous factors, shareholders bear the **business risk** in exchange for a previously  
8 authorized return and profit in a monopoly setting.

9  
10 Based on the above findings, I recommend that the Commission deny Gulf' request for  
11 a COVID-19 related accounting deferral order and deny the request for a COVID-19  
12 regulatory asset. The Gulf request provides nothing more than enhanced shareholder  
13 profits. Most importantly, Gulf's request fails to balance the benefits and burdens  
14 between the customers and shareholders. Instead, under Gulf's request, customers bear  
15 all burdens while shareholders capture all benefits.

16

17 **Q9. DOES GULF'S DEFERRED ACCOUNTING REQUEST MEET THE**  
18 **ACCOUNTING STANDARDS?**

19 **A.** Under most estimates of COVID-19 costs, Gulf meets the materiality standard. The  
20 COVID-19 costs are i) unusual and ii) infrequent costs that were not previously  
21 recognized or included in rates. But the incremental COVID-19 expense (which  
22 includes offsets) is overstated for 2020. Given the issue with COVID-19 bad debt  
23 estimates discussed below, the 5 percent materiality threshold is met in the evaluations.

1 As I also discuss below, Gulf's financial integrity is not harmed; therefore, it is not  
2 important whether the preliminary accounting standards are ultimately met, as Gulf's  
3 financial integrity and profits are maintained without deferred accounting for COVID-  
4 19 costs, and so Gulf's Petition ultimately fails, regardless of the fact that the subject  
5 costs are unusual, infrequent, or not specifically identified in the last base rate case test  
6 year.

7  
8 **Q10. IS DEFERRED ACCOUNTING NECESSARY FOR GULF TO MAINTAIN**  
9 **FINANCIAL INTEGRITY?**

10 **A.** No deferred accounting is not necessary for Gulf to maintain its financial integrity. In  
11 terms of earnings, in 2020 Gulf's equity return exceeds the midpoint of the authorized  
12 level. Earnings in 2021 are projected to exceed 2020 levels. During 2021, Gulf is in the  
13 midst of a base rate case as part of Florida Power & Light Company ("FPL"), where  
14 all costs and revenues will be reviewed to set rates and profit levels for 2022 and  
15 beyond.

16  
17 **Q11. DID RATING AGENCIES ADDRESS THE GULF POWER FINANCIAL**  
18 **INTEGRITY AND COVID-19 IMPACTS DURING 2020?**

19 **A.** Yes. In a June 17, 2020 Update to Credit Analysis, Moody's viewed the Gulf Power  
20 financials favorably and stated the following:

21 **We expect Gulf Power to be resilient to recessionary pressures**  
22 **related to the coronavirus** because of its rate regulated business model.

23 ...

24 The effects of the pandemic could result in financial metrics that are  
25 weaker than expected, however, we see these issues as temporary and

1 not reflective of the long-term financial or credit profile of Gulf Power.<sup>4</sup>  
2 (emphasis added).  
3

4 Thus, rating agencies such as Moody's have not identified any substantial risk issues  
5 for Gulf Power as a result of COVID-19.  
6

7 **Q12. HOW DID GULF POWER PERFORM FINANCIALLY DURING 2020**  
8 **THROUGH THE COVID-19 PANDEMIC?**

9 **A.** Based on the transcript from the NextEra fourth quarter and full year 2020 earnings  
10 conference and call, Gulf Power performed remarkably well and profited at the higher  
11 end of the authorized return range.<sup>5</sup> NextEra reported that Gulf's 2020 net income was  
12 \$238 million, about 2 cents per share above 2019 levels on an adjusted basis.<sup>6</sup> NextEra  
13 stated: “[b]ase O&M reductions were the primary driver of Gulf Power's 19%  
14 year-over-year growth in adjusted earnings<sup>7</sup>.... Gulf Power's O&M costs have  
15 declined 30 percent.”<sup>8</sup> These Gulf Power cost reductions and savings have not been  
16 reflected as part of the Gulf COVID-19 request. Moreover, Gulf has never proposed a  
17 deferred liability to capture O&M savings for customers. It would seem that deferred  
18 accounting requests are filed only for increasing costs and not decreasing costs.  
19

<sup>4</sup> Moody's Investor Service, Credit Opinion, Gulf Power Company Update to Credit Analysis at 1 (June 17, 2020).

<sup>5</sup> See NextEra Energy Website, Investor Relations, 4<sup>th</sup> Quarter 2020 Results, Presentation, and Remarks (1/26/2021 at 7, 16, and 17).

<sup>6</sup> See NextEra Energy Website, Investor Relations, 4<sup>th</sup> Quarter 2020 Results, Presentation, and Remarks (1/26/2021 at 17).

<sup>7</sup> See NextEra Energy Website, Investor Relations, 4<sup>th</sup> Quarter 2020 Results, Presentation, and Remarks (1/26/2021 at 17).

<sup>8</sup> See NextEra Energy Website, Investor Relations, 4<sup>th</sup> Quarter 2020 Results, Presentation, and Remarks (1/26/2021 at 7).



1 The Gulf Power 2020 equity return for regulatory purposes is well within the authorized  
2 range for the 12-months ending December 2020, which is an equity range of 9.25% to  
3 11.25%.<sup>9</sup> All deferred accounting does is push the equity return to the higher end of the  
4 range. NextEra expects that Gulf will earn in the upper half of its authorized equity  
5 return range in 2021.<sup>10</sup> These results demonstrate that Gulf's shareholder profits are  
6 being enhanced through the COVID-19 pandemic.

7

8 **Q13. HAVE YOU CONSIDERED THE THIRD STANDARD BALANCING THE**  
9 **INTERESTS OF GULF'S SHAREHOLDERS AND CUSTOMERS?**

10 **A.** Yes, I have. Given that Gulf is able to earn returns in the authorized return level, denial  
11 of the deferred accounting request will result in a balancing of shareholder and  
12 customer interest. Allowing Gulf to proceed with deferred accounting will result in  
13 Gulf earning an additional return. Such a result would not be in the public interest.

<sup>9</sup> See NextEra Energy Website, Investor Relations, 4<sup>th</sup> Quarter 2020 Results, Presentation, and Remarks (1/26/2021 at 17).

<sup>10</sup> See NextEra Energy Website, Investor Relations, 4<sup>th</sup> Quarter 2020 Results, Presentation, and Remarks (1/26/2021 at 17).

1                                   **2.      FPUC SUMMARY**

2

3           **Q14.   PLEASE SUMMARIZE YOUR FINDINGS AND CONCLUSIONS RELATED**  
4           **TO FPUC’S JOINT PETITION FOR APPROVAL OF REGULATORY ASSETS**  
5           **RELATIVE TO THE ACCOUNTING, FINANCIAL INTEGRITY, AND**  
6           **EQUITY STANDARDS.**

7           **A.**     As discussed below, correcting FPUC’s safety related O&M shown in Table 5, results  
8           in a negative overall cost value of (\$244,985). These adjusted COVID-19 related O&M  
9           do not meet the materiality threshold. The FPUC claimed COVID-19 related bad debts  
10          are overstated. It is difficult to determine what a reasonable level of bad debt for FPUC  
11          is for 2020. But based on the data available I cannot determine if the total FPUC  
12          COVID-19 costs are material.

13

14          **Q15.   DID YOU EVALUATE THE FINANCIAL INTEGRITY IMPACT OF**  
15          **DEFERRED ACCOUNTING ON FPUC?**

16          **A.**     Yes, and FPUC acknowledges that financial integrity is not threatened by these  
17          COVID-19 costs.<sup>11</sup> As to current earned returns on equity the results for FPUC are  
18          mixed at best. FPUC historical earnings as measured by overall rate of return and equity  
19          return for most business units do not reach the authorized return levels and in the case  
20          of Indiantown and Fort Meade gas operations are negative. These two gas operations  
21          have had negative returns since at least 2018 so financial integrity for these two  
22          operations is not related to COVID-19 impacts, but rather, is related to other structural

<sup>11</sup> FPUC response to OPC’s Interrogatory No. 13.

1 rate and cost recovery problems. The other two FPUC gas operations FPU Gas and  
2 Chesapeake have year-end equity returns of 8.80% and 10.94% respectively, and  
3 includes the impact of the deferral of a portion of the costs that are the subject of the  
4 deferred accounting request.<sup>12</sup> The year-end 2020 FPU Electric return is 7.82% and also  
5 includes a deferred accounting amount.<sup>13</sup>

6  
7 However, FPUC has not provided sufficient support to justify extraordinary deferred  
8 accounting treatment. A rate case where all costs and revenues are considered is the  
9 more appropriate solution to a persistent under-earning problem. Analysis of claimed  
10 COVID-19 O&M expenses, when properly adjusted show such request to be negative  
11 not positive costs. The bad debt claims rest on a faulty bad debt base line coupled with  
12 inflated estimates of future bad debts. This type of analysis cannot support  
13 extraordinary deferred Accounting allowances.

14  
15 Nevertheless, if deferred accounting is authorized for FPUC, I recommend that the  
16 Commission clearly delineate the exact type of costs and savings FPUC should employ  
17 in the deferral to only include COVID-19 safety-related items and incremental COVID-  
18 19 related bad debt write-offs, offset by COVID-19 related savings, without regard to  
19 earnings. I would further recommend that FPUC be required to report actual 2020  
20 write-offs for evaluation and determination.

<sup>12</sup> FPUC response to OPC's Interrog. Nos. 11, 14.

<sup>13</sup> FPUC response to OPC's Interrog. No. 11; also see FPUC response to OPC's Interrog. No. 18(g) where the 2020 COVID-19 deferral expenses on the books are \$1,503,895.

1       **SECTION II:    OVERVIEW OF THE CONCEPT OF DEFERRED ACCOUNTING**

2  
3       **Q16. PLEASE DESCRIBE THE ENVIRONMENT IN WHICH THE REQUESTED**  
4       **COVID-19 RELATED DEFERRED ACCOUNTING ORDER REQUESTS**  
5       **AROSE.**

6       **A.**    In the first half of 2020, the COVID-19 pandemic created significant economic  
7       upheaval, record unemployment, and business closures across the country and much of  
8       the world, leading to numerous impacts across the country and economy in general.  
9       While many consumers have faced loss of employment or (extended unemployment),  
10      many businesses have seen complete failure or extended shutdowns with limited  
11      capacity reopening. Given the economic uncertainty and potential for financial impacts,  
12      some utility operations across the country and in Florida have requested **extraordinary**  
13      **accounting deferral orders** and creations of regulatory assets associated with the  
14      COVID-19 related expenses, including but not limited to write-offs related to  
15      uncollected customer accounts.

16  
17      The impact of these added COVID-19 related expenses in 2020 was to lower net  
18      income for some utilities. In other words, because of increased expenses, cash flow,  
19      return, and profit will be lower. Like any expense increase, added COVID-19 costs,  
20      without increased revenues, may cause profits and returns to be lower.

21  
22      **Q17. PLEASE DESCRIBE DEFERRED ACCOUNTING ORDERS.**

23      **A.**    The types of requested deferred accounting orders at issue are just that - “accounting  
24      orders.” But such accounting orders should require extraordinary circumstances that

1 are “unusual in nature,” “infrequent in occurrence,” and “**material**” (where material is  
2 measured as 5 percent of income) to be considered extraordinary items.<sup>14</sup> The USOA  
3 extraordinary items requirement applies in this case since the Commission prescribes  
4 the USOA for public utilities in Florida.<sup>15</sup> Unfortunately, none of the deferred  
5 accounting filings by Petitioners address the USOA “Extraordinary Items” requirement  
6 that regulators traditionally require. Instead, Petitioners seem to take the position that  
7 because COVID-19 expenses occurred and were not part of the rate recovery process,  
8 such expenses must be recovered in the future.

9 An additional factor that must be considered is the financial integrity of each Petitioner.  
10 Certainly, if the Petitioner is earning profits within its authorized return levels, or is not  
11 otherwise experiencing a threat to financial integrity, then any additional return through  
12 deferred accounting orders and future recovery will likely only further enhance profits  
13 at the expense of consumers. Thus, if there is no financial reason or requirement for  
14 considering deferred accounting, the Commission should decline to provide any  
15 deferred accounting orders.

16  
17 **Q18. PLEASE SUMMARIZE THE IMPACT OF DEFERRED ACCOUNTING.**

18 **A.** The impact of deferred accounting is to enhance a company’s average overall rate of  
19 return. This is best illustrated by Gulf’s response to OPC Interrogatory No. 23, which  
20 demonstrates that allowing deferred accounting will boost Gulf’s average overall rate  
21 of return by 40 basis points and equity return by 93 basis points at December 31, 2020.

22 The result of deferred accounting is that current rates are not changed, but instead only

<sup>14</sup> See Uniform System of Accounts 18 CFR Part 101 General Instruction 7 “Extraordinary Items”.

<sup>15</sup> See Rule 25-6.014 F.A.C. Records and Reports in General.

1 the books and records are adjusted to defer current expenses for collection at a future  
2 date. Deferring expenses today enhances current financials – whether or not such  
3 financials need enhancement (note the Gulf 40 basis point ROR example above). The  
4 deferred expenses will be recovered from customers in the future through higher rates.  
5 To offset the impact on current profit levels and preserve the COVID-19 expenses for  
6 future recovery, each Petitioner has requested the suspension of recognition of 2020  
7 COVID-19 costs through a deferred accounting order. If such deferral order is  
8 approved, the identified COVID-19 costs will be removed from 2020 expenses, placed  
9 in a deferral account, and the regulatory asset will be recovered when future revenues  
10 can be included in rates to recover these deferred items. There is no enhancement to  
11 future financial integrity or profit because rate increases offset these deferred expenses.

12

13 **SECTION III: OVERVIEW OF THE GULF DEFERRED ACCOUNTING**  
14 **PETITION**

15

16 **Q19. PLEASE DESCRIBE THE REQUESTED COVID-19 DEFERRED**  
17 **ACCOUNTING ORDER REQUESTS BY THE PETITIONERS.**

18 **A.** On or about May 22, 2020, Gulf filed a petition for approval to defer COVID-19 costs  
19 and establish a regulatory asset to record the deferred COVID-19 costs. In its Petition,  
20 Gulf requested that incremental bad debt expenses and safety-related costs attributable  
21 to COVID-19 be authorized for deferral treatment. The Commission initially entered  
22 an Order granting Gulf’s request, but subsequently vacated the Order on November 27,  
23 2020. Order No. PSC-2020-0405-PCO-EI, vacating Order No. PSC-2020-0262-PCO-  
24 EI. The Commission subsequently entered Order No. PSC-2020-0406-PAA-EI,

1 granting Gulf's petition for approval of regulatory asset to record costs incurred due to  
2 COVID-19; this Order is the subject of the protest at issue in this proceeding.

3  
4 **Q20. PLEASE SUMMARIZE THE GULF DEFERRED ACCOUNTING REQUEST.**

5 **A.** The Gulf request for deferred accounting for COVID-19 costs consists of Gulf's  
6 calculations of safety related expenditures and bad debt expenses, both of which are  
7 offset by COVID-19 related savings to arrive at a net regulatory asset amount for  
8 deferral. According to Gulf, the safety related expenditures are new out-of-pocket  
9 expenses not included in current Gulf base rates. COVID-19 related savings reflect  
10 Gulf's calculation of reductions in expected costs (that are included in base rates), such  
11 as business travel, that resulted from travel restrictions during the pandemic.

12  
13 The third, and largest, category in Gulf's request is incremental bad debt. According to  
14 Gulf, this bad debt category represents a write-off of consumer amounts due, or  
15 receivables. An allowance for bad debts is generally included in base rate revenue  
16 requirements through a revenue expansion factor similar to other revenue expansion  
17 factors such as taxes.<sup>16</sup> These bad debt revenue expansion factors are generally based  
18 on a 3-year to 5-year historical average of bad debt write-offs. Gulf does not know the  
19 amount of bad debt expenses in current base rates because the basis for the current base  
20 rates is a "black box" settlement in the last case.<sup>17</sup>

21  
<sup>16</sup> See Gulf Power Company Docket No. 20160186-EI, Witness Ritenour Exhibit (SDR-1) Schedules 17 and 18 from Gulf's last base rate case.

<sup>17</sup> See Gulf's response to OPC's Interrog. No. 7.

1 To calculate incremental bad debt for the COVID-19 period, April 2020 through  
2 February 2021, Gulf first calculated the monthly historical bad debt write-offs for the  
3 three-year average for 2017, 2018, 2019.<sup>18</sup> The monthly three-year historical average  
4 was then compared to the “actual bad debt expense” for the corresponding month in  
5 2020 and early 2021.<sup>19</sup> The difference between the three-year average historical bad  
6 debt and the 2020 bad debt write-off value was recorded as the incremental bad debt  
7 related to COVID-19.<sup>20</sup>

8 The problem is Gulf did not compare the three-year average amount of write-offs with  
9 the 2020 **actual bad debt write-offs** to calculate incremental bad debt. Instead, the  
10 2020 comparative values were “Current Month Reserve Adjustments” or estimates of  
11 what Gulf calculated should be written off.<sup>21</sup> In other words, Gulf’s analysis consisted  
12 of comparing historical bad debt write-offs (based on a three-year average) to Gulf’s  
13 **estimates of write-offs** also known as “Current Month Reserve Adjustments.” Thus,  
14 the entire calculation is an estimate and not a good one when one considers actual  
15 values.

16  
17 The **actual** bad debt write-off for the March 2020 through March 2021 period was  
18 \$9,079,212.<sup>22</sup> The Gulf three-year average bad debt is \$3,577,105 and the CAMS  
19 adjustment of \$862,236 increases the historical or expected bad debt level to  
20 \$4,439,341 ( $\$3,577,105 + \$862,236$ ). The difference between the actual bad debt in

<sup>18</sup> See Direct Testimony Gulf witness Mitchell Goldstein at page 8 lines 16 – 22.

<sup>19</sup> See Direct Testimony Gulf witness Mitchell Goldstein at page 8 lines 16 – 22.

<sup>20</sup> It should be noted a slight downward adjustment (\$71,853) was made each month to reflect the change in Customer Accounts Management billing systems (“CAMS”) see Gulf witness Mitchell Goldstein at page 9 lines 9 – 18.

<sup>21</sup> Goldstein Deposition at page 68, lines 18-25 through page 69, lines 1-3.

<sup>22</sup> Gulf response to OPC’s Interrog. No. 28.



1 2020 of \$9,079,212 and the expected bad debt of \$4,439,341 equals \$4,639,871  
 2 (\$9,079,212 - \$4,439,341). Thus, given known data on Gulf's bad debt write-offs, the  
 3 March 2020 – March 2021 period incremental write-off is actually \$4,639,871, not  
 4 Gulf's claim or estimate of \$15,014,000. This bad debt calculation issue for Gulf is  
 5 further addressed below.

7 **Q21. PLEASE ADDRESS THE GULF CLAIMED COVID-19 O&M EXPENSES?**

8 A. The Gulf request for deferred accounting for COVID-19 O&M costs consists of safety  
 9 related expenditures and bad debt expenses, both of which are offset by COVID-19  
 10 related savings. The following Table 1 provides a brief summary of the impact or  
 11 dollars at issue based on information by Gulf.

12 **TABLE 1**

13 **GULF POWER CLAIMED COVID-19 COSTS/ REGULATORY ASSET (\$000)<sup>23</sup>**

DESCRIPTION	AMOUNT APRIL 2020 - FEBRUARY 2021	AMOUNT MARCH 2021 DECEMBER 2021	TOTAL COVID-19 COSTS
<b>INCREMENTAL BAD DEBT</b>	\$15,014	\$3,936	\$18,950
<b>SAFETY RELATED COSTS</b>			
TESTING	\$1,189	\$824	\$2,013
PPE	\$ 689	\$400	\$1,089
TEMPERATURE SCREENINGS	\$1,021	\$0	\$1,021
FACILITY UPGRADE & CLEANING	\$516	\$131	\$647
OTHER	\$16	\$0	\$16
<b>TOTAL SAFETY COVID-19 COSTS</b>	\$3,431	\$1,354	\$4,785
<b>TOTAL ALL COVID-19 COSTS</b>	<b>\$18,445</b>	<b>\$5,290</b>	<b>\$23,735</b>
<b>LESS SAVINGS MEAL &amp; TRAVEL</b>	<b>(\$831)</b>	<b>(\$590)</b>	<b>(\$1,421)</b>
<b>LESS SAVINGS MEDICAL</b>	<b>(\$1,627)</b>	<b>\$0</b>	<b>(\$1,627)</b>
<b>TOTAL REGULATORY ASSET</b>	<b>\$15,987</b>	<b>\$4,700</b>	<b>\$20,687</b>

23 See Gulf Power Company Direct Testimony Mitchell Goldstein, Exhibit MG-1, Page 1 of 1.

1 As can be seen from Table 1, the claimed actual Gulf COVID-19 safety expenses  
2 representing additional dollars expended by Gulf to date amount to \$3,431,000 in  
3 expenses over the 11-month April 2020 through February 2021 period. The forecasted  
4 amounts of safety expenses for the period March 2021 – December 2021 amount to  
5 \$1,354,000. These actual and estimated COVID-19 safety expenses amount to  
6 \$4,785,000, and are almost entirely offset by the actual and estimated COVID-19  
7 related savings of \$3,048,000 (\$1,421,000 + \$1,627,000). When actual and estimated  
8 COVID-19 safety related expenses are netted against COVID-19 related savings, the  
9 net COVID-19 O&M expenditures amount is \$1,737,000 (\$4,785,000 - \$3,048,000)  
10 over a 21-month (April 2020 – December 2021) period. As I discuss below, \$1,737,000  
11 of increased expenditures are not material, nor do they significantly impact Gulf's  
12 earnings, as the total amount represents less than 1% of Gulf's 2020 earnings.<sup>24</sup> As I  
13 discuss below, the bad debt write-offs must also be considered in the materiality  
14 analysis.

15

16 **Q22. WHY DO YOU STATE GULF'S PROPOSED BAD DEBT WRITE-OFF IS AN**  
17 **ESTIMATE AND NOT AN ACTUAL BAD DEBT WRITE-OFF?**

18 **A.** First, witness Goldstein acknowledges it is an estimate, "... it is our best estimate based  
19 on everything we know of what our future write-offs to be..."<sup>25</sup> Mr. Goldstein further  
20 explains that expectations of bad debt are a function of revenue and aging of accounts

<sup>24</sup> See NextEra Fourth Quarter & Full Year 2020 Earnings Conference Call transcript page 17 (1/26/21), NextEra Energy website. Gulf reported 2020 earnings of \$238 million about a 9.7 million increase over 2019 results.

<sup>25</sup> Goldstein Dep. p. 52, lines 16-18.

1 receivables.<sup>26</sup> Mr. Goldstein provides an example of how the bad debt write-off  
2 estimates are developed. Mr. Goldstein further explains that each month, Gulf bills  
3 customers for electric consumption, but knows not all customers will pay these bills.<sup>27</sup>  
4 Knowing that 100 percent of revenues billed will not be collected, Gulf estimates a bad  
5 debt write-off that is trued-up over time when actual bad debts are ultimately known.<sup>28</sup>  
6  
7 Customers are allowed a certain amount of time to pay the bill, but if nonpayment  
8 persists, the customer service is cut off.<sup>29</sup> Then Gulf attempts over a several month  
9 period to collect the debt. If not collected the debt amount is written off as a bad debt.<sup>30</sup>  
10 Gulf's response to OPC's Interrogatory No. 9 states the collection to write-off process  
11 is approximately 90 days.

12  
13 To summarize, at the end of every month, Gulf develops an estimate of the amount that  
14 needs to be reserved for bad debts. This reserve analysis for bad debts is based on  
15 revenues, the aging of accounts receivable, and economic outlook.<sup>31</sup>  
16

17 **Q23. WHY ARE THESE BAD DEBT ESTIMATES A PROBLEM IN THIS CASE?**

18 **A.** Under normal operating conditions, the estimates of bad debt write-offs as actual bad  
19 debt is relatively stable over time. For example, in Gulf's last base rate case, Docket

<sup>26</sup> Goldstein Dep. p. 52, lines 12 -13.

<sup>27</sup> Goldstein Dep. p. 53, lines 24 -25 through page 54.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> Goldstein Dep. p. 53, lines 24 -25 through p. 68, lines 18 – 25.

1 No. 20160186-EI, Gulf estimated a test year bad debt level of \$3,994,413 for the 2017  
2 test year.<sup>32</sup> The actual annual bad debt write-offs for 2018 and 2019 were \$4,050,051  
3 and \$3,822,425 respectively.<sup>33</sup> Gulf's 2016 estimate based on historical values was  
4 quite consistent with bad debt levels following the test year during normal operations  
5 and general economic growth.

6  
7 Now, we have Gulf's estimates made in the midst of a pandemic, unprecedented  
8 economic collapse, and operating conditions never before experienced. It is no wonder  
9 that Gulf's bad debt estimates are overstated and do not reflect rapid economic recovery  
10 through 2021. Also, pandemic conditions and operating conditions have improved as  
11 well through 2021.

12  
13 **Q24. PLEASE ADDRESS FURTHER GULF'S CLAIMED COVID-19 RELATED**  
14 **COSTS – BAD DEBT.**

15 **A.** As shown in Table 1, Gulf claimed Bad Debt amounts of \$15,014,000 (actual) and  
16 \$3,936,000 (forecasted). Bad debt claims are by far the largest portions of the Gulf  
17 COVID-19 deferred accounting request. These are amounts billed that have been  
18 outstanding and have now been written off as uncollectible, i.e., bad debt. Further, these  
19 amounts of incremental bad debts are not actual bad debts, but rather are based entirely  
20 on estimates using a three-year average of actual bad debts as the baseline compared to  
21 estimates or monthly "Reserve Adjustments" for bad debts. **Again, the Company does**

<sup>32</sup> Gulf's response to OPC's Interrog. No. 6.

<sup>33</sup> Gulf's response to OPC's Req. for Production. No. 13, Attachment.

1           **not know how much bad debt is in base rates let alone how much bad debt is**  
2           **related to COVID-19.**

3  
4           More importantly, the amount of bad debt reported by Gulf appears to be substantially  
5           overstated. Gulf defines a bad debt or write off as follows:

6  
7                           Gulf Power's write-off process begins at account closure, which can be  
8                           either due to a customer's request to close his or her account or a failure  
9                           to make payment to reconnect service within ten days following  
10                          disconnection for non-payment. If any debt remains outstanding on the  
11                          account for at least 90 days after closure, the account debt is written  
12                          off.<sup>34</sup>

13  
14           Thus, it takes at least 90 days following account closure for the outstanding and owed  
15           balance to be written off and become a bad debt. Now, Gulf "**suspended customer**  
16           **disconnects for nonpayment and the associated write-offs from mid-March 2020**  
17           **through mid-November 2020.**"<sup>35</sup> On the one hand, Gulf claims to have suspended the  
18           disconnect and write-off process, but on the other hand Gulf claims large amounts of  
19           bad debts which require implementation of service disconnects and write-offs.

20  
21           The following Table 2 provides a summary of the Gulf claimed incremental bad debt  
22           amounts by month, as reported in the Earnings Surveillance Reports. In other words,  
23           Table 2 shows the Gulf claimed incremental, over and above the three-year (2017 –  
24           2019) average bad debt write-off.

<sup>34</sup> See Gulf's response to OPC's Interrog. No. 9.

<sup>35</sup> See Gulf's response to OPC's Interrog. No. 9.

TABLE 2<sup>36</sup>

## GULF POWER CLAIMED INCREMENTAL BAD DEBT COSTS

MONTH	AMOUNT
APRIL	\$1,673,598
MAY	\$2,001,364
JUNE	\$1,639,872
JULY	\$862,052
AUGUST	\$2,224,584
SEPTEMBER	\$1,916,365
OCTOBER	\$2,323,727
NOVEMBER	\$642,922
DECEMBER	\$605,729
TOTAL 2020	\$13,890,213
JANUARY 2021	\$810,719
FEBRUARY 2021	\$313,068 <sup>37</sup>
TOTAL ACTUALS <sup>38</sup>	\$15,014,000
FORECASTED MARCH – DECEMBER 2021	\$3,936,000
TOTAL ALL ACTUALS & FORECASTED	\$18,950,000

The above Table 2 shows substantial incremental bad debt write-offs in every month in 2020. If Gulf's policy is bad debt write-offs only occur 90-days after account disconnection, but customer disconnects were suspended, it is difficult to accept the accuracy of the estimate of substantial incremental write-offs claimed in Table 2. As I noted earlier, **Gulf acknowledges that the actual March 2020 through March 2021 write-offs totaled \$9,079,212.**<sup>39</sup>

<sup>36</sup> See Gulf Earnings Surveillance Report August 2020, Supplemental Sheet 2 data for April through August 2020.

<sup>37</sup> Calculated as 2020 total \$13,890,213 plus Jan. \$810,719 minus Total actuals \$15,014,000.

<sup>38</sup> Gulf Direct Testimony Gulf witness Mitchell Goldstein at Exhibit MG-1.

<sup>39</sup> Gulf Response to OPC's Interrog. No. 28.

1 The problem with Gulf's COVID-19 related bad debt proposal is that it is an estimate,  
2 not an actual bad debt write-off. In response to OPC's Interrogatory No. 28 on this  
3 matter, Gulf states:

4  
5 Therefore, the write-off for an uncollectible account occurs  
6 several months after bad debt expense is recorded, and, as such,  
7 the change in the balance sheet provisions is not directly correlated  
8 with the write-offs in the same period. The amounts written off  
9 from March 2020 to present (March 2021) totaled \$9,079,212.  
10 These write-offs are not directly correlated to the increase in bad  
11 debt expense for the same period due to the timing variance  
12 explained above.  
13

14 Given the bad debt write-off actual numbers available for the March 2020 to March  
15 2021 period, then in order to be consistent with its interrogatory response above, the  
16 original Gulf claim of \$15,014,000 (Table 2 above) should instead be \$9,079,212, a  
17 reduction of \$5,935,000.

18  
19 The Gulf three-year average bad debt baseline is \$3,577,105 and the CAMS adjustment  
20 of \$862,236 increases the historical or expected bad debt level to \$4,439,341  
21 (\$3,577,105 + \$862,236). The difference between the actual bad debt in 2020 of  
22 \$9,079,212 and the expected bad debt of \$4,439,341 equals \$4,639,871 (\$9,079,212 -  
23 \$4,439,341). Thus, given known data on Gulf's bad debt write-offs, the March 2020 –  
24 March 2021 period incremental write-off is \$4,639,871, not Gulf's claim or estimate  
25 of \$15,014,000. Accepting Gulf's forecast of bad debt write-offs in Table 1 of  
26 \$3,936,000 puts total bad debt at \$8,575,871 total, or about \$4,900,000 annualized.<sup>40</sup>

<sup>40</sup> (8,575,871/21 months) \* 12 months

1       **Q25. IF WE ACCEPT GULF’S CLAIMED TOTAL COVID-19 RELATED COSTS**  
2       **AS FILED, ARE THE CLAIMED TOTAL AVERAGE ANNUAL COVID-19**  
3       **COSTS MATERIAL OR A FINANCIAL BURDEN TO GULF?**

4       **A.**     The 2020 year-end earnings stated on Gulf’s earnings surveillance reports indicate  
5       \$175.7 million of operating income. The equity return is about \$145.4 million. This  
6       equity return was further reduced 93 basis points to reflect the impact of the deferral of  
7       COVID-19 costs. The resulting net income is about \$117.5 million. The resulting  
8       materiality measure is 5% of \$117.5 million or \$5.9 million. The total Gulf claimed  
9       actual and forecasted COVID-19 costs are \$20,687,000.<sup>41</sup> These COVID-19 costs  
10      annualized amount to \$11,821,000.<sup>42</sup> Comparing an annual average claimed COVID-  
11      19 costs to Gulf’s annual net income of about \$117.5 million indicates the COVID-19  
12      amount is higher than 5% of net income. Therefore, the COVID-19 request – if accurate  
13      (which it is not, as demonstrated above) -- would pass muster with the materiality  
14      threshold. If the Gulf requested deferred asset amount of \$20,687,000 is reduced for  
15      the \$5,935,000 actual bad debt actuals correction discussed above, the annualized  
16      COVID-19 costs of \$8,429,714 are greater than 5% of net income.<sup>43</sup> However, in no  
17      case does Gulf earn outside the authorized return range.<sup>44</sup> The Gulf returns stay in the  
18      authorized range.<sup>45</sup> The Gulf financial integrity is not threatened or diminished.

<sup>41</sup> Goldstein Direct Testimony at Exhibit MG-1.

<sup>42</sup> Total COVID-19 cost (\$20,867,000/ 21 months) \* 12 months annualized.

<sup>43</sup> The annualization is ((\$20.687 mm - \$5.935 mm)/21) \* 12 months = \$8,429,714.

<sup>44</sup> See Gulf’s Response to OPC’s Interrog. No. 23. The financial impact is much lower when corrected numbers for bad debts are included.

<sup>45</sup> See Gulf’s Response to OPC’s Interrog. No. 19.



1       **Q26. PLEASE SUMMARIZE THE GULF DEFERRED ACCOUNTING REQUEST**  
2       **AND ISSUES RAISED BY THE REQUEST**

3       **A.**     As shown in Table 1, Gulf’s request for deferred accounting totals \$20,687,000. Gulf  
4       claims its safety-related costs are \$4.785 million. When offset by the \$3.048 million  
5       savings amount listed by Gulf, the safety-related costs total approximately \$1.7 million  
6       – not a significant amount warranting deferred accounting. The largest amounts  
7       proposed by Gulf for deferral are the bad debt write-off amounts, but these are  
8       essentially all estimated.

9  
10       Also, Gulf experienced substantial O&M savings in 2020 – all the while earning within  
11       the authorized return range with or without deferred accounting. A deferred accounting  
12       order is not necessary and will only serve to further enhance profits, at the expense of  
13       Gulf’s customers.

14  
15       Other utility company operations had similar reactions to COVID-19 costs based on a  
16       materiality analysis. For example, Emera Incorporated, which owns Tampa Electric  
17       and Peoples Gas System in Florida among other regulated operations, stated the  
18       following with regard to the COVID-19 Pandemic impact on operations:

19  
20               Some of Emera’s utilities have been impacted more than others.  
21               However, on a consolidated basis these unfavorable **impacts have not**  
22               **had a material financial impact to net earnings** primarily due to a  
23               change in the mix of sales across customer classes. ... Favourable  
24               weather in 2020, particularly in Florida, has further reduced the

1 consolidated impact. **The Company has not deferred any costs for**  
2 **future recovery as a result of the pandemic.**<sup>46</sup> (emphasis added)  
3

4 Materiality of these expenses is just the first step of the analysis -- a point well  
5 demonstrated by Emera Incorporated.  
6

7 **SECTION IV: OVERVIEW OF THE FPUC DEFERRED ACCOUNTING**  
8 **PETITION**  
9

10 **Q27. WHAT ARE THE FPUC CLAIMED COVID-19 COSTS AND REGULATORY**  
11 **ASSET REQUEST?**

12 **A.** The FPUC deferral cost estimate has been all over the map and FPUC still does not  
13 have a reasonable dollar amount of deferrals to put before the Commission. The  
14 problem is that FPUC seems to have changing theories (FPUC refers to these changing  
15 theories as refinements in the calculations) of what should or should not be included in  
16 COVID-19 costs. The changing theories or refinements on COVID-19 costs has over  
17 time led to enormous increases in FPUC's COVID-19 estimates.  
18

19 It is important to keep these COVID-19 expenses in perspective. When the pandemic  
20 hit in early 2020, the cost concern was primarily incremental PPE costs, incremental  
21 cleaning costs, incremental safety related cost, and incremental bad debt write-offs all  
22 offset by savings. For FPUC these simple costs have morphed into hazard or bonus  
23 pay, lost business opportunities, the entire elimination of savings offsets, and inflated

<sup>46</sup> Emera Incorporated, Management's Discussion & Analysis, page 15 (February 16, 2021).

1 estimates of bad debt costs. As I discuss below, it is difficult to accept FPUC's  
2 estimates as a realistic COVID-19 cost estimate for purposes of deferred accounting.

3 To demonstrate some of the problems with FPUC's COVID-19 cost estimates, I present  
4 in Table 4 the changes in the claimed COVID-19 calculations over time from the FPUC  
5 filed COVID-19 cost reports filed in this docket.<sup>47</sup>

6  
7 **TABLE 4**

8 **FPUC BREAKDOWN OF COVID-19 COSTS JUNE 2020 – FEBRUARY 2021<sup>48</sup>**

MONTH	COVID-19 EXPENSES	BAD DEBT EXPENSES	SAVINGS	TOTAL
JUNE 2020 <sup>49</sup>				<b>\$428,000</b>
OCTOBER 2020	<b>\$194,523</b>	<b>\$1,027,838</b>	<b>(\$743,308)</b>	<b>\$479,053</b>
NOVEMBER 2020	<b>\$553,526</b>	<b>\$1,200,813</b>	<b>(\$779,846)</b>	<b>\$974,493</b>
DECEMBER 2020	<b>\$1,154,947</b>	<b>\$2,375,780</b>	<b>(\$791,431)</b>	<b>\$2,739,296</b>
JANUARY 2021 <sup>50</sup>	<b>\$42,176</b>	<b>\$145,517</b>	NOT REPORTED	<b>\$187,693</b>
FEBRUARY 2021	<b>\$103,862</b>	<b>(\$86,005)</b>	NOT REPORTED	<b>\$17,857</b>

9  
10 Table 4 shows that the FPUC COVID-19 periodic filings with the Commission reflect  
11 a dramatic and unexplained increase through the 2020 period. For example, the  
12 November 2020 to December 2020 one month period shows over 180% increase in

<sup>47</sup> Since FPUC filed its March 2021 COVID-19 expense and savings information on May 3, 2021, just prior to the filing of this testimony, it has not been addressed in this testimony. However, I note that in the March 2021 report, the year-to-date Incremental Bad Debt Expense is (\$238,045), and the Total Preliminary COVID-19 Impact is (\$269,804) including offsetting savings.

<sup>48</sup> See Joint Petition for Approval of Regulatory Assets to Record Costs Incurred Due to COVID-19 by Florida Public Utilities Company (Electric and Gas Divisions) and the Florida Division of Chesapeake Utilities Corporation (8/11/20) at page 9 Exhibit A "Breakdown of Costs among FPU Companies" (through June 2020). Data for the months of October, November, and December 2020 can be found in the FPUC periodic filings in the Docket No. 20200194-PU see December 1, 2020 Doc. No. 13044, January 4, 2021 Doc. No. 00251, February 1, 2021 Doc. No. 01830, March 1, 2020 Doc. N Doc. No. 03185o. 02526, and April 1, 2021

<sup>49</sup> The 2020 June through December COVID-19 costs reflect cumulative costs.

<sup>50</sup> The 2021 COVID-19 costs reflect monthly incremental costs.

1 claimed COVID-19 costs for deferral (\$974,493 in November 2020 to \$2,739,296 for  
2 December 2020). However, these are not month-to-month changes in COVID-19 costs,  
3 but rather a change or “refinement” in how FPUC calculates COVID-19 costs. For  
4 example, Table 4 shows COVID-19 specific O&M expenses increasing from \$553,526  
5 in November 2020 to \$1,154,947 in December 2020 – a \$601,421 month-to-month  
6 increase. The FPUC most recent discovery response reports December 2020 COVID-  
7 19 related expenses of \$48,038 for the five FPUC companies – much lower than the  
8 claimed \$601,421 amount shown in Table 4.<sup>51</sup> The transition into 2021 shows numbers  
9 on an incremental basis and savings are no longer reported – another new theory. The  
10 bottom line is that the FPUC filed COVID-19 costs referenced in Table 4 do not appear  
11 reliable or reasonable for evaluation in this case.

12

13 **Q28. HAS FPUC FILED REVISED COVID-19 COST DATA IN DISCOVERY?**

14 **A.** Yes, they have. A review of the FPUC discovery responses shows more detail, more  
15 new theories on COVID-19 costs, and many more questions regarding the FPUC  
16 COVID-19 costs and proposed deferral. The current problem is that there is no one  
17 place where the Commission can find an FPUC total dollar deferral request. Unlike the  
18 Gulf COVID-19 cost of \$20.687 million presentation discussed in Table 1, there is no  
19 overall request by FPUC so the Commission knows what is being requested for possible  
20 approval for FPUC. Without a requested amount, it is difficult to know what is being  
21 approved.

22

<sup>51</sup> See FPUC response to OPC’s Interrog. No. 18(b) attachment for December 2020.

1 To address the issues regarding the FPUC COVID-19 request, I start with Table 5  
 2 which represents the most current data related to FPUC's COVID-19 O&M costs for  
 3 each of the five FPUC companies.

4  
 5 **TABLE 5**  
 6 **COVID-19-SPECIFIC O&M EXPENSES BY BUSINESS UNIT**

7

A	B	C	D	E	F
FPUC BUSINESS UNIT	FPUC <sup>52</sup> REQUESTED TOTAL COVID-19 COSTS MARCH 2020 FEB 2021	HAZZARD PAY <sup>53</sup>	OTHER INSURANCE COST <sup>54</sup>	SAVINGS <sup>55</sup>	ADJUSTED TOTAL COST
FLORIDA NATURAL GAS	\$698,082	\$62,685	\$159,048		
CENTRAL NATURAL GAS	\$226,685	25,524	\$63,054		
INDIANTOWN	\$3,389	1,236	\$941		
FORT MEADE	\$2,688	\$541	\$941		
TOTAL GAS	\$930,844	\$283,466	\$223,984	(\$584,162)	(\$160,768)
ELECTRIC	327,966	\$123,978	\$80,936	(\$207,269)	(\$84,217)
TOTAL FPUC	\$1,258,810	\$407,444	\$304,920	(\$791,431)	(\$244,985)

8

9 Table 5 column B shows the latest data for COVID-19 O&M costs (excludes bad debt  
 10 costs) by business unit. If these costs were accepted, it would amount to \$1,258,810.  
 11 But there are at least three problems outlined in columns C, D, and E with FPUC  
 12 updated COVID-19 cost calculations. First, column C "Hazzard Pay" represents added  
 13 payment to employees designated as front-line employees.<sup>56</sup> Employees have wage  
 14 agreements, were provided PPE and other safety measures to follow and the added pay

<sup>52</sup> See FPUC Response to OPC's Interrog. Nos. 18 A and 18 B.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> FPUC Regulatory Asset Filing Data Document No. 02526, filed on March 1, 2021 for the December 2020 period.

<sup>56</sup> See FPUC response to OPC's Interrog. No. 18 e.

1 does not appear necessary. Further, FPUC provides no analysis to show that hazard pay  
2 or COVID-19 bonus pay has caused FPUC payroll to exceed the level of payroll in  
3 current base rates. This deferral request is designed to be an effort to capture  
4 incremental **COVID-19** costs. Just because FPUC or Chesapeake came up with this  
5 bonus concept and paid \$407,444 dollars to employees does not in and of itself make  
6 this an incremental amount. For the above reason, I have removed \$407,444 by  
7 business unit as shown in Column C.

8  
9 Second, Column D reflects a claimed “lost business opportunity” associated with  
10 casualty related insurance premiums.<sup>57</sup> Based on FPUC response to OPC Interrogatory  
11 No.18 f, FPUC claims that in 2019 the Company sought alternative bids for casualty  
12 insurance cost. The bids indicated that cost savings would amount to \$330,000. When  
13 COVID-19 hit the economy, these bids were withdrawn by insurance providers and  
14 FPUC assert these lost insurance savings are a COVID-19 cost due to the lost business  
15 opportunity to lower insurance costs. This is not a COVID-19 cost. Insurance cost is  
16 included in base rate charges; there are no increased costs. Further, the lost opportunity  
17 to lower costs is not a new cost facing FPUC. For the above reasons, \$304,920 in  
18 Column D is removed from COVID-19 costs.

19  
20 Third, Column E reflects savings related to COVID-19 which represent an offset to  
21 COVID-19 costs. Earlier FPUC filings with the Commission in this docket calculated  
22 saving achieved to offset COVID-19 costs. Now in response to OPC Interrogatory No.

<sup>57</sup> See FPUC response to OPC’s Interrog. No. 18 f.

1 19 FPUC states; **“If the Company had exceeded its allowed earnings, we would**  
2 **have reduced the amount deferred in the Regulatory Asset. At this time, the**  
3 **Companies have determined that there are no incremental savings that would**  
4 **have directly offset the incremental expenses already charged to the regulatory**  
5 **asset.”**<sup>58</sup> (Emphasis added). FPUC had previously reported savings through at least  
6 December 2020. Now a new and yes, a novel theory has been developed which  
7 eliminates all savings and somehow ties savings to excess earnings. The existence of  
8 savings is not dependent on whether there are excess earnings. There is no basis to  
9 exclude savings. So, savings should offset COVID-19 costs. This case involves an  
10 accounting order request not an opportunity to increase rates and return levels like a  
11 base rate case.

12  
13 Savings should be included as an offset to COVID-19 costs. I have included in Table  
14 5 the FPUC December 2020 calculated level of COVID-19 related savings of \$791,431  
15 previously filed with the Commission.

16  
17 The bottom line is that making three obvious adjustments; i) remove bonus pay, ii)  
18 removing a claimed lost business opportunity, and iii) including the FPUC savings  
19 calculated through December 2020 results in negative (\$244,985) COVID-19 related  
20 O&M costs. I should note that FPUC has included other questionable O&M costs such  
21 as communication cost, legal fees, consultant fees to name a few. I have not had  
22 sufficient data to make these added adjustments at this time. The end result is that

<sup>58</sup> See FPUC response to OPC Interrogatory No. 19.

1 COVID-19 O&M costs are negative and probably should be more negative. The  
2 unfortunate incidence of a pandemic should not be seen as an opportunity to load up  
3 questionable costs onto the customers who are suffering the impacts of a pandemic.  
4

5 **Q29. HAVE YOU REVIEWED THE FPUC BAD DEBT EXPENSE ESTIMATES?**

6 **A.** Yes, I have. A review of the FPUC discovery responses shows more detail on bad debt  
7 and more new theories on bad debt calculations related to COVID-19. As I discuss  
8 below, the bad debt data write-off data presented by FPUC is not a reliable estimate.  
9

10 **Q30. PLEASE DESCRIBE THE PROBLEMS YOU HAVE IDENTIFIED WITH**  
11 **FPUC'S BAD DEBT WRITE-OFF ESTIMATES?**

12 **A.** The first problem is that FPUC employs a three-year average bad debt amount as the  
13 baseline for calculating incremental bad debt related to COVID-19.<sup>59</sup> To calculate the  
14 incremental COVID-19 bad debt, the three-year base line is subtracted from the  
15 corresponding month of 2020 bad debt.<sup>60</sup> The use of a three-year average of bad debt  
16 write-offs for all FPUC operations has inflated the FPUC bad debt calculation. Gulf  
17 used this method because Gulf's base rates were based on a black box settlement and  
18 specific bad debt levels were not known. However, FPUC knows the bad debt amounts  
19 included in base rates for the three largest entities.<sup>61</sup> The impact of FPUC's use of the  
20 wrong or incorrect bad debt amounts are shown in Table 6 below.  
21

<sup>59</sup> Direct Testimony FPUC witness David Craig at page 10, lines 5 – 13.

<sup>60</sup> Direct Testimony FPUC witness David Craig at page 10, lines 5 – 13.

<sup>61</sup> See FPUC Response to OPC Interrog. No. 2. Bad debt amounts for Indiantown and Fort Meade cannot be determined.



Table 6

**FPUC HISTORICAL BASE LINE BAD DEBT WRITE-OFF CALCULATIONS**

<b>FPUC BUSINESS</b>	<b>3-YEAR AVG<sup>62</sup></b>	<b>AUTHORIZED BAD DEBT LEVEL<sup>63</sup></b>	<b>ADJUSTED BAD DEBT<sup>64</sup></b>
CHESAPEAKE	\$46,961	\$41,832	\$41,832
INDIANTOWN	\$1,987	\$0	\$1,987
FORT MEADE	\$1,978	\$0	\$1,978
FPUC GAS	\$231,267	\$522,322	\$522,322
TOTAL GAS	\$282,193	\$564,154	\$568,119
TOTAL ELECTRIC	\$239,591	\$221,975	\$221,975
TOTAL FPUC	\$521,784	\$786,129	\$790,094

In Table 6, the 3-year average column shows FPUC's bad debt base line based on a 3-year historical average. The next column shows the current authorized bad debt levels by business unit. Only Indiantown and the Fort Meade gas operations have no current authorized bad debt levels in base rates. The third column reflects authorized bad debt levels that were known and 3-year average bad debt levels for the two business units where authorized bad debt in base rates is not known. By employing a lower 3-year average of \$521,784 as a base line, versus an alternative analysis that included bad debts included in base rates \$790,094, FPUC was able to inflate the bad debt calculation by \$268,310 (\$790,094 - \$521,784) on an annual basis.

<sup>62</sup> See FPUC Response to OPC Interrog. No. 3 Attached file.

<sup>63</sup> See FPUC Response to OPC Interrog. No. 2.

<sup>64</sup> Employed authorized level in base rates otherwise employed 3-year average.

1       **Q31. DID FPUC CALCULATE ACTUAL WRITE-OFFS OF BAD DEBT OR DID**  
2       **FPUC CALCULATE WRITE-OFF ESTIMATES?**

3       **A.**     Like Gulf's calculation of bad debt described earlier, FPUC calculated estimates of bad  
4       debt write-offs. Now, FPUC witness Galtman would have one believe that these are  
5       actual bad debt expenses.<sup>65</sup> In reality, like the situation with Gulf, bad debts were not  
6       known for each month and an estimate was employed. Mr. Galtman points out the  
7       increase in aged accounts receivable balances, but this does not mean all such  
8       receivables are ultimately write-offs.<sup>66</sup> To see how out of line these estimates of bad  
9       debt write-offs are one need only examine FPUC's current estimate of these costs.

<sup>65</sup> FPUC Direct Testimony Michael Galtman at page 4, lines 15 – 20.

<sup>66</sup> FPUC Direct Testimony Michael Galtman at page 4, lines 20 – 23.

Table 7

**FPUC MONTHLY BAD DEBT WRITE-OFFS**

**BASELINE CALCULATIONS**

<b>MONTH</b>	<b>FPUC NEW MONTHLY BAD DEBT ESTIMATE<sup>67</sup></b>
MAR. 2020	\$3,913
APR. 2020	\$38,172
MAY 2020	\$38,369
JUN. 2020	\$633,433
JUL. 2020	\$31,572
AUG. 2020	\$553,500
SEP. 2020	\$332,143
OCT. 2020	\$27,980
NOV. 2020	\$30,961
DEC. 2020	\$1,148,478
TOTAL 2020 MAR-DEC	\$2,838,522
JAN. 2021	\$47,518
FEB. 2021	\$36,196

The FPUC latest bad debt estimates above shows substantial bad debt claims in some months. The December 2020 value of \$1,148,478 is more than 10 times the level of any actual monthly write-off shown in the historical actual data.<sup>68</sup> This result is even more suspect when one looks at the two months prior and two months following December 2020, these months are more than 25 times lower than December 2020. Given the improvement in the economy since mid-year 2020 and the progress made on

<sup>67</sup> See FPUC Response to OPC's Interrog. No. 18 b, Attachment Bad Debt 4-19.

<sup>68</sup> See FPUC Response to OPC's Interrog. No. 3, Attachment file "ROG1 #3" for bad debt expense.

1 the pandemic, one would expect the COVID-19 costs to decline. This appears true for  
2 all FPUC costs except the December 2020 bad debt outlier. This is the result of using  
3 the inflated bad debt base line discussed earlier and relying on estimates rather than  
4 actual bad debts. FPUC's estimates just cannot be supported.

5

6 **Q32. WHAT ARE YOUR CONCLUSIONS WITH REGARD TO THE SPECIFIC**  
7 **FPUC COVID-19 REQUESTS?**

8 **A.** Correcting FPUC's safety related O&M shown in Table 5, results in a negative overall  
9 cost value of (\$244,985). The FPUC attempts to quantify actual bad debts are not based  
10 on actual write-offs and are overstated. It is difficult to determine what a reasonable  
11 level of bad debt for FPUC is for 2020. I would recommend that FPUC report actual  
12 2020 write-offs for evaluation. But based on the data available, I cannot determine if  
13 the FPUC COVID-19 costs are material. More important is that based on the data  
14 available FPUC has not provided sufficient evidence that the COVID-19 impact is  
15 material and qualifies for a deferral. Further, FPUC has failed to demonstrate any harm  
16 to financial integrity caused by COVID-19 impacts. There just is no basis to conclude  
17 FPUC should be granted deferred accounting in this case.

1       **SECTION V:    REGULATORY AND POLICY ISSUES REGARDING DEFERRED**  
2                               **ACCOUNTING**

3  
4       **Q33. PLEASE EXPLAIN THE DEFERRED ACCOUNTING CONCEPT AS IT**  
5                               **RELATES TO THE REGULATORY PROCESS.**

6       **A.**     Both Petitioners in the consolidated dockets appear to suggest that during the pandemic,  
7                               they incurred expenses related to COVID-19 that were not specifically identified in the  
8                               test year when their rates were last set. As such, they each claim the impact of these  
9                               added COVID-19 expenses in 2020 was to lower their net income. In other words,  
10                              because of increased expenses the bottom-line cash flow, return, and profit will be  
11                              lower. However, all that occurred is that like any expense increase, COVID-19 costs  
12                              caused profits and return to be lower.

13  
14                             To offset the impact on profit and preserve the COVID-19 expenses for future recovery,  
15                             both Petitioners have requested the suspension of recognition of 2020 COVID-19 costs  
16                             through a deferred accounting order. If such deferral orders are approved, the identified  
17                             COVID-19 costs will be removed from each Company's 2020 expenses and beyond,  
18                             placed in a deferral account and be recovered when future revenues can be included in  
19                             rates to recover these deferred items. According to both Petitioners, there is no effect  
20                             on future financial integrity or profit because future revenues offset this future expense  
21                             recovery.

22  
23                             Even if an authorization to establish a deferred accounting regulatory asset has no  
24                             immediate impact on a utility's rates, there are still serious consequences to the use of

1 the deferral mechanism and establishment of a regulatory asset. A deferred accounting  
2 order carries with it **a general presumption that the deferred costs, if prudent, are**  
3 **entitled to future recovery in rates.** This factual presumption is based on Generally  
4 Accepted Accounting Principles (“GAAP”) that govern the accounting practices of the  
5 Utilities regulated by the Commission. Specifically, Accounting Standards  
6 Codification (“ASC”) 980-340-25-1 (Recognition of Regulatory Assets”) provides the  
7 regulations that govern regulatory assets and reads as follows:

8  
9 25-1 Rate actions of a regulator can provide reasonable assurance of the  
10 existence of an asset. An entity shall capitalize all or part of an incurred cost  
11 that would otherwise be charged to expense if both of the following criteria are  
12 met:

- 13  
14 a. It is probable (as defined in Topic 450) that future revenue in an amount at least  
15 equal to the capitalized cost will result from inclusion of that cost in allowable  
16 cost for rate-making purposes.
- 17  
18 b. Based on available evidence; the future revenue will be provided to permit  
19 recovery of the previously incurred cost rather than to provide for expected  
20 levels of similar future costs. If the revenue will be provided through an  
21 automatic rate-adjustment clause, this criterion requires that the regulator’s  
22 intent clearly be to permit recovery of the previously incurred cost.
- 23

1           A cost that does not meet these asset recognition criteria at the date the cost is  
2           incurred shall be recognized as a regulatory asset when it does meet those  
3           criteria at a later date.<sup>69</sup>

4  
5           When the Commission authorizes the creation of a regulatory asset, the Commission is  
6           also prejudging that it is probable pursuant to (“ASC”) 980-340-25-1 (Recognition of  
7           Regulatory Assets) the utility will be allowed to collect the incremental COVID-19  
8           costs recorded in the deferral account. In other words, absent a finding of imprudent  
9           management action, the presumption of probable recovery is essentially a guarantee of  
10          recovery.

11  
12          In addition, as discussed earlier, the USOA requires that only “extraordinary items” be  
13          included in a deferral.<sup>70</sup> This requirement is most problematic for the Petitioners when  
14          they fail to address the basic requirement that the COVID-19 expenses meet the USOA  
15          Extraordinary Items requirement of materiality discussed earlier. Even if the  
16          materiality requirement is met, next a Petitioner is also required to satisfy the second  
17          question of whether a deferral is necessary to protect the financial integrity of the  
18          Petitioner.

<sup>69</sup> Electronic Application of Duke Energy Kentucky, Inc. For an Order Approving The Establishment of a Regulatory Asset or Liability Associated with Pension Settlement, Commonwealth of Kentucky Public Service Commission, Cause No. 2019-00352, (March 30, 2020) at page 2.

<sup>70</sup> 18 CFR Part 101 General Instruction 7 “Extraordinary Items”.

1       **Q34. IS A COMMISSION ORDER REQUIRED FOR DEFERRED ACCOUNTING?**

2       **A.**     The short answer is yes. Evidence to support the Commission Order requirement for  
3               deferred accounting first includes the fact that the Petitioners have filed these cases  
4               with the Commission requesting deferred accounting orders. Second, FPUC witness  
5               Craig’s testimony quotes a prior Commission Order that states; “To create a regulatory  
6               asset or liability, **a regulated company must have the approval of its regulator.**”<sup>71</sup>  
7               (emphasis added) So, in this case, FPUC cites to a 2008 Commission Order authorizing  
8               deferral accounting pursuant to a request from FPUC, and the 2008 Order explicitly  
9               states that deferred accounting requests require this Commission’s approval. That alone  
10              should be enough to show a Commission Order is required.

11  
12             Therefore, absent a regulatory order, the ability to record the deferral for financial  
13             reporting purposes can certainly be questioned in an annual audit.

14  
15             This audit issue is an important point regarding Commission Orders and accounting  
16             requirements, and is addressed in the NextEra 2020 Annual Report by the accountant  
17             auditors, Delloitte & Touche LLP where they state: “FPL follows the accounting  
18             guidance that allows regulators to create assets and impose liabilities, based on the  
19             probability of future cash flows, that would not be recorded by non-rate regulated  
20             entities.”<sup>72</sup>

<sup>71</sup> FPUC Direct Testimony D. Craig p. 6, lines 20-21, citing a prior FPUC Deferred Accounting request before the PSC, Order No. PSC-08-0134-PAA-PU at page 3 (March 3, 2008).

<sup>72</sup> See NextEra 2020 annual Report, by the accountant auditors, Delloitte & Touche LLP, *Critical Audit Matter Description*, page 59.



1 Deferred accounting is unique to regulated operations, but there are several  
2 requirements to safeguard proper financial reporting. Such safeguards include a  
3 Commission Order assuring future revenues to recover the deferral.

4  
5 **Q35. WHY ARE THESE ACCOUNTING REQUIREMENTS AND SAFEGUARDS**  
6 **IMPORTANT TO FOLLOW?**

7 **A.** General accounting and reporting rules provide assurance that a particular company's  
8 reported financial results are what they purport to be – no hidden traps or pitfalls for  
9 the investor or consumer of such information. As I noted above, non-regulated entities  
10 may not use deferred accounting, as there is no regulatory authority standing behind  
11 deferrals to assure higher revenue through higher rates, thus create a substantial  
12 probability of collecting the deferrals.

13  
14 A famous quote by Warren Buffett illustrates the importance of these accounting rules  
15 at times of economic crisis: **“It’s only when the tide goes out that you learn who’s**  
16 **been swimming naked.”**<sup>73</sup> (emphasis added). The requirements to qualify for deferred  
17 accounting, including the requirement to have a Commission Order, all help assure that  
18 a company's reported financials, books and records are what they purport to be.  
19 However, the accounting rules and requirements only work if they are followed.  
20 Otherwise, a financial crisis or other extraordinary event will not reveal a company's  
21 other financial weakness that was previously hidden by a high tide.

<sup>73</sup> Berkshire Hathaway, Inc. 1992 Letter to the Shareholders of Berkshire Hathaway Inc. see <https://www.berkshirehathaway.com/letters/1992.html>

1       **Q36. WHAT STANDARDS SHOULD THE COMMISSION EMPLOY IN DECIDING**  
2           **WHETHER TO AUTHORIZE DEFERRED ACCOUNTING AND THE**  
3           **CREATION OF REGULATORY ASSETS IN THIS CASE?**

4       **A.** Once rates are established through the test year ratemaking process, revenues,  
5       expenses, and investment will change through time, but the original rates stay in place  
6       until changed in the next rate case. The process of deferred accounting and creation of  
7       a regulatory asset is not a rate proceeding, but rather, it is an accounting mechanism.  
8       The creation of a regulatory asset is a “single-issue” or “piecemeal” process. In this  
9       proceeding, COVID-19 expenses that have not been included in revenue requirements  
10      or rates, along with a limited number of offsets (savings), have been identified to  
11      estimate an incremental COVID-19 expense deferral and creation of a regulatory asset  
12      for future recovery. When a company eliminates the current expensing of these  
13      COVID-19 amounts, i.e., when it defers the costs to a regulatory asset for future  
14      expensing and collection, the utility’s current year financials and equity return are  
15      boosted. Nothing could be more single issue or piecemeal.

16  
17      Nonetheless, a deferred accounting order will carry with it a general presumption that  
18      the deferred costs, if prudent, are entitled to full recovery in rates (including the time  
19      value of money). As noted above, the Commission’s assurance of probable recovery of  
20      a deferral is an important factor underlying the recognition of deferred accounting.  
21      Given the assurance of recovery requirement, the Commission should consider the total  
22      utility position, not just increased costs. For example, during 2020, Gulf had base O&M

1 savings well over \$30 million.<sup>74</sup> These savings in O&M more than offset the amount  
2 for which Gulf requested deferral.

3  
4 Obviously, it makes no sense to issue a deferred accounting order every time an  
5 expense or revenue item is different than anticipated in the rate setting process. But  
6 Gulf could have filed a deferred accounting order request to share Gulf's O&M savings  
7 with customers. Now, the Commission has the opportunity to consider Gulf's O&M  
8 savings as part of the deferred accounting request. Deferred accounting should not be  
9 automatically granted upon a utility's unsubstantiated request. Deferred accounting  
10 cannot be a one-way street.

11  
12 Therefore, some basic standards or rules of the road are required. I have identified three  
13 standards that factor into the decision on deferred accounting which I have applied in  
14 my analysis above. These three standards are: i) accounting requirements, ii) financial  
15 integrity requirements, and iii) the equity balance between customers and shareholder  
16 interests that all regulatory authorities must constantly weigh and evaluate.

17  
18 By employing these three standards, the Commission avoids unfettered deferred  
19 accounting and creation of regulatory assets. The regulatory authority should seek to  
20 avoid creating the expectation by regulated utilities that any unusual balances or  
21 expenses will always be recoverable on demand or as a matter of course. The point of

<sup>74</sup> See NextEra Energy Website, Investor Relations, 4<sup>th</sup> Quarter and 2020 Results, Presentation, and Remarks (1/26/2021 at page 17. Base O&M savings were primary driver of approximately 2 cents per share growth. 1.98333 billion shares times \$0.02 per share.

1           having guidelines and standards is to avoid the normalization of a piecemeal, single-  
2           issue one-way approach.

3

4           **Q37. PLEASE EXPLAIN THE FIRST ACCOUNTING STANDARD.**

5           **A.**   Deferred accounting should be used sparingly when extraordinary events occur. A  
6           Commission Order should be required before deferrals are created on the books of the  
7           Company. As I noted earlier, this Commission has historically required a deferred  
8           accounting Order.

9

10          The accounting requirements for the creation of a regulatory asset is set forth in ASC  
11          980-340-25-1 Recognition of Regulatory Assets has already been explained above. The  
12          key requirements from this accounting rule is that the regulator assure that it is probable  
13          that the capitalized cost (regulatory asset) will be recovered from future revenue as part  
14          of allowable costs in the rate-making process.

15

16          The USOA accounting criteria is that the expenses to be deferred must be: i) of unusual  
17          nature, ii) have infrequent occurrence, and iii) be material in size (5 percent of income)  
18          to be considered extraordinary and subject to deferred accounting treatment.<sup>75</sup>

19          By employing these basic straightforward accounting standards to the facts and  
20          circumstances of each case, the Commission can be assured whether the expense in  
21          question meet an “extraordinary” accounting threshold.

22

<sup>75</sup>18 CFR Part 101 General Instruction 7 “Extraordinary Items”.

1       **Q38. PLEASE EXPLAIN THE FINANCIAL INTEGRITY STANDARD.**

2       **A.**     Once a Petition for deferred accounting and regulatory asset creation meets the  
3           accounting standard above, the inquiry should continue to consideration of the financial  
4           integrity of the Petitioner. Clearly, it is a mathematical certainty that once deferred  
5           accounting is authorized, a Petitioner’s financial integrity will improve. However,  
6           improving financial integrity in and of itself should not be the goal. In order to balance  
7           the interest of customers and shareholders, the regulatory authority should authorize  
8           deferred accounting only if necessary, to protect the utility’s financial integrity. Thus,  
9           a utility’s financial integrity should be evaluated to determine whether financial  
10          enhancement is necessary. The financial integrity evaluation should consider the  
11          shareholder return earned relative to authorized return or range levels. Financial  
12          integrity can also be reviewed through the lens of rating agency reports (such as  
13          Moody’s Investor Services, Standard & Poor’s, and Fitch) evaluating credit risks and  
14          cash flow on an historical, current and forecasted basis.

15  
16          Regulatory agencies have authority to grant deferred accounting treatment to protect a  
17          regulated utility’s financial integrity due to the impact of regulatory lag. For example,  
18          a utility is generally allowed a reasonable opportunity to recover its operating expenses  
19          together with a reasonable return on invested capital. This return requirement is met  
20          when the return is sufficient to assure confidence in the financial integrity of the firm  
21          so as to maintain credit and attract capital on reasonable market terms.<sup>76</sup>

<sup>76</sup> *Federal Power Comm’n v. Hope Natural Gas Co.* 320 U.S. 591, 603, 64 S. Ct. 281, 288, 88 L. Ed. 333 (1944)  
also see *Bluefield Water works Improvement Co. v. Public Serv. Comm’n of the State of West Virginia*, 262 U.S.  
679, 692-93, 43 S. Ct. 675, 678-79, 67 L. Ed 1176 (1923).

1  
2 The basic goal of the financial integrity standard is to establish that deferred accounting  
3 is necessary to ensure that the utility needs such special treatment to meet the  
4 opportunity to recover costs and have an opportunity to earn a return on investment  
5 consistent with authorized levels. This standard seeks to eliminate those situations  
6 where the utility may incur an unusual or extraordinary cost, but is still earning profits  
7 at a high level well within current authorized return levels. Such firms that experience  
8 no threat to financial integrity do not require additional risk reducing measures and  
9 return enhancements.

10  
11 On the other hand, a firm experiencing extraordinary costs along with strained financial  
12 integrity, such as bond rating reductions and limits on reasonable access to capital on  
13 reasonable terms and prices may be a good candidate for deferred accounting. Again,  
14 the first hurdle is the accounting criteria thresholds and once those are met, the second  
15 standard is financial integrity or financial need.

16  
17 It is important that Gulf has acknowledged that it will maintain financial integrity and  
18 a return within its authorized range, **even if deferred accounting is denied.**<sup>77</sup> FPUC  
19 acknowledges that its financial integrity is not undermined by COVID-19 costs.<sup>78</sup> It  
20 would appear deferred accounting is not necessary in either of these dockets.

21  
22 Applying the standards related to accounting rules and financial integrity assures a

<sup>77</sup> See Gulf Response to OPC's Interrog. No. 19.

<sup>78</sup> See FPUC Response to OPC's Interrog. No. 13.

1 consistent application of deferred accounting, and avoids the problematic *ad hoc*  
2 ratemaking which may lead to unjust results.

3

4 **Q39. PLEASE DESCRIBE THE THIRD STANDARD FOR DEFERRED**  
5 **ACCOUNTING THE EQUITY BALANCE BETWEEN CUSTOMERS AND**  
6 **SHAREHOLDER INTEREST.**

7 **A.** The regulatory process in general involves a balancing of investor or shareholder  
8 interests and customer interests. All regulatory authorities balance the rights of the  
9 utility's investors to recover costs, and the opportunity to earn a fair rate of return on  
10 investment with the rights of consumers to pay no more than reasonable rates for  
11 quality service from the utility. Such balancing of interests between investor and  
12 customer interests typically takes place during a general base rate case or rate setting  
13 proceedings where all revenues and expenditures are evaluated.

14

15 However, in single-issue accounting proceedings such as petitions for regulatory assets,  
16 it is more important than ever to maintain the balancing of interests between investors  
17 and customers. It is important to weigh the potential financial impact on shareholders,  
18 as well as the impact of the rate deferral and future rate impacts on customers. This  
19 evaluation includes whether the utility is able to demonstrate that the financial impact  
20 is known, measurable, and substantial on the financial integrity of the company. The  
21 burden of proof is on the petitioning utility, so a utility's failure to establish with  
22 credible evidence that the alleged extraordinary costs are having a known, measurable,  
23 and substantial impact on its financial integrity (and are thus by definition

1 extraordinary) means the balance of fairness should favor the customer interests, and  
2 requires denial of the request for a regulatory asset.

3  
4 **Q40. PLEASE PROVIDE A SUMMARY OF THE ACCOUNTING, FINANCIAL**  
5 **INTEGRITY, AND EQUITY BALANCING GUIDELINES.**

6 **A.** The general ratemaking process of setting and establishing just and reasonable rates is  
7 not perfect, but does include protections for both shareholders and customers. Between  
8 rate cases many events occur that cause costs and revenues to change. In cases such as  
9 the current proceeding there must be basic standards to assure that investors have an  
10 opportunity to earn a reasonable return, utilities continue to maintain financial integrity,  
11 and customers receive quality service at reasonable prices. The three standards outlined  
12 above will assure that rates continue to be reasonable and customer along with  
13 shareholder interests are protected.

14  
15 **Q41. WHAT IS THE IMPACT OF APPLYING THE ACCOUNTING STANDARD,**  
16 **THE FINANCIAL INTEGRITY STANDARD, AND THE EQUITY**  
17 **BALANCING STANDARD TO THE GULF REQUEST?**

18 **A.** I would say at the outset that it is a better approach to wait for an authoritative  
19 commission order before recording deferred accounting. I will leave for others to opine  
20 whether Florida law requires this. The Commission decision in this case will determine  
21 how this issue should be handled in the future. As to the Accounting Standard I have  
22 shown earlier, that the Gulf COVID-19 request when adjusted for actuals is not material  
23 and therefore does not meet the extraordinary standard set forth in USOA 107 when



1 the \$238 million 2020 earnings is employed. But if the earnings surveillance report  
2 regulatory earnings are employed the Gulf request is material. Materiality cannot be  
3 determined for FPUC.

4  
5 As to the financial integrity standard, I addressed above how both Gulf and FPUC have  
6 acknowledged that financial integrity will not be impaired. Given that the evidence  
7 does not support materiality and financial integrity is not an issue, basic equity leads to  
8 the conclusion that the deferrals should be denied. The basic process of regulation  
9 involves a balancing of investor or shareholder interest and customer interests.

10  
11 **SECTION VI: COVID-19 IMPACTS ON THE ECONOMY**

12  
13 **Q42. DO CURRENT ECONOMIC CONDITIONS WARRANT THE**  
14 **AUTHORIZATION OF DEFERRED ACCOUNTING?**

15 **A.** In my opinion, no. Prior to the COVID-19 pandemic, the U.S. economy was doing  
16 quite well with historically low unemployment, low inflation, and record setting equity  
17 markets. However, following the closure of a significant amount of economic activity  
18 at the early stages of the pandemic (Quarter 1 2020), real GDP fell in the second quarter  
19 of 2020 by about 31.4%. Unemployment spiked to 14.7% the highest post WWII level  
20 and remains elevated today. Many workers in certain industries such as leisure, hotel,  
21 and travel have faced prolonged hardship due to the closures required by the pandemic.

22  
23 Since these early 2020 events, the economy has made substantial recoveries. Both  
24 monetary policy and fiscal policy stimulus have driven economic recovery. I discuss

1 below, a number of monetary and fiscal policy efforts driving economic recovery. Such  
2 policies include two major efforts at fiscal stimulus including cash payments to  
3 taxpayers, enhanced unemployment stimulus, payments to impacted business under  
4 Paycheck Protection Programs and direct grants and loans to struggling businesses.

5  
6 Most of the Federal Reserve action in 2020 combined a lower federal funds rate with  
7 quantitative easing to address the impact of COVID-19 impacts on the economy.

8  
9 Prior to the pandemic, during the second half of 2019 and into January 2020, Federal  
10 Reserve Federal FOMC statements and monetary policy announcements signaled  
11 accommodative monetary policy and continued low interest rates.<sup>79</sup> The Federal  
12 Reserve's actions to lower the federal funds rate during the last half of 2019 were in  
13 response to slower economic growth, both domestically and globally.<sup>80</sup> Then in March  
14 2020, the Federal Reserve's monetary policy action recognized the impact of COVID-  
15 19 on the economy.<sup>81</sup> On or about March 3, 2020, the Federal Reserve lowered the  
16 Federal Funds rate by 50 basis points from 1.5% - 1.75%, down to 1.0% - 1.25%.<sup>82</sup>  
17 Then less than two weeks later, on March 15, 2020, the Federal Reserve took

<sup>79</sup> Board of Governors of the Federal Reserve System, FOMC Statement Press Release, June 19, 2019; July 31, 2019; September 18, 2019; October 30, 2019, December 11, 2019 and January 29, 2020. These press releases and the Federal Reserve economic projections referred to herein have been included as Exhibit DJL-2. They can also be found at <https://www.federalreserve.gov/newsevents/pressreleases.htm>.

<sup>80</sup> See Exhibit DJL-2, Board of Governors of the Federal Reserve System, FOMC Statement Press Release, July 31, 2019.

<sup>81</sup> See Exhibit DJL-2, Board of Governors of the Federal Reserve System, FOMC Statement Press Release, March 3, 2020 and March 15, 2020.

<sup>82</sup> See Exhibit DJL-2, Board of Governors of the Federal Reserve System, FOMC Statement Press Release, March 3, 2020.

1 emergency action and lowered the federal funds rate to **zero**.<sup>83</sup> In addition, the Federal  
 2 Reserve stated that Quantitative Easing tools would be employed to maintain credit  
 3 flows.<sup>84</sup> Thus, over this period the FOMC has been easing monetary policy to  
 4 accelerate economic growth - first in response to slower growth and now since March  
 5 2020 in response to COVID-19 impacts on the economy. The following Table 8  
 6 provides a summary of the monthly average 30-year U.S. Treasury Yields in 2020.

7  
 8 **TABLE 8<sup>85</sup>**

9 **30-Year U.S. Treasury Yields (Monthly)**

10	<b><u>MONTH</u></b>	<b><u>YIELD (%)</u></b>
11	<b>JAN.</b>	<b>2.015</b>
12	<b>FEB.</b>	<b>1.671</b>
13	<b>MAR.</b>	<b>1.351</b>
14	<b>APR.</b>	<b>1.266</b>
15	<b>MAY</b>	<b>1.407</b>
16	<b>JUN</b>	<b>1.409</b>
17	<b>JUL</b>	<b>1.198</b>
18	<b>AUG</b>	<b>1.452</b>
19	<b>SEP</b>	<b>1.451</b>
20	<b>OCT</b>	<b>1.640</b>
21	<b>NOV</b>	<b>1.573</b>
22	<b>DEC</b>	<b>1.646</b>
23		

<sup>83</sup> See Exhibit DJL-2, Board of Governors of the Federal Reserve System, FOMC Statement Press Release, March 15, 2020.

<sup>84</sup> See Exhibit DJL-2, Board of Governors of the Federal Reserve System, FOMC Statement Press Release, March 15, 2020.

<sup>85</sup> Yahoo Finance *see* [www.finance.yahoo.com/quote/%5ETYS/history](http://www.finance.yahoo.com/quote/%5ETYS/history)

1           The 30-year U.S. Treasury yields were substantially lower in 2020 as a result of Federal  
2           Reserve policy actions addressing COVID-19 impacts on the economy. Current yields  
3           in 2021 are back to 2.25% levels.

4

5           **Q43. DID REGULATORY AUTHORITIES AROUND THE COUNTRY**  
6           **RECOGNIZE THE DECLINING COST OF EQUITY AND DEBT CAPITAL IN**  
7           **SETTING RATES FOR THE 2020 PERIOD?**

8           **A.**    Yes. Many regulatory authorities have established equity returns reflective of the  
9           declining cost of equity, such that the average authorized equity return continues to be  
10          well below 10%. Regulatory authority cost of equity decisions for regulated electric  
11          utility operations during calendar year 2019 averaged about 9.7%.<sup>86</sup> The national  
12          average electric equity return for the year 2020 declined to about **9.4%**.<sup>87</sup> **The cost of**  
13          **utility capital declined during 2020 while COVID-19 impacted the economy.**

14          The end result is that cost of capital for utility operations declined to historically low  
15          levels during 2020, but these savings are not recognized as part of either Gulf's or  
16          FPUC's COVID-19 cost and savings analysis.

<sup>86</sup> Edison Electric Institute (EEI), Quarterly Financial Updates, Rate Review Data 4<sup>th</sup> Quarter 2020, citing *S&P Global Market Intelligence/ Regulatory Research Associates and EEI Finance Department*.

<sup>87</sup> See Exhibit DJL-2; see also, Edison Electric Institute (EEI), Quarterly Financial Updates, Rate Review Data 4<sup>th</sup> Quarter 2020, citing *S&P Global Market Intelligence/ Regulatory Research Associates and EEI Finance Department*.

1       **Q44. WERE ELECTRIC UTILITY STOCK PRICES IMPACTED BY THE**  
2       **COVID-19 INFLUENCE ON THE ECONOMY DURING 2020?**

3       **A.**     Yes, there were substantial impacts on equity markets in general and utility markets in  
4       particular. The EEI notes that between January and March 2020 the COVID-19  
5       pandemic drove market indices down about 35%.<sup>88</sup> EEI stated that “Emergency Fed  
6       rate cuts, massive fiscal stimulus and vaccine optimism powered a dramatic rebound  
7       over the rest of 2020.”<sup>89</sup>

8  
9       The EEI also reported on its own EEI Index performance for 2020 and states: “The EEI  
10      Index’s -1.2% 2020 return would have been lower **without NextEra Energy’s 30%**  
11      **gain.** NextEra accounted for 17% of the EEI Index at year end. Most utility shares fell  
12      more than 5% in 2020.”<sup>90</sup> (emphasis added) Thus, while electric utilities did see stock  
13      price declines in 2020 NextEra did not suffer stock price losses.<sup>91</sup>

14  
15      **Q45. DID REGULATED UTILITIES FACE A GENERAL ECONOMIC HARDSHIP**  
16      **AS A RESULT OF COVID-19 DURING 2020?**

17      **A.**     In my opinion, no. As I discussed earlier, the economy took a hard hit in early 2020  
18      due to economic closures. Through the remainder of 2020 recovery has been quick, but  
19      certainly not complete.

<sup>88</sup> Edison Electric Institute (EEI), Quarterly Financial Updates, EEI Stock Index 2020, Quarter 4 2020 Stock Performance.

<sup>89</sup> Edison Electric Institute (EEI), Quarterly Financial Updates, EEI Stock Index 2020, Quarter 4 2020 Stock Performance.

<sup>90</sup> Edison Electric Institute (EEI), Quarterly Financial Updates, EEI Stock Index 2020, Quarter 4 2020 Stock Performance.

<sup>91</sup> Gulf Power is part of the NextEra Company assets.

1 In the June 10, 2020 FOMC press release the Federal Reserve states: “financial  
2 conditions have improved, in part reflecting policy measures to support the economy  
3 and the flow of credit to U.S. households and business.”<sup>92</sup> Again, in the July 31, 2020  
4 FOMC press release, the FOMC stated: “following sharp declines, economic activity  
5 and employment have picked up somewhat in recent months.”<sup>93</sup> The most recent  
6 FOMC press release of April 28, 2021 states; “amid progress on vaccinations and  
7 strong policy support, indications of economic activity and employment have  
8 strengthened.”<sup>94</sup> This most recent FOMC statement is supported by the recent reports  
9 of gross Domestic Product (GDP) growth of 6.4%.<sup>95</sup> Also, the U.S. Bureau of Labor  
10 statistics reports an unemployment rate of 6.0% and declining.<sup>96</sup>

11  
12 Thus, while the pandemic hit the economy hard in March 2020 through the second  
13 quarter of 2020, since June of 2020 economic activity has developed substantially  
14 through the end of the year. Moreover, the first quarter of 2021 has showed continued  
15 improvement. Given the above it is difficult to accept the FPUC projections of  
16 worsening costs through the end of 2020. I have seen no particular hardship impacts  
17 that have directly impacted the utility industry in general. I discussed above that utility  
18 cost of capital actual declined during 2020 as a result of COVID-19 impacts on the  
19 economy and Federal Reserve monetary policy responses.

20

<sup>92</sup> See Board of Governors of the Federal Reserve System, FOMC Statement Press Release, June 10, 2020.

<sup>93</sup> See Board of Governors of the Federal Reserve System, FOMC Statement Press Release, July 31, 2020.

<sup>94</sup> See Exhibit (DJI-2) also see Board of Governors of the Federal Reserve System, FOMC Statement Press Release, April 28, 2021.

<sup>95</sup> See Exhibit (DJI-2) U.S. Bureau of Economic Analysis Gross Domestic Product First Quarter 2021.

<sup>96</sup> See Exhibit (DJI-2).

1       **Q46. DOES THIS CONCLUDE YOUR TESTIMONY?**

2       **A.**     Yes, it does.

1           CHAIRMAN CLARK: All right. Mr. Galtman and  
2           Mr. Craig, I will need to swear you in.

3           Whereupon,

4                           MICHAEL D. GALTMAN

5                           DERRICK M. CRAIG

6           was called as a witness, having been first duly sworn to  
7           speak the truth, the whole truth, and nothing but the  
8           truth, was examined and testified as follows:

9                           CHAIRMAN CLARK: All right. Consider yourself  
10           sworn.

11                          All right. FPUC, would you like to introduce  
12           your witnesses?

13                          MS. KEATING: Thank you, Mr. Chairman.

14                          To my right is Mr. Michael Galtman, and to my  
15           far right is Mr. Derrick Craig. Both filed direct  
16           and rebuttal testimony in this proceeding and they  
17           are available to address any questions you may  
18           have.

19                          CHAIRMAN CLARK: Thank you, Ms. Keating.  
20           Ms. Christensen.

21                          MS. CHRISTENSEN: No questions from OPC.

22                          CHAIRMAN CLARK: Thank you.  
23           Staff?

24                          MR. STILLER: No, Mr. Chair.

25                          CHAIRMAN CLARK: All right. Commissioners, do



1           you have any questions?

2           No questions.

3           All right. Ms. Keating, would you like your  
4 witnesses dismissed?

5           MS. KEATING: I would. Thank you.

6           CHAIRMAN CLARK: All right. The witnesses are  
7 excused.

8           (Witnesses excused.)

9           CHAIRMAN CLARK: All right. Other matters.  
10 Do the parties have any other matters that need to  
11 be addressed?

12          Staff.

13          MR. STILLER: Staff would ask if any party  
14 would like to file a post-hearing brief. If so,  
15 briefs in each docket will be due on July 22nd,  
16 2021. The Commission will then render its decision  
17 at the August 3rd Agenda Conference.

18          CHAIRMAN CLARK: All right -- I am sorry, go  
19 ahead, Mr. Stiller. My apologies.

20          MR. STILLER: If there are no other concluding  
21 matters to be addressed, the Commission may make a  
22 bench decision, or ask if the parties are going to  
23 file briefs.

24          Thank you.

25          CHAIRMAN CLARK: Thank you.

1 Any of the parties wish to file a brief? Ms.  
2 Christensen?

3 MS. CHRISTENSEN: No thank you, Commissioner.

4 CHAIRMAN CLARK: Ms. Keating?

5 MS. KEATING: We will happily waive that  
6 opportunity.

7 CHAIRMAN CLARK: And, Mr. Baker?

8 MR. BAKER: Gulf Power would also happily  
9 waive.

10 CHAIRMAN CLARK: All right. Ms. Morse, I  
11 assume --

12 MS. MORSE: Yes, we do waive.

13 CHAIRMAN CLARK: All right. Good. All the  
14 parties are in agreement, briefs have been waived.

15 Commissioners, are you ready to make a  
16 decision on the settlement agreements today?

17 All right. It sounds like this is ripe for a  
18 decision. I will entertain your motion.

19 COMMISSIONER FAY: Mr. Chairman, thank you.

20 I will move for approval of the stipulation  
21 and settlement on Dockets 20200151 and -- well, I  
22 will do them separately actually, and find that  
23 that settlement is in the public interest.

24 CHAIRMAN CLARK: I have a motion.

25 Do I have a second?

1 I have a motion and a second to find the  
2 stipulation agreement is in the public interest and  
3 approved.

4 Any discussion?

5 On the matter, all in favor say aye.

6 (Chorus of ayes.)

7 CHAIRMAN CLARK: Opposed?

8 (No response.)

9 CHAIRMAN CLARK: Motion carries.

10 Next item.

11 COMMISSIONER FAY: Mr. Chairman, I would move  
12 that the Commission approve the stipulation and  
13 settlement for Docket 20200194, and find the  
14 settlement to be in the public interest.

15 CHAIRMAN CLARK: I have a motion and a second.

16 Is there any discussion?

17 On the motion, all in favor say aye.

18 (Chorus of ayes.)

19 CHAIRMAN CLARK: Opposed?

20 (No response.)

21 CHAIRMAN CLARK: The motion carries.

22 The items are approved.

23 All right. Are there any other matters that  
24 need to be addressed here today, parties?

25 Staff.

1           MR. STILLER: Mr. Chair, since a bench  
2           decision was made, the two final orders will be due  
3           to be issued on or before July 28th, 2021. There  
4           are no other matters from staff.

5           CHAIRMAN CLARK: Thank you very much.  
6           Commissioners, any comments?

7           All right. Seeing none, we stand adjourned.  
8           Thank you for being here today.

9           MS. KEATING: Thank you.  
10          (Proceedings concluded.)

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

## CERTIFICATE OF REPORTER

STATE OF FLORIDA     )  
COUNTY OF LEON     )

I, DEBRA KRICK, Court Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 22nd day of July, 2021.



---

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