

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricane Sally, by Gulf Power Company.

DOCKET NO. 20200241-EI

In re: Petition for evaluation of Hurricane Isaias and Tropical Storm Eta storm costs, by Florida Power & Light Company.

DOCKET NO. 20210178-EI

In re: Petition for limited proceeding for recovery of incremental storm restoration costs and associated true-up process related to Hurricane Zeta, by Gulf Power Company.

DOCKET NO. 20210179-EI  
ORDER NO. PSC-2022-0100-PCO-EI  
ISSUED: March 2, 2022

FIRST ORDER REVISING ORDER ESTABLISHING PROCEDURE

On February 8, 2022, Florida Power and Light Company (FPL) filed an Agreed Motion to Amend Order Consolidating Dockets and Establishing Procedure. The referenced Order Consolidating Dockets and Establishing Procedures (OEP), Order No. PSC-2022-0042-PCO-EI, issued on January 26, 2022, consolidated Docket Nos. 20200241-EI, 20210178-EI, and 20210179-EI, and established hearing procedures to govern the consolidated Docket, including the following controlling dates:

Intervenors' testimony and exhibits:	May 16, 2022
Rebuttal testimony and exhibits:	June 6, 2022

In the Agreed Motion, FPL notes that these dates allow intervenors six months from November 12, 2021, when the petition and direct testimony were filed in this docket, to file responsive testimony and exhibits. By contrast, continues FPL, the OEP affords only three weeks for it to file rebuttal testimony and exhibits. FPL asserts that three weeks is insufficient time to prepare and file rebuttal, especially in light of the time afforded for intervenors to prepare their responsive testimony and exhibits. To address this alleged imbalance, FPL requests in the Agreed Motion that it be afforded five weeks to prepare rebuttal. FPL proposes that the two additional weeks for its rebuttal filing be crafted by moving the date established in the OEP for intervenors to file responsive testimony and exhibits up from May 16 to May 9, 2022, and the date for rebuttal back from June 6 to June 13, 2022.

FPL separately requests in the Agreed Motion that Section V.A.(6) of the OEP be amended to shorten the time for service of responses to discovery on the direct case from 30 to 25 days. The Office of Public Counsel, the only party currently granted intervenor status in this

docket, agrees with FPL's requests to amend Sections IX.(2) & .(4) and V.A.(6) of the OEP as set forth above.

I find that the facts support this request and that FPL should be afforded five instead of three weeks to prepare and file its rebuttal. However, the request by FPL to create one of the additional weeks by extending the due date of rebuttal from June 6<sup>th</sup> to June 13<sup>th</sup> raises a new timing issue. Specifically, because the discovery deadline established by the OEP is June 21, 2022, FPL's suggested extension would result in the discovery period on rebuttal being reduced from 15 to 8 days. Section V.A.(6) of the OEP, which is not part of the Motion's request, provides that responses to discovery requests made after rebuttal is filed are due within 7 days. Thus, under this existing deadline and FPL's requested extension, intervenors and Commission staff would have only one day after receiving rebuttal to propound any written discovery regarding that testimony and the accompanying exhibits. There would be no opportunity for a second round of written discovery or depositions after responses to that first round are received.

To accommodate FPL's request for additional time to file rebuttal while also affording adequate time for discovery thereon and maintaining the current prehearing and hearing dates, the Motion is granted in part and the deadlines in the OEP are modified as follows:

**V. Discovery Procedures**

A. General Requirements

(6) For discovery requests made prior to the filing of the utility's rebuttal testimony, discovery responses shall be served within ~~30~~ 25 days (inclusive of mailing) of receipt of the discovery request.

**IX. Controlling Dates**

(2) Intervenors' testimony and exhibits                      May ~~16~~ 2, 2022

Based on the foregoing, it is

ORDERED by Commissioner Arthur Graham, as Prehearing Officer, that Florida Power & Light Company's Agreed Motion to Amend Order Consolidating Dockets and Establishing Procedure is granted in part, as set forth herein. It is further

ORDERED that Order No. PSC-2022-0042-PCO-EI is modified as set forth in the body of this order. It is further

ORDERED that Order No. PSC-2022-0042-PCO-EI is reaffirmed in all other respects.

ORDER NO. PSC-2022-0100-PCO-EI  
DOCKET NO. 20200241-EI  
DOCKET NO. 20210178-EI  
DOCKET NO. 20210179-EI  
PAGE 3

By ORDER of Commissioner Art Graham, as Prehearing Officer, this 2nd day of March,  
2022.



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

SPS

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case

ORDER NO. PSC-2022-0100-PCO-EI  
DOCKET NO. 20200241-EI  
DOCKET NO. 20210178-EI  
DOCKET NO. 20210179-EI  
PAGE 4

of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.