Christopher T. Wright
Senior Attorney – Regulatory
Florida Power & Light Company
700 Universe Blvd
Juno Beach, FL 33408-0420
Phone: (561) 691-7144
E-mail: Christopher.Wright@fpl.com
Florida Authorized House Counsel
Admitted in Pennsylvania

July 13, 2022

VIA ELECTRONIC FILING

Mr. Adam J. Teitzman
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. 20220051-EI
Florida Power & Light Company Motion to Strike Portions of the Testimony of the
Office of Public Counsel Witness Lane Kollen

Dear Mr. Teitzman:

Enclosed for filing in the above-referenced docket, please find Florida Power & Light Company's ("FPL") Motion to Strike Certain Portions of the Testimony of the Office of Public Counsel Witness Lane Kollen, together with Attachments 1-4.

Copies of the foregoing are being served on parties of record in accordance with the attached certificate of service. If you or your staff have any question regarding this filing, please contact me at (561) 691-7144.

Respectfully submitted,

Christopher T. Wright
Authorized House Counsel No. 1007055

Enclosures
cc: Ken Hoffman
Certificate of Service

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Electronic Mail to the following parties of record this 13th day of July 2022:

Walter Trierweiler, Esquire Theresa Lee Eng Tan, Esquire Jacob Imig, Esquire Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399 wtrierwe@psc.state.fl.us jimig@psc.state.fl.us ltan@psc.state.fl.us ***For Commission Staff***	Office of Public Counsel c/o The Florida Legislature 111 West Madison Street, Room 812 Tallahassee, FL 32399-1400 Gentry.richard@leg.state.fl.us rehwinkel.charles@leg.state.fl.us morse.stephanie@leg.state.fl.us wessling.mary@leg.state.fl.us christensen.patty@leg.state.fl.us ***For Office of Public Counsel***
J. Jeffrey Wahlen Malcolm M. Means Ausley McMullen Post Office Box 391 Tallahassee, Florida 32302 jwahlen@ausley.com mmeans@ausley.com Ms. Paula K. Brown Regulatory Affairs P. O. Box 111 Tampa FL 33601-0111 regdept@tecoenergy.com ***For Tampa Electric Company***	Dianne M. Triplett Deputy General Counsel Duke Energy Florida, LLC 299 First Avenue North St. Petersburg, FL 33701 Dianne.Triplett@Duke-Energy.com Matthew R. Bernier Robert L. Pickels Stephanie A. Cuello 106 E. College Avenue, Suite 800 Tallahassee FL 32301 FLRegulatoryLegal@duke-energy.com matthew.bernier@duke-energy.com robert.pickels@duke-energy.com stephanie.cuello@duke-energy.com ***For Duke Energy Florida, LLC***
Beth Keating Gunster, Yoakley & Stewart, P.A. 215 South Monroe St., Suite 601 Tallahassee, FL 32301 BKeating@gunster.com Mr. Mike Cassel 208 Wildlight Ave. Yulee FL 32097 (904) 491-4361 mcassel@fpuc.com ***For Florida Public Utilities Company***	James W. Brew/Laura Wynn Baker c/o Stone Law Firm 1025 Thomas Jefferson St., NW, Eighth Floor, West To Washington DC 20007 (202) 342-0800 (202) 342-0807 jbrew@smxblaw.com lwb@smxblaw.com ***For PSC Phosphate – White Springs***

Jon C. Moyle, Jr. Karen A. Putnal Moyle Law Firm, P.A. 118 North Gadsden Street Tallahassee, Florida 32301 jmoyle@moylelaw.com kputnal@moylelaw.com mqualls@moylelaw.com ***For Florida Industrial Power Users Group***	Stephanie U. Eaton Florida Bar No.: 165610 SPILMAN THOMAS & BATTLE, PLLC 110 Oakwood Drive, Suite 500 Winston-Salem, NC 27103 Phone: (336) 631-1062 Fax: (336) 725-4476 seaton@spilmanlaw.com Derrick Price Williamson Steven W. Lee SPILMAN THOMAS & BATTLE, PLLC 1100 Bent Creek Boulevard, Suite 101 Mechanicsburg, PA 17050 Phone: (717) 795-2741 Fax: (717) 795-2743 dwilliamson@spilmanlaw.com slee@spilmanlaw.com ***For Walmart Inc.***
George Cavros 120 E. Oakland Park Blvd., Suite 105 Fort Lauderdale FL 33334 george@cavros-law.com ***For Southern Alliance for Clean Energy***	

s/ Christopher T. Wright

Christopher T. Wright
Fla. Auth. House Counsel No. 1007055

Attorney for Florida Power & Light Company

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Review of Storm Protection Plan, pursuant to Rule 25-6.030, F.A.C., Florida Power & Light Company	Docket No. 20220051-EI Filed: July 13, 2022

FLORIDA POWER & LIGHT COMPANY'S
MOTION TO STRIKE CERTAIN PORTIONS OF THE TESTIMONY OF
THE OFFICE OF PUBLIC COUNSEL WITNESS KOLLEN

Florida Power & Light Company ("FPL"), by and through its undersigned counsel, pursuant to Rule 1.140(f), Florida Rules of Civil Procedure, Rule 28-106.206, Florida Administrative Code ("F.A.C."), and the Florida Public Service Commission ("Commission") Order Establishing Procedure, Order No. PSC-2022-0119-PCO-EI ("OEP"), hereby files this Motion to Strike and requests that certain portions of the direct testimony of Lane Kollen submitted on behalf of the Office of Public Counsel ("OPC") be stricken and not admitted into the evidentiary record in this proceeding.

As explained below, certain portions of OPC witness Kollen's direct testimony are irrelevant to and beyond the scope of this Storm Protection Plan ("SPP") proceeding, and improperly recommend that the Commission adopt new requirements in Rule 25-6.030, F.A.C., outside of a rulemaking proceeding and then retroactively apply these new requirements to FPL's 2023-2032 SPP filed on April 11, 2022. As explained below, these recommendations by OPC witness Kollen violate Chapter 120, Florida Statute ("F.S."), as well as the principles of fairness and due process. For the reasons further explained below, these portions of OPC witness Kollen's direct testimony are improper and should be stricken. In support, FPL states as follows:

I. BACKGROUND

1. On June 27, 2019, the Governor of Florida signed CS/CS/CS/SB 796 addressing the SPP and Storm Protection Plan Cost Recovery Clause ("SPPCRC"), which was codified in Section 366.96, Florida Statutes ("F.S."). Therein, the Florida Legislature directed each investor owned utility ("IOU") to file a transmission and distribution SPP that covers the immediate 10-year planning period and explains the systematic approach the utility will follow to achieve the legislative objectives of strengthening electric utility infrastructure to withstand extreme weather conditions by promoting the overhead hardening of transmission and distribution facilities, the undergrounding of certain electrical distribution lines, and vegetation management. Section 366.96, F.S.

2. The Florida Legislature directed the Commission to propose rules to implement and administer Section 366.96, F.S., as soon as practicable but no later than October 31, 2019. Consistent with this mandate, the Commission initiated a rulemaking and voted at its October 3, 2019 Agenda Conference to adopt proposed Rules 25-6.030 and Rule 25-6.031, F.A.C. Rule 25-6.030, F.A.C., applies to the SPP and directs precisely what is to be included in and reviewed as part of the SPP (hereinafter referred to as the "SPP Rule"); and Rule 25.6031, F.A.C., applies to the SPPCRC and describes what is to be included and reviewed as part of the SPPCRC (hereinafter referred to as the "SPPCRC Rule"). However, as a result of OPC's unsuccessful challenges to the Commission's proposed SPP and SPPCRC Rules before the Division of Administrative Hearings, the SPP Rules did not become final and effective until February 18, 2020.

3. Consistent with the requirements of the SPP Rule approved by the Commission, on April 11, 2022, FPL filed its 2023-2032 SPP (hereinafter referred to as "FPL's 2023 SPP"), together with supporting direct testimony of Michael Jarro. FPL's 2023 SPP was identified as Exhibit MJ-1 to FPL witness Jarro's direct testimony. On May 6, 2022, FPL filed a Notice of

Filing a Revised Appendix E to Exhibit MJ-1 to correct completion dates, start dates, and amounts projected for certain Distribution Feeder Hardening Program projects identified in the 2023 project level detail.

4. On May 17, 2022, the Prehearing Officer issued the OEP that established procedures, processes, and timelines for this docket.

5. On May 31, 2022, OPC served the direct testimonies of Lane Kollen and Kevin J. Mara. Pertinent to this Motion to Strike, the vast majority of OPC witness Kollen's direct testimony is dedicated to supporting his recommendations that the Commission adopt new requirements and standards in this proceeding and then retroactively apply those new requirements and standards to review and make a determination on the programs included in FPL's 2023 SPP. OPC witness Kollen also seeks to apply the standards for cost recovery from the SPPCRC Rule to review FPL's 2023 SPP.

6. On June 21, 2022, FPL submitted the rebuttal testimonies of Michael Jarro and Liz Fuentes.

7. Pursuant to Section VI.D. of the OEP, motions to strike any portions of pre-filed testimonies or exhibits must be filed by no later than the Prehearing Conference, which is scheduled for July 21, 2022. Consistent therewith, FPL hereby submits this Motion to Strike and requests that certain portions of OPC witness Kollen's direct testimony be stricken and not admitted to the record for the reasons explained below.

II. <u>MOTION TO STRIKE</u>

8. Pursuant to Rule 28-106.211, F.A.C., "[t]he presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, to prevent delay, and to promote the just, speedy, and inexpensive determination of all aspects of the case," and presiding officers

have significant discretion in ruling on motions to strike testimony. *See Town of Palm Beach v. Palm Beach County*, 460 So. 2d 879, 882 (Fla. 1984); *In re: Joint petition by TDS Telecom d/b/a TDS TelecodQuincy Telephone; ALLTEL Florida, Inc.; Northeast Florida Telephone Company d/b/a NEFCOM; GTC, Inc. d/b/a GT Com; Smart City Telecommunications, LLC d/b/a Smart City Telecom; ITS Telecommunications Systems, Inc.; and Frontier Communications of the South, LLC*, Docket No. 050119-TP, Order No. PSC-06-0261-PCO-TP (FPSC Mar. 28, 2006); *In re: Joint petition of US LEC of Florida, Inc., Time Warner Telecom of Florida, L.P., and ITCDeltaCom Communications*, Docket No. 020129-TP, Order No. 02-0876-PCO-TP (FPSC Jun. 28, 2002).[1]

9. In addition, Rule 1.140(f), Fla. R. Civ. P., provides that a court may strike redundant, immaterial, impertinent, or scandalous matter from any pleading at any time. While the Florida Rules of Civil Procedure do not control in administrative proceedings, the Commission has followed the requirements of Rule 1.140(f), Fla. R. Civ. P., in considering motions to strike. *See, e.g.*, A*pplication for transfer of Certificates Nos. 592-W and 509-S from Cypress Lakes Associates. Ltd. to Cypress Lakes Utilities, Inc. in Polk County*, Docket No. 971220-WS, Order No. PSC-99-1809-PCO-WS (FPSC Sept. 20, 1999); *Petition by BellSouth Telecommunications, Inc. for arbitration of certain issues in interconnection agreement with Supra Telecommunications and Information Systems, Inc.*, Docket No. 001305-TP, Order No. PSC-02-0878-FOF-TP (FPSC Jul. 1, 2002); *Application for a rate increase by Tampa Electric Company*, Docket No. 920324-EI, Order No. PSC-93-0165-FOF-EI (FPSC Feb. 2, 1993).

10. FPL requests that certain portions of OPC witness Kollen's direct testimony be

[1] *See also Request for arbitration concerning complaint of American Communication Services of Jacksonville, Inc. d/b/a e.spire Communications, Inc. and ACSI Local Switched Services, Inc. d/b/a e.spire Communications, Inc. against BellSouth Telecommunications, Inc.*, Docket No. 981008-TP, Order No. PSC-99-0099-PCO-TP (FPSC Jan. 20, 1999) (noting that the Commission has the discretion to allow testimony and simply give it the weight it is due, but nevertheless striking certain portions of the expert witness's testimony that contained improper analysis and opinion).

stricken and not admitted to the record for the following reasons: (a) Mr. Kollen's recommendations that the Commission adopt new requirements and standards that are not included in the SPP Rule and then retroactively apply these new requirements and standards to FPL's 2023 SPP filed on April 1, 2022, violate Section 120.54, F.S.; (b) Mr. Kollen's recommendations that the Commission apply the cost recovery standards from the SPPCRC Rule to FPL's 2023 SPP are irrelevant and beyond the scope of this proceeding; and (c) Mr. Kollen's recommendations rely upon and apply an incorrect standard of review in violation of Section 366.96, F.S. For these reasons, as further explained below, certain portions of OPC witness Kollen's direct should be stricken.

A. OPC Witness Kollen's Recommendations that the Commission Adopt New Standards and Criteria Outside a Proper Rulemaking Proceeding and Retroactively Apply Such Standards and Criteria to FPL's 2023 SPP Violates Section 120.54, F.S., and the Principles of Fairness and Due Process

11. As admitted on page 9, lines 1-2 and page 20, lines 7-9 of his testimony, OPC witness Kollen recommends that the "Commission adopt and consistently apply" various new standards and criteria in this proceeding to review and decide whether to approve FPL's 2023 SPP. Below is a summary of the new standards and criteria that OPC witness Kollen recommends should be adopted in this proceeding:

Page, Line	New Criteria Proposed by OPC Witness Kollen
p. 1, ln. 12-19	New threshold economic decision
p. 6, ln. 12 through p. 7, ln. 1	Establishment and application of threshold decision criteria
p. 9, ln. 1-3	Adopt and apply decision criteria
p. 9, ln. 10-14	Apply new benefit-to-cost threshold for SPP projects
p. 9, ln. 15 through p. 10, ln. 3	New requirements to estimate revenue requirements and rate impacts in SPP
p. 11, ln. 18 through p. 12, ln. 4	Benefits of SPP must be quantified; establish thresholds for approval of SPPs
p. 12, ln. 16-19	Apply objective thresholds to review SPPs
p. 13, ln. 7-20	SPPs can only include new or expanded programs or projects
p. 14, ln. 3-4	SPPs must meet Kollen's previously described requirements

p. 14, ln. 4-7	SPPs can only include new or expanded programs or projects
p. 15, ln. 4-8	SPP programs and projects must meet benefit-to-cost ratio of 100%
p. 15, ln. 9-12 and 16-23	SPPs can only include new or expanded programs or projects
p. 16, ln. 1-9	SPP programs and projects must meet benefit-to-cost ratio of 100%; must be economic justification
p. 19, ln. 11 through p. 20 ln. 5	SPP programs must be economically justified; benefits must be quantified and monetized; economic benefit/cost criterion is required; benefits must be at least equal to the costs
p. 20, ln. 7-11	Adopt and apply decision criteria
p. 20, ln. 12-15	SPPs can only include new or expanded programs or projects
p. 20, ln. 16 through p. 21, ln. 6	SPP programs and projects must meet benefit-to-cost ratio of 100%; must be economic justification and threshold

12. Each of the above-referenced portions of OPC witness Kollen's testimony relate to and support his ultimate recommendation that the "Commission adopt and consistently apply" various new standards and criteria in this proceeding.

13. The SPP Rule adopted by the Commission expressly prescribes what must be included in a SPP. The above-referenced portions of the testimony of OPC witness Kollen disregard the requirements codified in the SPP Rule and, instead, recommend that the Commission adopt new standards and criteria, and then retroactively apply those new requirements to FPL's 2023 SPP to determine if it should be approved. Through OPC witness Kollen's testimony, OPC is improperly attempting to re-litigate the SPP Rule adopted by the Commission to add and apply new requirements that did not exist at the time FPL filed its 2023 SPP and do not exist today.

14. A significant portion of OPC witness Kollen's testimony is dedicated to his recommendation that the Commission adopt and apply a cost-benefit analysis, specific economic justification, and cost-effectiveness threshold to FPL's 2023 SPP. However, there is nothing in Section 366.96, F.S., or the SPP Rule that prescribes or requires a cost-benefit, economic, or cost-effectiveness test or threshold for the SPP programs and projects. Instead, Rule 25-6.030(3)(d)(4),

F.A.C., requires the SPP to include a "comparison" of the estimated costs and identified benefits for each SPP program.

15. Related to his recommendation for a new cost-benefit analysis and cost-effectiveness threshold, OPC witness Kollen's testimony repeatedly argues that the Commission should adopt and apply a new requirement for the benefits of SPPs to be quantified and monetized. However, there is nothing in either Section 366.96, F.S., or the SPP Rule that prescribes that the benefits of SPP programs must be quantified or monetized as suggested by the OPC witnesses. Rather, subparts (3)(b) and (3)(d)(1) of the SPP Rule expressly provide that the SPP must include a "description" of the benefits of the SPP programs.

16. OPC witness Kollen's testimony also recommends that the Commission adopt and apply a new limitation that precludes SPPs from including programs and projects that are not new storm hardening programs or expansions of existing storm hardening programs. However, there is nothing in either Section 366.96, F.S., or the SPP Rule that limit SPP programs to only new or expanded storm hardening programs as suggested by OPC. Rather, subparts (2)(a) of the SPP Rule defines SPP programs to include "a category, type, or group of related storm protection projects that are undertaken to enhance the utility's existing infrastructure for the purpose of reducing restoration costs and reducing outage times associated with extreme weather conditions therefore improving overall service reliability." Further, the issue of whether SPP costs are incremental or being recovered in base rates is an issue to be addressed in the SPPCRC proceedings. *See* Order No. PSC-2020-0162-PCO-EI, issued May 18, 2020, Docket No. 20200070-EI.

17. Finally, OPC witness Kollen's testimony recommends that the Commission adopt and apply new methodologies for the calculation of the SPP revenue requirements and rate impacts that are clearly beyond what is required by the SPP Rule. Indeed, subpart (3)(g) of the SPP Rule provides that the SPP must include an "estimate of the annual jurisdictional revenue requirements

for each year of the Storm Protection Plan" and subpart (3)(h) provides that the SPP much include an "estimate of the rate impacts for each of the first three years of the Storm Protection Plan." OPC witness Kollen's proposed new methodologies for calculating the SPP revenue requirements and rate impacts are beyond the requirements of the SPP Rule. Moreover, any issues regarding the calculation of revenue requirements and rate impacts are to be addressed in the SPPCRC proceedings when FPL seeks cost recovery of the SPP costs.

18. The above-referenced portions of OPC witness Kollen's testimony improperly attempt to relitigate the SPP Rule approved by this Commission and add new standards and criteria that are clearly not prescribed by the SPP Rule. The fundamental flaw with OPC witness Kollen's recommendation is that adopting his proposed new standards and criteria in this proceeding and outside of a proper rulemaking proceeding would be unlawful under Section 120.54(1)(b), F.S., which provides as follows:

> Whenever an act of the Legislature is enacted which requires implementation of the act by rules of an agency within the executive branch of state government, such rules shall be drafted and formally proposed as provided in this section within the times provided in s. 120.74(4) and (5).

This SPP docket is not a formal rulemaking proceeding, nor does it comply with the explicit requirements set forth in Section 120.54, F.S., for the adoption or modification of Commission rules.

19. Even assuming, *arguendo*, that the Commission could adopt OPC witness Kollen's new standards and criteria in this proceeding, which it cannot for the reasons stated above, the Commission could not lawfully apply those standards and criteria retroactively to FPL's 2023 SPP without express legislative authority to do so:

> An agency may adopt rules authorized by law and necessary to the proper implementation of a statute prior to the effective date of the statute, but the rules may not be effective until the statute upon which they are based is effective. An agency may not adopt retroactive rules, including retroactive

> rules intended to clarify existing law, unless that power is expressly authorized by state.

Section 120.54(1)(f), F.S. Importantly, there is nothing in Section 366.96, F.S., that expressly grants the Commission the authority to retroactively apply new or modified rules to the SPPs.

20. To adopt OPC witness Kollen's new standards and criteria and apply them to FPL' 2023 SPP filed on April 11, 2022, would clearly be impermissible retroactive application of new rules under Section 120.54, F.S.

21. In summary, the above-reference provisions of OPC witness Kollen's testimony are asking the Commission to do something it cannot lawfully do – adopt and add new requirements to the SPP Rule outside a proper rulemaking proceeding and then retroactively apply those new requirements to the SPPs without legislative authority to do so.

22. Even assuming, *arguendo*, that the Commission could lawfully do what OPC witness Kollen is recommending, which it clearly cannot for the reasons explained above, such an approach raises serious fairness and due process questions. FPL justifiably relied upon the express requirements of Section 366.96, F.S., and the SPP Rule that were in effect at the time FPL filed the 2023 SPP on April 11, 2022 (and which remain in effect today) when it prepared and designed its SPP programs outlined in the 2023 SPP. OPC witness Kollen's recommendations, if adopted, would unfairly change the rules in middle of the proverbial "game." Clearly, such an approach, if adopted, would violate the principles of fairness for the IOUs that relied on the SPP Rule in effect at the time they filed their SPPs on April 11, 2022. This is precisely the reason why the Florida legislature prohibits retroactive application of new or amended rules without express legislative authority.

23. Moreover, because OPC witness Kollen's proposed modifications to the SPP Rule are not being addressed in a rulemaking proceeding as required by Section 120.54, F.S., the due process requirements for notice and an opportunity to be heard have not been afforded to all

potential stakeholders that may have an interest in these proposed modifications and wish to be heard on the matter[2]. Indeed, only the parties to the SPP dockets have been provided with the required notice that OPC witness Kollen is asking the commission to adopt modifications to the SPP Rule. Clearly, such an approach, if followed, would violate the due process rights of other potential stakeholders that are not active parties to this docket and which could be directly or indirectly impacted if OPC witness Kollen's modifications to the SPP Rule are adopted in this proceeding. This is precisely the reason why the Florida legislature required a formal rulemaking process for new rules or modifications to existing rules.

24. For the foregoing reasons, the above-referenced portions of OPC witness Kollen's testimony should be stricken in their entirety and not admitted into the evidentiary record. A copy of OPC witness Kollen's testimony (without exhibits) with the portions related to his recommendations that the Commission adopt and apply new standards and criteria, which should be stricken for the reasons stated above, have been highlighted in "**Attachment 1**" to this motion.

B. OPC Witness Kollen's Testimony Regarding Cost Recovery Issues is Irrelevant and Beyond the Scope of this Proceeding.

25. In support of his recommendation that the Commission adopt and apply a new requirement that only new or expanded storm hardening programs qualify for inclusion in the SPP, which recommendation should be stricken for the reasons stated above, OPC witness Kollen's testimony repeatedly asserts that the SPP projects and costs must be incremental to costs recovered in base rates. OPC witness Kollen's testimony further states FPL's 2023 SPP should reflect avoided savings in operation and maintenance ("O&M") expense due to the SPP projects and reductions in depreciation expense from retired plant as offsets to the SPP costs either through reductions to the SPPCRC or through reductions in base rates. Finally, OPC witness Kollen's

[2] It is established law that due process requires that parties to a proceeding be given adequate notice and an opportunity to be heard. *Bresch v. Henderson*, 761 So.2d 449, 451 (Fla. 2d DCA 2000).

testimony makes specific recommendations on how the revenue requirements and rates for the SPP costs should be calculated. Below is a summary of OPC witness Kollen recommendations regarding the SPP costs:

Page, Line	**Cost Recovery Standards Applied by OPC Witness Kollen**
p. 7, ln. 16-22	SPP costs must be incremental to and not displace base rate costs
p. 8, ln. 16-22	SPP projects should reflect avoided costs savings in SPPCRC or base rates
p. 9, ln. 3-9	SPP costs must be incremental to and not displace base rate costs
p. 9, ln. 15 through p. 10, ln. 3	Methodologies for calculating the revenue requirements and rates for the SPP costs
p. 11, ln. 1-4	SPP costs recovered through SPPCRC cannot include costs recovered through base rates
p. 12, ln. 5-8	Recovery through SPPCRC must be incremental to base rates and include avoided cost savings
p. 13, ln. 7-20	SPP costs recovered in base rates must be excluded from SPPCRC
p. 14, ln. 4-7	SPP program costs are not outside of base rates
p. 15, ln. 9-12 and 16-23	SPP costs must be beyond costs recovered in base rates
p. 16, ln. 12-20	The incremental cost for the SPP programs and projects must include avoided restoration costs, reductions in base O&M expense from new SPP assets
p. 20, ln. 9-15	SPP and SPPCRC cannot be used to displace base rate costs and cannot include costs that are not incremental
p. 21, ln. 11 through p. 26, ln. 2	Methodologies for calculating the revenue requirements and rates for the SPP costs

26. The above-referenced portions of OPC witness Kollen's testimony regarding whether the SPP costs are incremental to or being recovered in base rates are irrelevant and beyond the scope of this proceeding for multiple reasons. Those portions of OPC witness Kollen's testimony misconstrue and seek to expand the limitation in Section 366.96, F.S., and the SPPCRC

Rule that SPP costs cannot be recovered in both base and clause rates.[3] This limitation ensures that there is no double recovery of SPP costs in both base and clause rates. However, it does not limit SPP programs to only new or expanded storm hardening programs that have not previously been recovered in base rates as suggested by OPC witness Kollen's testimony.

27. Moreover, the above-referenced portions of OPC witness Kollen's testimony regarding SPP costs being recovered in base rates are irrelevant to this SPP proceeding. As clearly stated in Commission Order No. PSC-2020-0162-PCO-EI issued on May 18, 2020 in Docket No. 20200071-EI (denying OPC's motion to compel), this is an issue to be addressed in the SPPCRC proceedings. Relatedly, OPC witness Kollen's recommendation overlooks the fact that SPP costs can be recovered through either the SPPCRC or base rates – just not both. *See* Rule 25-6.031(8), F.A.C. ("Recovery of costs under this rule does not preclude a utility from proposing inclusion of unrecovered Storm Protection Plan implementation costs in base rates in a subsequent rate proceeding").

28. The above-referenced portions of OPC witness Kollen's testimony regarding whether the SPP projects and costs should reflect avoided costs savings in the SPPCRC or base rates are also irrelevant and beyond the scope of this SPP proceeding. First, the SPP Rule does not require FPL to incorporate any O&M savings or reduction in depreciation expense in its calculation of revenue requirements in its SPP filings. Second, as previously discussed in paragraph 17 above, the revenue requirements and rate impacts included in FPL's 2023 SPP represent reasonable "estimates" based on the costs and expenses for the SPP programs reflected in FPL's 2023 SPP and are not used for ratemaking purposes. Third, the actual SPP costs, and

[3] Section 366.96(8), F.S., provides that the "annual transmission and distribution storm protection plan costs may not include costs recovered through the public utility's base rates." Rule 25-6.031(6)(b), F.A.C. (the SPPCRC Rule), similarly provides that costs recoverable through the SPPCRC "shall not include costs recovered through the utility's base rates or any other cost recovery mechanisms."

associated revenue requirements and rates, are reviewed and set in the applicable SPPCRC or base rate proceedings, which would include any O&M savings or reductions to depreciation expense resulting from retired plant. Fourth, there is nothing in Section 366.96, F.S., the SPP Rule, or the SPPCRC Rule that authorizes, directs, or even suggests that the SPP or SPPCRC proceedings are to be used as a vehicle to re-open and reset single components of Commission-approved base rates (*e.g.*, O&M expense or depreciation expense) as suggested by the testimony of OPC witness Kollen.

29. The above-referenced portions of OPC witness Kollen's testimony regarding his recommended methodologies for calculating the SPP revenue requirements and rates are also irrelevant and beyond the scope of this proceeding. As previously discussed in paragraph 17 above, the revenue requirements and rate impacts included in FPL's 2023 SPP represent reasonable "estimates" based on the costs and expenses for the SPP programs reflected in FPL's 2023 SPP and are not used for ratemaking purposes. The actual SPP costs, and associated revenue requirements and rates, are reviewed and set in the applicable SPPCRC or base rate proceedings. Indeed, the Commission has already concluded that issues regarding SPP cost recovery are to be addressed in the SPPCRC and not the SPP proceeding. *See* Commission Order No. PSC-2020-0162-PCO-EI, issued May 18, 2020, Docket No. 20200070-EI.

30. Finally, OPC witness Kollen wishes to take the Commission down a path it has previously rejected. OPC witness Kollen maintains that the above-referenced portions of his testimony must be determined in this SPP proceeding because the "sequential nature of [the SPP and SPPCRC] determinations effectively limits any subsequent assessment of prudence and reasonableness in the SPPCRC proceeding to an after-the-fact assessment of the utility's implementation of each project and the actual costs incurred."[4] However, the Commission has

[4] OPC witness Kollen direct testimony, p. 11, ln. 14-17.

already considered and rejected this contention, explaining that:

> [E]ven if the Commission approves FPL's SPP as in the public interest, the cost estimates are not correspondingly "approved." The Commission will have the opportunity to scrutinize and allow or disallow cost recovery of FPL's actual costs in the SPPCRC proceeding.

See Commission Order No. PSC-2020-0162-PCO-EI, issued May 18, 2020, Docket No. 20200070-EI. Further, OPC witness Kollen overlooks that the annual SPPCRC filings include projected, yet-to-be-incurred project costs for the subsequent year (as well as actual/estimated costs for the current year and actual costs for the historic year). Thus, contrary to his assertion, the reasonable and prudence review of the SPP costs in the SPPCRC proceedings is not limited to an "after-the-fact" assessment of the SPP costs.

31. Based on the foregoing, the above-referenced sections of OPC witness Kollen's testimony regarding SPP cost recovery issues and methodologies to calculate the SPP revenue requirements and rates are irrelevant and beyond the scope of this proceeding and, therefore, should be stricken in their entirety and not admitted into the evidentiary record. A copy of OPC witness Kollen's testimony (without exhibits) with the portions related to SPP cost recovery issues and methodologies to calculate the SPP revenue requirements and rates, which should be stricken for the reasons stated above, have been highlighted in "**Attachment 2**" to this motion.

C. OPC Witness Kollen's Recommendations Rely Upon and Apply the Incorrect Standard of Review for SPPs

32. In support of his recommendations and testimony addressed in subparts II.A and II.B of this motion, OPC witness Kollen relies upon and applies the reasonable and prudent standard. In several places, OPC witness Kollen's testimony suggests that the Commission must find the SPP projects and costs reasonable and prudent in order for the SPP to be approved in this proceeding. Below is a summary of the portions of OPC witness Kollen's testimony that rely upon and apply the reasonable and prudent standard in this proceeding:

Page, Line	Incorrect Standard of Review Applied by OPC Witness Kollen
p. 7, ln. 11	Prudence standard
p. 8, ln. 6-8	Whether programs and projects are reasonable and prudent
p. 9, ln. 2	Prudence standard
p. 11, ln. 5-17	Reasonable and prudent standard in SPPCRC should be applied to SPP
p. 12, ln. 15-17	Commission must determine prudence of SPP programs, and whether costs are just and reasonable
p. 14, ln. 3-4	Reasonable and prudent standard
p. 19, ln. 10-14 and 21-22	Reasonable and prudent standard

33. OPC witness Kollen misapplies the reasonable and prudent standard of review in the above-reference portions of his testimony, contending that "FPL's programs and costs are not prudent and reasonable unless they meet all of the requirements" proposed by OPC witness Kollen.[5] OPC witness Kollen's reliance upon and application of the reasonable and prudent standard in this SPP proceeding is misplaced and inconsistent with the statutory standard of review for SPPs.

34. The reasonable and prudence standard of review applies to petitions for recovery of SPP costs in the SPPCRC proceeding after the SPP has approved. *See* Section 366.96(7), F.S. ("The commission shall conduct an annual proceeding to determine the utility's prudently incurred transmission and distribution storm protection plan costs and allow the utility to recover such costs through a charge separate and apart from its base rates, to be referred to as the storm protection plan cost recovery clause."); *see also* Rule 25-6.031(3), F.A.C. ("annual hearing to address petitions for recovery of Storm Protection Plan costs will be limited to determining the reasonableness of projected Storm Protection Plan costs, the prudence of actual Storm Protection Plan costs incurred by the utility, and to establish Storm Protection Plan cost recovery factors

[5] OPC witness Kollen direct, p. 14, ln. 3-4.

consistent with the requirements of this rule"). Clearly, the reasonable and prudent standard of review applies to the SPPCRC. There is no similar language in either Section 366.96, F.S., or the SPP Rule that applies to the review of SPPs.

35. To the contrary, the Florida legislature adopted and codified the standard of review applicable to SPPs, which provides:

> (4) **In its review of each transmission and distribution storm protection plan filed pursuant to this section, the commission shall consider**:
>
> > (a) The extent to which the plan is expected to reduce restoration costs and outage times associated with extreme weather events and enhance reliability, including whether the plan prioritizes areas of lower reliability performance.
> >
> > (b) The extent to which storm protection of transmission and distribution infrastructure is feasible, reasonable, or practical in certain areas of the utility's service territory, including, but not limited to, flood zones and rural areas.
> >
> > (c) The estimated costs and benefits to the utility and its customers of making the improvements proposed in the plan.
> >
> > (d) The estimated annual rate impact resulting from implementation of the plan during the first 3 years addressed in the plan.
>
> (5) No later than 180 days after a utility files a transmission and distribution storm protection plan that contains all of the elements required by commission rule, the **commission shall determine whether it is in the public interest to approve, approve with modification, or deny the plan**.

Section 366.96(4)-(5), F.S. (emphasis added). Accordingly, the clear and unambiguous statutory standard of review for SPPs is based on consideration of the factors expressly enumerated in subpart (4) of Section 366.96, F.S.

36. The above-referenced portions of OPC witness Kollen's testimony relying upon and applying his view of the reasonable and prudent standard are directly contrary to this statutory standard of review for the SPPs. Again, OPC witness Kollen is asking this Commission to do something it cannot – apply a standard of review to the SPPs that violates the standard of review mandated by the statute.

37. Based on the foregoing, the above-referenced sections of OPC witness Kollen's testimony that violate the statutory standard of review for SPPs and are irrelevant and beyond the scope of this proceeding and, therefore, should be stricken in their entirety and not admitted into the evidentiary record. A copy of OPC witness Kollen's testimony (without exhibits) with the portions related to his use of the incorrect standard of review, which should be stricken for the reasons stated above, have been highlighted in "**Attachment 3**" to this motion.

III. COMPLIANCE WITH RULE28-106.204(3), F.A.C.

38. Pursuant to Rule 28-106.204(3), F.A.C., FPL contacted all parties of record via email on July 12, 2022, regarding whether they have any objection to FPL's motion to strike certain portions of the testimony of OPC witness Kollen's testimony. OPC and SACE advised that they object to the motion; FIPUG advised that they oppose the motion; and Walmart Inc. advised that they take no position.

IV. CONCLUSION

WHEREFORE, for all the reasons stated above, Florida Power & Light Company respectfully requests that the Florida Public Service Commission enter an order that:

(a) Strike the portions of OPC witness Kollen's testimony highlighted in **Attachment 1** regarding his recommendations that the Commission adopt new standards and criteria outside of a rulemaking proceeding and apply them to review FPL's 2023 SPP, and not admit said portions of OPC witness Kollen's testimony into the evidentiary record;

(b) Strike the portions of OPC witness Kollen's testimony highlighted in **Attachment 2** regarding SPP cost recovery issues and methodologies to calculate the SPP revenue requirements and rates that are issues to be addressed in the SPPCRC proceeding, and not admit said portions of OPC witness Kollen's testimony into the evidentiary record;

(c) Strike the portions of OPC witness Kollen's testimony highlighted in **Attachment 3** regarding the incorrect standard of review for SPPs, and not admit said portions of OPC witness Kollen's testimony into the evidentiary record;

(d) In the event that any portions of OPC witness Kollen's testimony highlighted in **Attachments 1-3** are not stricken and are allowed into the evidentiary record,[6] the Commission should give said portions of OPC witness Kollen's testimony no evidentiary weight or value in reaching a determination of whether FPL's 2023 SPP is in the public interest; and

(e) Grant any other and further relief that this Commission deems appropriate and necessary.

Respectfully submitted this 13th day of July 2022,

By: s/Christopher T. Wright
Christopher T. Wright
Senior Attorney
Fla. Auth. House Counsel No. 1007055
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420
Phone: 561-691-7144
Fax: 561-691-7135
Email: christopher.wright@fpl.com

[6] For the Commission's convenience, provided as "**Attachment 4**" to this motion are highlighted portions of OPC witness Kollen's testimony that would be collectively stricken if the Commission grants FPL request to strike those portions of the testimony shown in **Attachments 1-3**.

ATTACHMENT 1

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Storm Protection Plan, pursuant to Rule 25-6.030, F.A.C., Florida Power & Light Company.	DOCKET NO. 20220051-EI FILED: May 31, 2022

DIRECT TESTIMONY

OF

LANE KOLLEN

ON BEHALF OF THE OFFICE OF PUBLIC COUNSEL

Richard Gentry
Public Counsel

Charles Rehwinkel
Deputy Public Counsel
Florida Bar No. 527599
Rehwinkel.Charles@leg.state.fl.us

Stephanie Morse
Associate Public Counsel
Florida Bar No. 0068713
Morse.Stephanie@leg.state.fl.us

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
(850) 488-9330

Attorneys for the Citizens
of the State of Florida

TABLE OF CONTENTS

EXHIBITS:

I. QUALIFICATIONS AND SUMMARY

A. Qualifications

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Lane Kollen. My business address is J. Kennedy and Associates, Inc. ("Kennedy and Associates"), 570 Colonial Park Drive, Suite 305, Roswell, Georgia 30075.

Q. DESCRIBE YOUR EDUCATION AND PROFESSIONAL EXPERIENCE.

A. I earned a Bachelor of Business Administration ("BBA") degree in accounting and a Master of Business Administration ("MBA") degree from the University of Toledo. I also earned a Master of Arts ("MA") degree in theology from Luther Rice College & Seminary. I am a Certified Public Accountant ("CPA"), with a practice license, Certified Management Accountant ("CMA"), and Chartered Global Management Accountant ("CGMA"). I am a member of numerous professional organizations, including the American Institute of Certified Public Accountants, Institute of Management Accounting, Georgia Society of CPAs, and Society of Depreciation Professionals.

I have been an active participant in the utility industry for more than forty years, initially as an employee of The Toledo Edison Company from 1976 to 1983 and thereafter as a consultant in the industry since 1983. I have testified as an expert witness on hundreds of occasions in proceedings before regulatory commissions and courts at the federal and state levels. In those proceedings, I have addressed ratemaking, accounting, finance, tax, and planning issues, among others.

I have testified before the Florida Public Service Commission on numerous occasions, including base rate, fuel adjustment clause, acquisition, and territorial

proceedings involving Florida Power & Light Company ("FPL"), Duke Energy Florida ("DEF"), Talquin Electric Cooperative, City of Tallahassee, and City of Vero Beach.[1]

B. <u>Purpose of Testimony</u>

Q. ON WHOSE BEHALF ARE YOU PROVIDING TESTIMONY?

A. I am providing this testimony on behalf of the Florida Office of Public Counsel ("OPC").

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to address and make recommendations regarding the proposed Storm Protection Plans ("SPP") filed by Florida Public Utilities Company ("FPUC"), Duke Energy Florida, LLC ("DEF"), Tampa Electric Company ("Tampa"), and Florida Power and Light Company ("FPL") (collectively, the "utilities"). In this testimony, I specifically address the SPP filed by FPL.

I address the scope of the proposed SPPs and the threshold economic decision criteria that the Commission should apply to the selection, ranking, and magnitude of SPP programs and projects, consistent with the statutory requirements set forth in Section 366.96, Florida Statutes (2022), *Storm Protection Plan Cost Recovery* ("SPP Statute"), Rule 25-6.030, Florida Administrative Code ("SPP Rule"), and Rule 25-6.031, F.A.C. ("SPPCRC Rule") to the extent that the outcome of these proceedings will affect the cost recoveries in the Storm Protection Plan Cost Recovery Clause ("SPPCRC") proceedings pursuant to the SPPCRC Rule. My testimony should be considered in conjunction with the testimony of Mr. Kevin Mara on behalf of OPC.

[1] I have attached a more detailed description of my qualifications and regulatory appearances as my Exhibit LK-1.

C. <u>Scope of the SPP Requests</u>

Q. PLEASE SUMMARIZE THE SPP REQUESTS.

A. In the aggregate, the four utilities seek authorization for programs and projects they estimate will cost $25.323 billion over the next ten years (2023-2032), consisting of $23.167 billion in capital expenditures and $2.156 billion in operation and maintenance ("O&M") expense. The capital expenditures will have a growing and cumulative ratemaking impact for the duration of the SPPs and beyond of 40 or more years over the service lives of the plant assets. These amounts are in addition to the capital expenditures and O&M expense expended in prior years and this year for storm hardening and storm protection programs. The utilities also expect to seek authorization for additional amounts in subsequent SPP updates beyond the ten years reflected in these proceedings.

The following tables provide a summary of the estimated SPP program expenditures for each utility by year and in total for the ten-year period.

Florida Public Utilities Company
SPP Program Expenditures
$ Millions

SPP Costs by Year	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	Total
Capital Total	2.3	6.7	16.9	54.2	53.2	19.9	19.6	19.8	25.3	25.2	243.1
O&M Expense Total	1.4	1.6	1.9	3.0	2.9	1.8	1.8	1.8	1.9	1.9	20.0
Overall Total	3.7	8.3	18.7	57.2	56.1	21.8	21.4	21.6	27.2	27.1	263.1

Duke Energy Florida, LLC
SPP Program Expenditures
$ Millions

SPP Costs by Year	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	Total
Capital Total	602.7	693.4	775.2	748.8	747.7	749.7	748.5	750.6	749.4	751.6	7,317.5
O&M Expense Total	72.1	77.1	79.0	78.1	79.0	81.8	82.4	85.8	86.8	90.0	812.0
Overall Total	674.8	770.5	854.1	826.9	826.7	831.5	830.9	836.4	836.2	841.6	8,129.5

Tampa Electric Company
SPP Program Expenditures
$ Millions

SPP Costs by Year	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	Total
Capital Total	169.9	168.7	173.1	172.9	169.0	167.5	169.6	166.0	172.5	169.4	1,698.7
O&M Expense Total	31.0	34.0	33.7	35.2	36.3	37.7	39.6	41.2	43.1	45.3	377.1
Overall Total	200.9	202.7	206.8	208.2	205.4	205.2	209.2	207.3	215.6	214.7	2,075.9

Florida Power & Light Company
SPP Program Expenditures
$ Millions

SPP Costs by Year Total Company	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	Total
Capital Total	1,458.9	1,559.5	1,520.4	1,200.8	1,319.0	1,350.0	1,388.4	1,423.4	1,347.6	1,340.1	13,908.0
O&M Expense Total	86.0	86.7	88.0	88.2	94.1	100.3	99.8	100.5	100.9	101.5	946.2
Overall Total	1,544.9	1,646.3	1,608.4	1,289.0	1,413.1	1,450.3	1,488.2	1,523.9	1,448.5	1,441.6	14,854.2

Q. WHAT EFFECTS WILL THE REQUESTS HAVE ON CUSTOMER RATES?

A. The incremental effects on present customer rates will be significant as measured over multiple ratemaking metrics, including SPP revenue requirements, net plant in service, annual electric revenues, and cost per customer. The following table provides a summary of the revenue requirements by utility and in the aggregate by year and in total for the ten-year period.

Florida Public Utilities Company
SPP Program Revenue Requirements
$ Millions

SPP Revenue Requirements By Year	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	Total
Capital Total	0.3	0.6	2.0	6.0	12.5	17.0	19.0	21.0	23.2	25.7	127.3
O&M Expense Total	1.4	1.6	1.9	3.0	2.9	1.8	1.8	1.8	1.9	1.9	20.0
Overall Total	1.7	2.2	3.9	9.0	15.4	18.9	20.8	22.8	25.1	27.6	147.3

Duke Energy Florida, LLC
SPP Program Revenue Requirements
$ Millions

SPP Revenue Requirements By Year	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	Total
Capital Total	77.3	144.2	217.9	303.3	378.5	451.1	522.2	590.7	657.8	722.1	4,065.2
O&M Expense Total	72.1	77.1	79.0	78.1	79.0	81.8	82.4	85.8	86.8	90.0	812.0
Overall Total	149.4	221.3	296.8	381.4	457.5	533.0	604.7	676.5	744.6	812.1	4,877.2

Tampa Electric Company
SPP Program Revenue Requirements
$ Millions

SPP Revenue Requirements By Year	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	Total
Capital Total	17.2	35.8	53.8	72.3	91.4	109.8	127.9	145.5	163.0	180.0	996.6
O&M Expense Total	30.7	33.6	33.4	34.9	36.0	37.4	39.3	40.9	42.8	44.9	374.0
Overall Total	47.9	69.4	87.2	107.2	127.4	147.3	167.2	186.4	205.7	224.9	1,370.7

Florida Power & Light Company
SPP Program Revenue Requirements
$ Millions

SPP Revenue Requirements By Year Jurisdictional	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	Total
Capital Total	332.9	509.3	685.9	836.6	971.5	1,112.3	1,254.0	1,396.5	1,533.2	1,661.6	10,293.8
O&M Expense Total	85.2	85.9	87.2	87.5	93.3	99.4	98.9	99.6	100.0	100.6	937.6
Overall Total	418.0	595.2	773.2	924.1	1,064.8	1,211.7	1,352.9	1,496.1	1,633.2	1,762.2	11,231.3

In addition to the revenue requirement effects of the proposed SPPs shown on the preceding tables, the following tables compare other ratemaking metrics, including capital expenditures compared to present net plant in service, increases in the revenue requirement compared to present revenues, and the cost per customer. These metrics provide additional context as to the magnitude and the impacts on customer rates.

Total 10-Year Projected Spend and Revenue Requirements
Compared to Total Net Plant in Service and Revenues
Actual Results For the 12 Months Ended December 31, 2021
$ Millions

	Net Plant In Service	10-Year Proposed Capital Spend	Percentage Increase in Net Plant	2021 Electric Revenues	Projected SPP Revenue Requirement In Year 10	Percentage Increase in Revenues
FPL	44,891.0	13,908.0	31.0%	12,244.3	1,762.2	14.4%
Duke	16,946.5	7,317.5	43.2%	5,111.8	812.1	15.9%
TEC	7,215.5	1,698.7	23.5%	2,180.0	224.9	10.3%
FPUC	94.0	243.1	258.6%	83.7	27.6	33.0%
Total	69,147.0	23,167.4	33.5%	19,619.8	2,826.8	14.4%

Total 10-Year Projected SPP Investment Per Customer
Includes Capital and O&M Investment

	Customers	Projected 10-Year Total Investment $ Millions	10-Year Investment Per Customer $
FPL	5,700,000	14,854.2	2,606
Duke	1,879,073	8,129.5	4,326
TEC	824,322	2,075.9	2,518
FPUC	32,993	263.1	7,976
Total	8,436,388	25,322.7	3,002

Q. HOW DO THESE COSTS COMPARE TO THE BENEFITS FROM POTENTIAL SAVINGS IN STORM DAMAGE AND RESTORATION COSTS?

A. The estimated costs are much greater than the benefits from potential savings for each utility and for nearly all of the programs and projects, although FPUC and FPL did not,

and refused to, provide quantifications of the benefits from potential savings in storm damage and restoration costs.

The following table provides a summary of the costs and dollar benefits by utility and in the aggregate by year and in total for the ten-year period and a fifty-year period. I show $0 ("n/a") in benefits for FPUC and FPL, consistent with their failure to quantify any benefits from potential savings in storm damage and restoration costs.

Total 10-Year Projected SPP Costs and Benefits Summary
Includes Capital and O&M Investment

	Projected 10-Year Total Investment $ Millions	Projected Annual Avoided Restoration Costs $ Millions	Escalated Avoided Restoration Costs Over 10 Years $ Millions	Benefits to Costs Ratio 10 Years %	Escalated Avoided Restoration Costs Over 50 Years $ Millions	Benefits to Costs Ratio 50 Years %
FPL	14,854.2	n/a	n/a	n/a	n/a	n/a
Duke	8,129.5	56.5	647.7	8%	6,373.0	78%
TEC	2,075.9	13.0	149.5	7%	1,470.6	71%
FPUC	263.1	n/a	n/a	n/a	n/a	n/a
Total	25,322.7	69.5	797.2		7,843.6	

Note: Benefits Calculations Not Provided by FPL and FPUC.

Q. WHY ARE THESE SUMMARIES AND COMPARISONS SIGNIFICANT IN THESE PROCEEDINGS?

A. They provide context for the Commission in its review of the proposed SPPs, including the sheer magnitude of the incremental capital expenditures and O&M expense and the rate impacts of these costs, as well as for the establishment and application of threshold decision criteria for the selection, ranking, and magnitude of the SPP programs and projects that are

authorized. They also demonstrate that the costs of the proposed SPP programs and projects far outweigh the benefits from savings in storm damage and restoration costs.

The Commission also should keep in mind that the impact of the SPP programs is yet another addition to the customer bill in an environment of high inflation, skyrocketing natural gas prices and other base rate increases.

D. <u>Summary of Conclusions and Recommendations</u>

Q. PLEASE SUMMARIZE YOUR CONCLUSIONS AND RECOMMENDATIONS.

A. Each utility's proposed SPP capital expenditures, O&M expenses, increases in rate base, and resulting increases in customer rates are significant. The SPP capital expenditures and O&M expenses are incremental costs with incremental customer rate impacts. The framework, scope, selection, ranking, magnitude, prudence, and authorization to proceed of the SPP programs and projects will be determined in these proceedings, not in the subsequent SPPCRC proceeding. Therefore, the decision criteria, ratemaking principles, and rate recovery of the SPP project costs are important factors in the decision making process in this and the other SPP proceedings now pending.

To qualify for inclusion in the SPP proceedings and cost recovery in the SPPCRC proceedings, the projects and the costs of the projects must be incremental, not simply displacements of base rate costs that would have been incurred during the normal course of business, as well as prudent, used and useful, and just and reasonable both as to amount and customer impact. These factors must be considered in the decision process in the SPP proceedings, not limited to the review that will take place in the SPPCRC proceedings after the projects are selected and costs already have been incurred.

The Commission should apply rational and specific decision criteria to the selection, ranking, and magnitude of the proposed programs and projects and apply those decision criteria consistently to all four utilities in these proceedings. The decision criteria should include justification in the form of a benefit/cost analysis in addition to the qualitative assessments of whether the programs and projects will reduce restoration costs and outage times. The economic justification is an important consideration in whether the programs and projects are prudent and reasonable, a determination that can only be made in the SPP proceedings, in contrast to whether the costs actually incurred during implementation of the programs and projects were prudently incurred and reasonable, which is determined in the SPPCRC proceeding.

In addition, the total multi-year customer rate impact can be considered only in the SPP proceeding. The SPPCRC proceedings address the actual recovery and annual customer rate impact only after the decision process in these SPP proceedings is complete, projects are approved, and the SPP programs and projects are implemented.

Further, it is critical that the customer rate impact reflect only the incremental cost of the SPP projects and that all avoided cost savings be reflected as offsets to those costs either through reductions to the SPPCRC or through reductions to base rates. However, in their SPP filings, the utilities did not, with limited exceptions, explicitly exclude the costs presently recovered in base rates or expressly account for any avoided cost savings. The utilities will retain the avoided cost savings for costs presently recovered in base rates unless these costs are addressed in this proceeding and the SPPCRC proceedings or otherwise included in a negotiated resolution.

I recommend that the Commission adopt and consistently apply decision criteria for the selection, ranking, magnitude, and prudence of the SPP programs and projects for the four utilities to ensure that the utilities do not use the SPP and SPPCRC process to displace costs that are subject to and recoverable through the base rate process and shift those costs to recover them through the SPP and SPPCRC process.

I concur with Witness Mara's recommendation to exclude the costs of programs and projects that displace base rate costs that would have been incurred during the normal course of business and that are not incurred on an incremental basis specifically to achieve the objectives of the SPP Rule.

I recommend that the Commission reject all proposed SPP projects that are not economic, meaning that they do not have a benefit-to-cost ratio of at least 100%. Projects with a benefit-to-cost ratio of less than 100% are not economic, cannot be considered prudent at the point of decision in this proceeding, and cannot be considered prudent or just and reasonable for future recovery through the SPPCRC.

I recommend that the Commission adopt and consistently apply uniform methodologies among the utilities to determine the revenue requirements and rate impacts of the programs and projects in these proceedings and that it carry through those uniform methodologies to the rate calculations in the SPPCRC proceeding. More specifically, I recommend that the Commission: 1) exclude construction work in progress ("CWIP") from both the return on rate base and depreciation expense, and instead allow a deferred return on the CWIP until it is converted to plant in service or prudently abandoned, 2) allow property tax only on the net plant at the beginning of each year, 3) require a credit for the avoided depreciation expense on plant that is retired due to SPP plant investments, 4)

require a realignment of the costs of pole inspections and vegetation management from base rates to the SPPCRC, and 5) require a credit for the avoided O&M expenses due to the SPP plant investments and SPP O&M expenses.

II. DECISION CRITERIA FOR THE RATIONAL SELECTION, RANKING, AND MAGNITUDE OF SPP PROGRAMS AND PROJECTS

Q. DESCRIBE THE FRAMEWORK FOR THE SELECTION AND RANKING OF SPP PROGRAMS AND PROJECTS.

A. Section 366.96, Fla. Stat., and Rule 25-6.030, F.A.C., establish the required framework for the utility's SPP, including the utility's identification of projects that are designed to reduce outage restoration costs and outage times, information necessary to develop and apply decision criteria for the selection, ranking, and magnitude of the SPP programs and costs, estimates of the customer rate impacts, and parameters for recovery of the actual costs incurred for the SPP projects offset by costs recovered through base rates and other clause recoveries as well as savings in those costs.

The SPP framework provides important customer safeguards that should be enforced to require the utility to: 1) identify new programs and projects or the expansion of existing programs and projects that are not within the scope of its existing base rate programs and cost recoveries in the normal course of business; 2) limit requests to programs and projects that are prudent and reasonable; 3) justify the selections, rankings, and magnitude of SPP programs, projects, and costs; 4) ensure there is a comparison of benefits to costs; 5) effectively consider the rate impact on customers, and 6) ensure that the utility only recovers incremental costs, net of decremental (avoided) costs or reductions in costs (savings), through the SPPCRC.

More specifically, Section 366.96(8), Fla. Stat. limits SPP programs and projects to costs not recovered through the utility's base rates. Section 366.96(8), Fla. Stat., states in part: "The annual transmission and distribution storm protection plan costs may not include costs recovered through the public utility's base rates."

Section 366.96(2)(c), Fla. Stat., limits SPP programs and projects to costs that are prudent and reasonable. The Statute further defines "[t]ransmission and distribution storm protection plan costs" as "the reasonable and prudent costs to implement an approved transmission and distribution storm protection plan." § 366.96(2)(c), Fla. Stat. Similarly, the SPPCRC Rule requires that costs included in the SPPCRC be "prudent" and "reasonable." Rule 25-6.031(3), F.A.C. Although the requirements found in the statute are repeated in the SPPCRC Rule, the determination of whether the costs included in the SPPCRC are prudent and reasonable necessarily requires that the SPP programs and projects approved in the SPP docket must be prudent to undertake and implement and that the estimated costs of the programs and projects are reasonable as a threshold matter. The sequential nature of these determinations effectively limits any subsequent assessment of prudence and reasonableness in the SPPCRC proceeding to an after-the-fact assessment of the utility's implementation of each project and the actual costs incurred.

In addition, the SPP Rule requires that the utility quantify the "benefits" and costs, compare the benefits to the costs, and provide an estimate of the revenue requirement effects for each year of the SPP. Rule 25-6.030(3)(d)4, and (3)(g), F.A.C. Section 366.96(4), Fla. Stat. requires the Commission to consider this evidence in its evaluation of the SPPs. This information allows the Commission and intervening parties to determine if the proposed projects are economic, or cost-justified, to establish thresholds, or cutoff

limitations, based on whether the projects are wholly or partially self-funding through cost savings, or "benefits," and to consider these factors in establishing limitations based on the customer rate impact, not only in the first year, but over the life of the SPP itself, and then beyond the SPP, extending over the lives of the SPP project costs that were capitalized.

Further, Section 366.96, Fla. Stat., and the SPPCRC Rule limit the costs eligible for recovery through the SPPCRC to incremental costs net of avoided costs (savings). The statute and this Rule specifically require the exclusion of costs that are recovered through base rates and other clause forms of ratemaking recovery.[2]

Q. ARE THE SPP RULE AND THE SPPCRC RULE SEQUENTIAL AND INTERRELATED?

A. Yes. Certain ratemaking determinations required pursuant to the SPPCRC Rule necessarily start with an assessment of the SPP programs and projects that can only be performed in the SPP proceeding, and then are confirmed and refined in the SPPCRC proceeding for cost recovery purposes.

In the SPP proceeding, the Commission must determine the prudence of the programs upfront based on whether they are economically justified, whether the projected costs are just and reasonable, and whether the customer rate impact is reasonable. This requires the application of objective thresholds and related screening criteria to select, rank, and determine the magnitude of SPP projects. The Commission also must determine whether the Company has quantified the revenue requirement and customer rate impacts

[2] § 366.96(8), Fla. Stat.; Rule 25.6.031(6)(a), F.A.C.

in an accurate and comprehensive manner, although the final SPPCRC rate quantifications will be performed in the SPPCRC proceeding.

Q. ARE EACH OF THE UTILITIES' PROPOSED SPP PROGRAMS AND PROJECTS OUTSIDE THE SCOPE OF THE EXISTING BASE RATE PROGRAMS AND COST RECOVERIES IN THE NORMAL COURSE OF BUSINESS?

A. No. FPL and each of the other utilities have included programs and projects that are within the scope of their existing base rate programs and base rate recoveries in the normal course of business. These programs and projects are listed and addressed in greater detail by Witness Mara. These programs and projects should be excluded from the SPPs and the costs should be excluded from recovery through the SPPCRCs.

The SPPs and SPPCRCs are for new and expanded programs and projects that will reduce restoration costs and outage times and for the recovery of the incremental costs of the SPP programs and projects, not to displace base rate programs and base rate recoveries. Nor are the SPPs and SPPCRCs an alternative and expedited form of rate recovery for any and all costs that arguably improve resiliency or reliability. Absent a demonstrable simultaneous, equivalent corresponding reduction of base rates, neither the SPP Statute nor the SPP or SPPCRC Rules authorize the Commission or the utilities to displace and exclude programs and costs from base rates and then include the programs and costs in the SPPs and SPPCRCs.

Q. ARE EACH OF FPL's PROPOSED PROGRAMS AND PROJECTS PRUDENT AND REASONABLE?

A. No. FPL's programs and costs are not prudent and reasonable unless they meet all of the requirements of the SPP and the SPPCRC Rules that I previously described. Certain of the utility's programs and projects fail these requirements because they are not new or expansions of existing programs outside of base rates in the normal course of business; certain programs and projects fail because they are not economic.

Q. DID THE UTILITIES CONSISTENTLY APPLY A BENEFIT/COST ANALYSIS TO DETERMINE THE SELECTION, RANKING, AND MAGNITUDE OF THE SPP PROGRAMS?

A. No. The utilities used a variety of decision criteria, qualitative and quantitative, but none of them relied on a benefit/cost analysis as a threshold decision criterion to qualify a program or project for inclusion in its SPP. Nor were the decision criteria consistent among the utilities or even among each utility's SPP programs and projects.[3]

Neither FPUC nor FPL developed or relied on any benefit/cost analysis. Although neither DEF nor Tampa developed or relied on benefit/cost analyses as a threshold decision criterion to qualify their programs, they both used a form of benefit/cost analysis for the ranking and the magnitude of their programs.

[3] I have attached a brief summary of each utility's decision criteria as my Exhibit LK-2.

Q. WHY IS AN ECONOMIC JUSTIFICATION NECESSARY AS A THRESHOLD DECISION CRITERION TO QUALIFY PROGRAMS OR PROJECTS FOR INCLUSION IN THE SPP?

A. Fundamentally, SPP programs and projects should be authorized only if the benefits exceed the costs; in other words, the benefit-to-cost ratio should be at least 100%. Neither the statute nor the SPP Rule require the Commission to approve SPP programs and projects that are uneconomic even if they meet the statutory and SPP Rule objectives to reduce restoration costs and outage times.

The programs and projects submitted within the SPP are discretionary and must be incremental, meaning their scope and the costs should be above and beyond the present scope and costs for actual and planned capital expenditures and O&M expenses recovered in base rates in the normal course of business. By its terms, the SPP Rule requires the utility to address and undertake projects "to enhance the utility's existing infrastructure for the purpose of reducing restoration costs and outage times associated with extreme weather conditions therefore improving overall service reliability." Rule 25-6.030(2)(a), F.A.C.

The SPP programs and projects must be incremental, including the expansions of the pole inspection and vegetation management programs and projects that were previously in effect. If the projects actually had been necessary as base rate programs in the normal course of business, but the utility failed to undertake them, then the utility would have been, and would continue to be, imprudent for its failure to construct "transmission and distribution facilities" that would withstand "extreme weather events" and its failure to undertake maintenance activities that would reduce outage durations and outage expenses. No utility and no other party has made that argument.

The economic justification standard allows the utility to propose, and the Commission to set, an appropriate and reasonable benefit-to-cost threshold, whether it is the minimum 100% that I recommend or something greater or lesser.

In addition, the economic justification allows the utility and the Commission to rank proposed programs and projects to achieve the greatest value at the lowest customer rate impact.

Further, the economic justification allows the utility and the Commission to determine the maximum amount (magnitude) of expenditures for each SPP program and project that will result in net benefits to the utility's customers.

Q. HOW SHOULD THE COMMISSION DETERMINE WHETHER THE PROPOSED SPP PROGRAMS AND PROJECTS ARE ECONOMICALLY JUSTIFIED?

A. Typically, economic justification is based on a comparison of the incremental revenues or benefits (savings) that are achieved or achievable to the incremental costs of a project, with the benefits measured as the avoided costs that will not be incurred due to the SPP programs and projects and the incremental costs as the sum of the annual revenue requirements for the SPP programs and projects. The savings in costs includes not only the avoided outage restoration costs that will not be incurred due to extreme weather events, but also the reductions in maintenance expense from the new SPP assets that require less maintenance than the base rate assets that were replaced and the future savings due to near-term accelerated and enhanced vegetation management activities and expense.

Q. DOES THE SPP RULE REQUIRE THAT THE UTILITIES PROVIDE A COMPARISON OF THE "COSTS" AND "BENEFITS" TO DETERMINE IF THE PROGRAMS AND PROJECTS ARE ECONOMICALLY JUSTIFIED?

A. Yes. The SPP Rule requires the utility to provide "[a] comparison of the costs identified in subparagraph (3)(d)3. and the benefits identified in subparagraph (3)(d)1." Rule 25-6.030(3)(d)4, F.A.C. The context and juxtaposition of the terms "costs" and "benefits" strongly imply a comparison of dollar costs and dollar benefits, not a comparison of dollar costs and qualitative benefits. The latter comparison provides no useful decision making information because it does not provide a useful threshold decision criterion to qualify programs and projects, does not provide a framework for ranking programs and projects, and does not allow a rational quantitative basis for the magnitude of programs and projects.

Q. DID EACH OF THE UTILITIES PROVIDE THE REQUIRED COMPARISON OF THE "COSTS" AND "BENEFITS" IN THEIR SPP FILINGS OR IN RESPONSE TO DISCOVERY?

A. No. FPUC and FPL provided no dollar quantifications of benefits in their SPP filings and refused to provide any dollar quantifications in response to OPC discovery. FPUC claimed that it had not quantified avoided cost savings benefits and stated that it did not rely on an economic benefit cost criterion for the selection, ranking, or magnitude of its proposed programs and projects. Both FPUC and FPL argued that the SPP Rule's text requiring the comparison of costs and benefits did not require the utilities to provide a dollar quantification of the benefits, but instead required only that there had to be benefits, which

they qualitatively described to meet the “objectives” and or “requirements” of the SPP Rule.[4]

In contrast to FPUC and FPL, DEF and Tampa quantified expected dollar benefits in their SPP filings based on their modeling results and provided additional detail on their modeling and quantifications of the dollar benefits in response to OPC discovery.
DEF developed its benefit quantifications using a storm damage model developed by Guidehouse. Tampa developed its benefit quantifications using a Storm Resilience Model, which includes a Storm Impact Model, developed by 1898 & Co.

Q. DOES FPL HAVE A STORM DAMAGE MODEL SIMILAR TO THE MODELS THAT WERE USED BY DEF AND TAMPA TO CALCULATE DOLLAR BENEFITS?

A. Yes. All four utilities have storm damage models that can be used to quantify the dollar benefits of the SPP programs and projects. However, while DEF and Tampa used their models for their SPPs; FPL and FPUC did not. FPL has developed a storm damage model that it uses to estimate potential damage and restoration costs from hurricanes and tropical storms. This model could be used to quantify the costs that could be avoided (dollar benefits) due to its SPP programs and projects.

Regardless of whether FPL has a model that could have been used to calculate dollar benefits, the fact is that FPL chose not to provide dollar benefits in its SPP filing and refused to do so in response to OPC discovery.

[4] FPL’s response to Interrogatory No. 14(a) in OPC’s Third Set of Interrogatories in Docket No. 20220051-EI. I have attached a copy of this response as my Exhibit LK-3.

Q. ARE ANY OF THE UTILITIES' SPP PROGRAMS ECONOMICALLY JUSTIFIED?

A. No. This is extremely problematic. None of the SPP programs has benefits that exceed the costs. None of the utilities used a benefit/cost test to qualify its programs or projects, although DEF and Tampa used a flawed form of a benefit/cost test to rank their programs and projects and to determine the maximum expenditure levels for its programs.

Q. IF THE SPP PROGRAMS ARE NOT ECONOMICALLY JUSTIFIED, CAN THE PROGRAMS AND PROJECTS OR THE RELATED COSTS BE PRUDENT OR REASONABLE?

A. No. The statute and the SPP Rule require that the programs and the incremental cost of the programs be prudent and reasonable. If the programs and projects are not economically justified, then the costs should not be incurred; if they are not economically justified, then the programs and projects cannot be prudent and the costs would be imprudent and unreasonable.

The Commission, not the utility, is the arbiter of whether these programs and projects are prudent and reasonable. It is not enough for the utility simply to assert that the programs and projects will reduce restoration costs and outage times (without quantifying the dollar benefits from the reduction of restoration costs and outage times). This bar is a starting point as an initial screening criterion, but it is insufficient in and of itself for a determination of prudence and reasonableness.

Prudence requires that additional decision criteria be applied to determine the selection, ranking, and magnitude of the programs and projects and the costs. Specifically,

an economic benefit/cost criterion is required to determine what programs, if any, are cost effective to undertake. In simple terms, it defies rational thought to undertake discretionary programs and projects and to incur the incremental costs for those programs and projects if the economic benefits are not at least equal to the costs. This is especially relevant given the current economic hardships for ratepayers.

Q. WHAT ARE YOUR RECOMMENDATIONS?

A. I recommend that the Commission adopt and consistently apply specific decision criteria for the selection, ranking, and magnitude of the utilities' SPP programs and projects for the four utilities to ensure that the utilities are not able to use the SPP and SPPCRC process to displace base rate costs that are subject to and recoverable through the base rate process and shift those costs to recover them through the SPP and SPPCRC process.

I concur with Witness Mara's recommendation to exclude the costs of programs and projects that displace base rate costs that would have been incurred during the normal course of business and that are not incurred on an incremental basis specifically to achieve the objectives of the SPP Rule.

I recommend that the Commission reject all proposed SPP projects that are not economic, meaning that they do not have a benefit-to-cost ratio of at least 100%. Projects with a benefit-to-cost ratio of less than 100% are not economic, cannot be considered prudent at the point of decision in this proceeding, and cannot be considered prudent or just and reasonable for future recovery through the SPPCRC.

Alternatively, I recommend that the Commission minimize the customer rate impact (harm) of uneconomic SPP programs and projects by setting a minimum threshold

benefit/cost ratio for the selection and magnitude of the SPP programs and projects, such as 70%, or limiting the rate impact over the life of the SPP to a defined threshold, such as 10% over the ten-year term of each utility's proposed SPP programs. Such thresholds would result in ranking projects with greater benefits to customers and winnowing projects with lesser benefits to customers, as well as limiting the magnitude of the customer rate impact of the SPP programs and projects.

III. METHODOLOGIES TO CALCULATE THE REVENUE REQUIREMENTS AND CUSTOMER RATE IMPACTS

Q. DID THE UTILITIES CONSISTENTLY CALCULATE THE REVENUE REQUIREMENT EFFECTS OF THEIR SPP PROGRAMS?

A. No. Although each of the utilities calculated the revenue requirements as the sum of the return on rate base plus O&M expense, depreciation expense, and property tax expense, there were differences among the utilities in their calculations of rate base, depreciation expense, and property tax expense. Most significantly, there were differences in their assumptions regarding the conversions of CWIP to plant in service and the resulting calculations of depreciation expense and differences in the calculations of property tax expense.

Only Tampa reflected any reductions in depreciation expense on retired plant recovered in base rates that will be replaced by SPP plant assets and recovered through the SPPCRCs. None of utilities reflected reductions in O&M expenses recovered in base rates due to savings from the SPP programs and projects. Both reductions are necessary to

ensure that the utilities do not recover costs that they no longer incur as a result of the SPP programs.

If these additional savings are not considered in these SPP proceedings and accounted for in the SPPCRC proceeding or otherwise reflected in a negotiated resolution, then the utilities will retain the savings due to the reductions in expenses that presently are recovered in base rates.

Q. DID FPL'S CALCULATIONS OF THE ESTIMATED REVENUE REQUIREMENTS ALSO INCLUDE UNIQUE ERRORS THAT SHOULD BE CORRECTED IN THESE PROCEEDINGS?

A. Yes. FPL had one unique error in its calculations of the SPP revenue requirements and customer rate impact. FPL improperly calculated property tax expense on the net plant balance at the end of each year rather than at the end of the prior year.[5] This error should be considered and corrected in this SPP proceeding and in the SPPCRC proceeding.

Q. DID THE UTILITIES ALL INCLUDE CWIP IN RATE BASE?

A. Yes, although there were differences in the assumptions regarding the conversions of CWIP to plant in service among the utilities. More specifically, FPUC assumed that all capital expenditures were closed to plant in service as expended in the current year. DEF assumed that CWIP was converted to plant in service throughout the current year. Tampa assumed that CWIP was converted to plant in service throughout the current year. FPL

[5] Refer to the SPP revenue requirement calculations provided in FPL's response to POD No. 1 in OPC's First Request for Production in Docket No. 20220051-EI as an Excel attachment named "SPP – Annual Rev Req Calculation."

assumed that capital expenditures were closed to plant in service 50% in the current year and 50% in the following year.

Q. IS A RETURN ON CWIP IN RATE BASE EXPLICITLY AUTHORIZED IN THE STATUTE, SPP RULE, OR THE SPPCRC RULE?

A. No. Section 366.96(9), Fla. Stat. states "[i]f a capital expenditure is recoverable as a transmission and distribution storm protection plan cost, the public utility may recover the annual depreciation on the cost, calculated at the public utility's current approved depreciation rates, and a return on the undepreciated balance of the costs calculated at the public utility's weighted average cost of capital using the last approved return on equity." Similarly, the SPPCRC Rule states "[t]he utility may recover the annual depreciation expense on capitalized Storm Protection Plan expenditures using the utility's most recent Commission-approved depreciation rates. The utility may recover a return on the undepreciated balance of the costs calculated at the utility's weighted average cost of capital using the return on equity most recently approved by the Commission." Rule 25-6.031(6)(c), F.A.C.

The term "undepreciated balance" is not defined in the statute or the SPPCRC Rule, but typically has meaning in an accounting and ratemaking context as "net plant," defined as gross plant in service less accumulated depreciation. The term "undepreciated" typically is not applied to CWIP because CWIP is not depreciated; only plant in service is depreciated.

Q. IS IT POSSIBLE TO LEGITIMATELY ASSESS WHETHER CWIP COSTS ARE PRUDENT PRIOR TO THE COMPLETION OF CONSTRUCTION AND THE CONVERSION OF THE CWIP TO PLANT IN SERVICE?

. No. The Commission cannot legitimately assess whether CWIP costs incurred are prudent until all costs have been incurred and converted to plant in service (or an abandonment has occurred), whether the scope of the work actually completed was consistent with the scope included in the approved SPP programs and projects, and whether the costs actually incurred were consistent with the utility's estimated costs included in the approved SPP programs and projects.

Q. ARE THERE ALTERNATIVES TO A RETURN ON CWIP IN RATE BASE INCLUDED IN THE REVENUE REQUIREMENT AND CUSTOMER IMPACTS CONSISTENT WITH THE SUBSEQUENT CONSIDERATION OF PRUDENCE AFTER THE CWIP HAS BEEN CONVERTED TO PLANT IN SERVICE?

A. Yes. As alternatives, a return on CWIP can be deferred either as allowance for funds used during construction ("AFUDC") or as a miscellaneous deferred debit. Once construction is completed and the CWIP is converted to plant in service, then the deferred return will be added to the direct construction expenditures as plant in service in rate base and included in the depreciation expense in the SPPCRC revenue requirement.

Q. WHY IS THE RETURN ON CWIP A CONCERN THAT NEEDS TO BE ADDRESSED IN THESE PROCEEDINGS?

A. It is a concern because construction expenditures are not converted from CWIP to plant in service as they are incurred, but rather only after construction is completed. There will be no actual depreciation expense until the construction expenditures are converted from CWIP to plant in service.

The return on CWIP is also a concern because all of the utilities incur engineering costs prior to incurring actual construction expenditures on specific projects. Those costs cannot be deemed prudent or reasonable unless and until the costs are charged to specific projects, construction is completed (or prudently abandoned), and the CWIP is converted to plant in service.

Q. IS THERE A SIMILAR CONCERN WITH ANOTHER COST INCLUDED IN RATE BASE BY TAMPA THAT SHOULD BE ADDRESSED FOR ALL FOUR UTILITIES?

A. Yes. Tampa has established a separate warehouse and inventory of materials and supplies for its SPP programs and included these costs in rate base and the return on these inventories in its SPP revenue requirement and customer rate impact, which raises a concern similar to the return on CWIP. Such inventory costs should not be included in rate base or the return on these inventories in the SPP revenue requirement and customer rate impact in any utility's SPP or SPPCRC. This type of item should not be included in any company's SPP. As an alternative, a return on such inventories can be deferred either as

AFUDC or as a miscellaneous deferred debit, similar to the alternatives for the return on CWIP.

Q. DOES THIS COMPLETE YOUR PREFILED DIRECT TESTIMONY?

A. Yes.

ATTACHMENT 2

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Storm Protection Plan, pursuant to Rule 25-6.030, F.A.C., Florida Power & Light Company.	DOCKET NO. 20220051-EI FILED: May 31, 2022

DIRECT TESTIMONY

OF

LANE KOLLEN

ON BEHALF OF THE OFFICE OF PUBLIC COUNSEL

Richard Gentry
Public Counsel

Charles Rehwinkel
Deputy Public Counsel
Florida Bar No. 527599
Rehwinkel.Charles@leg.state.fl.us

Stephanie Morse
Associate Public Counsel
Florida Bar No. 0068713
Morse.Stephanie@leg.state.fl.us

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
(850) 488-9330

Attorneys for the Citizens
of the State of Florida

TABLE OF CONTENTS

I. QUALIFICATIONS AND SUMMARY

A. Qualifications

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Lane Kollen. My business address is J. Kennedy and Associates, Inc. ("Kennedy and Associates"), 570 Colonial Park Drive, Suite 305, Roswell, Georgia 30075.

Q. DESCRIBE YOUR EDUCATION AND PROFESSIONAL EXPERIENCE.

A. I earned a Bachelor of Business Administration ("BBA") degree in accounting and a Master of Business Administration ("MBA") degree from the University of Toledo. I also earned a Master of Arts ("MA") degree in theology from Luther Rice College & Seminary. I am a Certified Public Accountant ("CPA"), with a practice license, Certified Management Accountant ("CMA"), and Chartered Global Management Accountant ("CGMA"). I am a member of numerous professional organizations, including the American Institute of Certified Public Accountants, Institute of Management Accounting, Georgia Society of CPAs, and Society of Depreciation Professionals.

I have been an active participant in the utility industry for more than forty years, initially as an employee of The Toledo Edison Company from 1976 to 1983 and thereafter as a consultant in the industry since 1983. I have testified as an expert witness on hundreds of occasions in proceedings before regulatory commissions and courts at the federal and state levels. In those proceedings, I have addressed ratemaking, accounting, finance, tax, and planning issues, among others.

I have testified before the Florida Public Service Commission on numerous occasions, including base rate, fuel adjustment clause, acquisition, and territorial

proceedings involving Florida Power & Light Company ("FPL"), Duke Energy Florida ("DEF"), Talquin Electric Cooperative, City of Tallahassee, and City of Vero Beach.[1]

B. Purpose of Testimony

Q. ON WHOSE BEHALF ARE YOU PROVIDING TESTIMONY?

A. I am providing this testimony on behalf of the Florida Office of Public Counsel ("OPC").

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to address and make recommendations regarding the proposed Storm Protection Plans ("SPP") filed by Florida Public Utilities Company ("FPUC"), Duke Energy Florida, LLC ("DEF"), Tampa Electric Company ("Tampa"), and Florida Power and Light Company ("FPL") (collectively, the "utilities"). In this testimony, I specifically address the SPP filed by FPL.

I address the scope of the proposed SPPs and the threshold economic decision criteria that the Commission should apply to the selection, ranking, and magnitude of SPP programs and projects, consistent with the statutory requirements set forth in Section 366.96, Florida Statutes (2022), *Storm Protection Plan Cost Recovery* ("SPP Statute"), Rule 25-6.030, Florida Administrative Code ("SPP Rule"), and Rule 25-6.031, F.A.C. ("SPPCRC Rule") to the extent that the outcome of these proceedings will affect the cost recoveries in the Storm Protection Plan Cost Recovery Clause ("SPPCRC") proceedings pursuant to the SPPCRC Rule. My testimony should be considered in conjunction with the testimony of Mr. Kevin Mara on behalf of OPC.

---

[1] I have attached a more detailed description of my qualifications and regulatory appearances as my Exhibit LK-1.

C. Scope of the SPP Requests

Q. PLEASE SUMMARIZE THE SPP REQUESTS.

A. In the aggregate, the four utilities seek authorization for programs and projects they estimate will cost $25.323 billion over the next ten years (2023-2032), consisting of $23.167 billion in capital expenditures and $2.156 billion in operation and maintenance ("O&M") expense. The capital expenditures will have a growing and cumulative ratemaking impact for the duration of the SPPs and beyond of 40 or more years over the service lives of the plant assets. These amounts are in addition to the capital expenditures and O&M expense expended in prior years and this year for storm hardening and storm protection programs. The utilities also expect to seek authorization for additional amounts in subsequent SPP updates beyond the ten years reflected in these proceedings.

The following tables provide a summary of the estimated SPP program expenditures for each utility by year and in total for the ten-year period.

Florida Public Utilities Company
SPP Program Expenditures
$ Millions

SPP Costs by Year	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	Total
Capital Total	2.3	6.7	16.9	54.2	53.2	19.9	19.6	19.8	25.3	25.2	243.1
O&M Expense Total	1.4	1.6	1.9	3.0	2.9	1.8	1.8	1.8	1.9	1.9	20.0
Overall Total	3.7	8.3	18.7	57.2	56.1	21.8	21.4	21.6	27.2	27.1	263.1

Duke Energy Florida, LLC
SPP Program Expenditures
$ Millions

SPP Costs by Year	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	Total
Capital Total	602.7	693.4	775.2	748.8	747.7	749.7	748.5	750.6	749.4	751.6	7,317.5
O&M Expense Total	72.1	77.1	79.0	78.1	79.0	81.8	82.4	85.8	86.8	90.0	812.0
Overall Total	674.8	770.5	854.1	826.9	826.7	831.5	830.9	836.4	836.2	841.6	8,129.5

Tampa Electric Company
SPP Program Expenditures
$ Millions

SPP Costs by Year	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	Total
Capital Total	169.9	168.7	173.1	172.9	169.0	167.5	169.6	166.0	172.5	169.4	1,698.7
O&M Expense Total	31.0	34.0	33.7	35.2	36.3	37.7	39.6	41.2	43.1	45.3	377.1
Overall Total	200.9	202.7	206.8	208.2	205.4	205.2	209.2	207.3	215.6	214.7	2,075.9

Florida Power & Light Company
SPP Program Expenditures
$ Millions

SPP Costs by Year Total Company	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	Total
Capital Total	1,458.9	1,559.5	1,520.4	1,200.8	1,319.0	1,350.0	1,388.4	1,423.4	1,347.6	1,340.1	13,908.0
O&M Expense Total	86.0	86.7	88.0	88.2	94.1	100.3	99.8	100.5	100.9	101.5	946.2
Overall Total	1,544.9	1,646.3	1,608.4	1,289.0	1,413.1	1,450.3	1,488.2	1,523.9	1,448.5	1,441.6	14,854.2

Q. WHAT EFFECTS WILL THE REQUESTS HAVE ON CUSTOMER RATES?

A. The incremental effects on present customer rates will be significant as measured over multiple ratemaking metrics, including SPP revenue requirements, net plant in service, annual electric revenues, and cost per customer. The following table provides a summary of the revenue requirements by utility and in the aggregate by year and in total for the ten-year period.

Florida Public Utilities Company
SPP Program Revenue Requirements
$ Millions

SPP Revenue Requirements By Year	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	Total
Capital Total	0.3	0.6	2.0	6.0	12.5	17.0	19.0	21.0	23.2	25.7	127.3
O&M Expense Total	1.4	1.6	1.9	3.0	2.9	1.8	1.8	1.8	1.9	1.9	20.0
Overall Total	1.7	2.2	3.9	9.0	15.4	18.9	20.8	22.8	25.1	27.6	147.3

Duke Energy Florida, LLC
SPP Program Revenue Requirements
$ Millions

SPP Revenue Requirements By Year	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	Total
Capital Total	77.3	144.2	217.9	303.3	378.5	451.1	522.2	590.7	657.8	722.1	4,065.2
O&M Expense Total	72.1	77.1	79.0	78.1	79.0	81.8	82.4	85.8	86.8	90.0	812.0
Overall Total	149.4	221.3	296.8	381.4	457.5	533.0	604.7	676.5	744.6	812.1	4,877.2

Tampa Electric Company
SPP Program Revenue Requirements
$ Millions

SPP Revenue Requirements By Year	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	Total
Capital Total	17.2	35.8	53.8	72.3	91.4	109.8	127.9	145.5	163.0	180.0	996.6
O&M Expense Total	30.7	33.6	33.4	34.9	36.0	37.4	39.3	40.9	42.8	44.9	374.0
Overall Total	47.9	69.4	87.2	107.2	127.4	147.3	167.2	186.4	205.7	224.9	1,370.7

Florida Power & Light Company
SPP Program Revenue Requirements
$ Millions

SPP Revenue Requirements By Year Jurisdictional	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	Total
Capital Total	332.9	509.3	685.9	836.6	971.5	1,112.3	1,254.0	1,396.5	1,533.2	1,661.6	10,293.8
O&M Expense Total	85.2	85.9	87.2	87.5	93.3	99.4	98.9	99.6	100.0	100.6	937.6
Overall Total	418.0	595.2	773.2	924.1	1,064.8	1,211.7	1,352.9	1,496.1	1,633.2	1,762.2	11,231.3

In addition to the revenue requirement effects of the proposed SPPs shown on the preceding tables, the following tables compare other ratemaking metrics, including capital expenditures compared to present net plant in service, increases in the revenue requirement compared to present revenues, and the cost per customer. These metrics provide additional context as to the magnitude and the impacts on customer rates.

Total 10-Year Projected Spend and Revenue Requirements
Compared to Total Net Plant in Service and Revenues
Actual Results For the 12 Months Ended December 31, 2021
$ Millions

	Net Plant In Service	10-Year Proposed Capital Spend	Percentage Increase in Net Plant	2021 Electric Revenues	Projected SPP Revenue Requirement In Year 10	Percentage Increase in Revenues
FPL	44,891.0	13,908.0	31.0%	12,244.3	1,762.2	14.4%
Duke	16,946.5	7,317.5	43.2%	5,111.8	812.1	15.9%
TEC	7,215.5	1,698.7	23.5%	2,180.0	224.9	10.3%
FPUC	94.0	243.1	258.6%	83.7	27.6	33.0%
Total	69,147.0	23,167.4	33.5%	19,619.8	2,826.8	14.4%

Total 10-Year Projected SPP Investment Per Customer
Includes Capital and O&M Investment

	Customers	Projected 10-Year Total Investment $ Millions	10-Year Investment Per Customer $
FPL	5,700,000	14,854.2	2,606
Duke	1,879,073	8,129.5	4,326
TEC	824,322	2,075.9	2,518
FPUC	32,993	263.1	7,976
Total	8,436,388	25,322.7	3,002

Q. HOW DO THESE COSTS COMPARE TO THE BENEFITS FROM POTENTIAL SAVINGS IN STORM DAMAGE AND RESTORATION COSTS?

A. The estimated costs are much greater than the benefits from potential savings for each utility and for nearly all of the programs and projects, although FPUC and FPL did not,

and refused to, provide quantifications of the benefits from potential savings in storm damage and restoration costs.

The following table provides a summary of the costs and dollar benefits by utility and in the aggregate by year and in total for the ten-year period and a fifty-year period. I show $0 ("n/a") in benefits for FPUC and FPL, consistent with their failure to quantify any benefits from potential savings in storm damage and restoration costs.

Total 10-Year Projected SPP Costs and Benefits Summary
Includes Capital and O&M Investment

	Projected 10-Year Total Investment $ Millions	Projected Annual Avoided Restoration Costs $ Millions	Escalated Avoided Restoration Costs Over 10 Years $ Millions	Benefits to Costs Ratio 10 Years %	Escalated Avoided Restoration Costs Over 50 Years $ Millions	Benefits to Costs Ratio 50 Years %
FPL	14,854.2	n/a	n/a	n/a	n/a	n/a
Duke	8,129.5	56.5	647.7	8%	6,373.0	78%
TEC	2,075.9	13.0	149.5	7%	1,470.6	71%
FPUC	263.1	n/a	n/a	n/a	n/a	n/a
Total	25,322.7	69.5	797.2		7,843.6	

Note: Benefits Calculations Not Provided by FPL and FPUC.

Q. WHY ARE THESE SUMMARIES AND COMPARISONS SIGNIFICANT IN THESE PROCEEDINGS?

A. They provide context for the Commission in its review of the proposed SPPs, including the sheer magnitude of the incremental capital expenditures and O&M expense and the rate impacts of these costs, as well as for the establishment and application of threshold decision criteria for the selection, ranking, and magnitude of the SPP programs and projects that are

authorized. They also demonstrate that the costs of the proposed SPP programs and projects far outweigh the benefits from savings in storm damage and restoration costs.

The Commission also should keep in mind that the impact of the SPP programs is yet another addition to the customer bill in an environment of high inflation, skyrocketing natural gas prices and other base rate increases.

D. <u>Summary of Conclusions and Recommendations</u>

Q. PLEASE SUMMARIZE YOUR CONCLUSIONS AND RECOMMENDATIONS.

A. Each utility's proposed SPP capital expenditures, O&M expenses, increases in rate base, and resulting increases in customer rates are significant. The SPP capital expenditures and O&M expenses are incremental costs with incremental customer rate impacts. The framework, scope, selection, ranking, magnitude, prudence, and authorization to proceed of the SPP programs and projects will be determined in these proceedings, not in the subsequent SPPCRC proceeding. Therefore, the decision criteria, ratemaking principles, and rate recovery of the SPP project costs are important factors in the decision making process in this and the other SPP proceedings now pending.

To qualify for inclusion in the SPP proceedings and cost recovery in the SPPCRC proceedings, the projects and the costs of the projects must be incremental, not simply displacements of base rate costs that would have been incurred during the normal course of business, as well as prudent, used and useful, and just and reasonable both as to amount and customer impact. These factors must be considered in the decision process in the SPP proceedings, not limited to the review that will take place in the SPPCRC proceedings after the projects are selected and costs already have been incurred.

The Commission should apply rational and specific decision criteria to the selection, ranking, and magnitude of the proposed programs and projects and apply those decision criteria consistently to all four utilities in these proceedings. The decision criteria should include justification in the form of a benefit/cost analysis in addition to the qualitative assessments of whether the programs and projects will reduce restoration costs and outage times. The economic justification is an important consideration in whether the programs and projects are prudent and reasonable, a determination that can only be made in the SPP proceedings, in contrast to whether the costs actually incurred during implementation of the programs and projects were prudently incurred and reasonable, which is determined in the SPPCRC proceeding.

In addition, the total multi-year customer rate impact can be considered only in the SPP proceeding. The SPPCRC proceedings address the actual recovery and annual customer rate impact only after the decision process in these SPP proceedings is complete, projects are approved, and the SPP programs and projects are implemented.

Further, it is critical that the customer rate impact reflect only the incremental cost of the SPP projects and that all avoided cost savings be reflected as offsets to those costs either through reductions to the SPPCRC or through reductions to base rates. However, in their SPP filings, the utilities did not, with limited exceptions, explicitly exclude the costs presently recovered in base rates or expressly account for any avoided cost savings. The utilities will retain the avoided cost savings for costs presently recovered in base rates unless these costs are addressed in this proceeding and the SPPCRC proceedings or otherwise included in a negotiated resolution.

I recommend that the Commission adopt and consistently apply decision criteria for the selection, ranking, magnitude, and prudence of the SPP programs and projects for the four utilities to ensure that the utilities do not use the SPP and SPPCRC process to displace costs that are subject to and recoverable through the base rate process and shift those costs to recover them through the SPP and SPPCRC process.

I concur with Witness Mara's recommendation to exclude the costs of programs and projects that displace base rate costs that would have been incurred during the normal course of business and that are not incurred on an incremental basis specifically to achieve the objectives of the SPP Rule.

I recommend that the Commission reject all proposed SPP projects that are not economic, meaning that they do not have a benefit-to-cost ratio of at least 100%. Projects with a benefit-to-cost ratio of less than 100% are not economic, cannot be considered prudent at the point of decision in this proceeding, and cannot be considered prudent or just and reasonable for future recovery through the SPPCRC.

I recommend that the Commission adopt and consistently apply uniform methodologies among the utilities to determine the revenue requirements and rate impacts of the programs and projects in these proceedings and that it carry through those uniform methodologies to the rate calculations in the SPPCRC proceeding. More specifically, I recommend that the Commission: 1) exclude construction work in progress ("CWIP") from both the return on rate base and depreciation expense, and instead allow a deferred return on the CWIP until it is converted to plant in service or prudently abandoned, 2) allow property tax only on the net plant at the beginning of each year, 3) require a credit for the avoided depreciation expense on plant that is retired due to SPP plant investments, 4)

require a realignment of the costs of pole inspections and vegetation management from base rates to the SPPCRC, and 5) require a credit for the avoided O&M expenses due to the SPP plant investments and SPP O&M expenses.

II. DECISION CRITERIA FOR THE RATIONAL SELECTION, RANKING, AND MAGNITUDE OF SPP PROGRAMS AND PROJECTS

Q. DESCRIBE THE FRAMEWORK FOR THE SELECTION AND RANKING OF SPP PROGRAMS AND PROJECTS.

A. Section 366.96, Fla. Stat., and Rule 25-6.030, F.A.C., establish the required framework for the utility's SPP, including the utility's identification of projects that are designed to reduce outage restoration costs and outage times, information necessary to develop and apply decision criteria for the selection, ranking, and magnitude of the SPP programs and costs, estimates of the customer rate impacts, and parameters for recovery of the actual costs incurred for the SPP projects offset by costs recovered through base rates and other clause recoveries as well as savings in those costs.

The SPP framework provides important customer safeguards that should be enforced to require the utility to: 1) identify new programs and projects or the expansion of existing programs and projects that are not within the scope of its existing base rate programs and cost recoveries in the normal course of business; 2) limit requests to programs and projects that are prudent and reasonable; 3) justify the selections, rankings, and magnitude of SPP programs, projects, and costs; 4) ensure there is a comparison of benefits to costs; 5) effectively consider the rate impact on customers, and 6) ensure that the utility only recovers incremental costs, net of decremental (avoided) costs or reductions in costs (savings), through the SPPCRC.

More specifically, Section 366.96(8), Fla. Stat. limits SPP programs and projects to costs not recovered through the utility's base rates. Section 366.96(8), Fla. Stat., states in part: "The annual transmission and distribution storm protection plan costs may not include costs recovered through the public utility's base rates."

Section 366.96(2)(c), Fla. Stat., limits SPP programs and projects to costs that are prudent and reasonable. The Statute further defines "[t]ransmission and distribution storm protection plan costs" as "the reasonable and prudent costs to implement an approved transmission and distribution storm protection plan." § 366.96(2)(c), Fla. Stat. Similarly, the SPPCRC Rule requires that costs included in the SPPCRC be "prudent" and "reasonable." Rule 25-6.031(3), F.A.C. Although the requirements found in the statute are repeated in the SPPCRC Rule, the determination of whether the costs included in the SPPCRC are prudent and reasonable necessarily requires that the SPP programs and projects approved in the SPP docket must be prudent to undertake and implement and that the estimated costs of the programs and projects are reasonable as a threshold matter. The sequential nature of these determinations effectively limits any subsequent assessment of prudence and reasonableness in the SPPCRC proceeding to an after-the-fact assessment of the utility's implementation of each project and the actual costs incurred.

In addition, the SPP Rule requires that the utility quantify the "benefits" and costs, compare the benefits to the costs, and provide an estimate of the revenue requirement effects for each year of the SPP. Rule 25-6.030(3)(d)4, and (3)(g), F.A.C. Section 366.96(4), Fla. Stat. requires the Commission to consider this evidence in its evaluation of the SPPs. This information allows the Commission and intervening parties to determine if the proposed projects are economic, or cost-justified, to establish thresholds, or cutoff

limitations, based on whether the projects are wholly or partially self-funding through cost savings, or "benefits," and to consider these factors in establishing limitations based on the customer rate impact, not only in the first year, but over the life of the SPP itself, and then beyond the SPP, extending over the lives of the SPP project costs that were capitalized.

Further, Section 366.96, Fla. Stat., and the SPPCRC Rule limit the costs eligible for recovery through the SPPCRC to incremental costs net of avoided costs (savings). The statute and this Rule specifically require the exclusion of costs that are recovered through base rates and other clause forms of ratemaking recovery.[2]

Q. ARE THE SPP RULE AND THE SPPCRC RULE SEQUENTIAL AND INTERRELATED?

A. Yes. Certain ratemaking determinations required pursuant to the SPPCRC Rule necessarily start with an assessment of the SPP programs and projects that can only be performed in the SPP proceeding, and then are confirmed and refined in the SPPCRC proceeding for cost recovery purposes.

In the SPP proceeding, the Commission must determine the prudence of the programs upfront based on whether they are economically justified, whether the projected costs are just and reasonable, and whether the customer rate impact is reasonable. This requires the application of objective thresholds and related screening criteria to select, rank, and determine the magnitude of SPP projects. The Commission also must determine whether the Company has quantified the revenue requirement and customer rate impacts

[2] § 366.96(8), Fla. Stat.; Rule 25.6.031(6)(a), F.A.C.

in an accurate and comprehensive manner, although the final SPPCRC rate quantifications will be performed in the SPPCRC proceeding.

Q. ARE EACH OF THE UTILITIES' PROPOSED SPP PROGRAMS AND PROJECTS OUTSIDE THE SCOPE OF THE EXISTING BASE RATE PROGRAMS AND COST RECOVERIES IN THE NORMAL COURSE OF BUSINESS?

A. No. FPL and each of the other utilities have included programs and projects that are within the scope of their existing base rate programs and base rate recoveries in the normal course of business. These programs and projects are listed and addressed in greater detail by Witness Mara. These programs and projects should be excluded from the SPPs and the costs should be excluded from recovery through the SPPCRCs.

The SPPs and SPPCRCs are for new and expanded programs and projects that will reduce restoration costs and outage times and for the recovery of the incremental costs of the SPP programs and projects, not to displace base rate programs and base rate recoveries. Nor are the SPPs and SPPCRCs an alternative and expedited form of rate recovery for any and all costs that arguably improve resiliency or reliability. Absent a demonstrable simultaneous, equivalent corresponding reduction of base rates, neither the SPP Statute nor the SPP or SPPCRC Rules authorize the Commission or the utilities to displace and exclude programs and costs from base rates and then include the programs and costs in the SPPs and SPPCRCs.

Q. ARE EACH OF FPL's PROPOSED PROGRAMS AND PROJECTS PRUDENT AND REASONABLE?

A. No. FPL's programs and costs are not prudent and reasonable unless they meet all of the requirements of the SPP and the SPPCRC Rules that I previously described. Certain of the utility's programs and projects fail these requirements because they are not new or expansions of existing programs outside of base rates in the normal course of business; certain programs and projects fail because they are not economic.

Q. DID THE UTILITIES CONSISTENTLY APPLY A BENEFIT/COST ANALYSIS TO DETERMINE THE SELECTION, RANKING, AND MAGNITUDE OF THE SPP PROGRAMS?

A. No. The utilities used a variety of decision criteria, qualitative and quantitative, but none of them relied on a benefit/cost analysis as a threshold decision criterion to qualify a program or project for inclusion in its SPP. Nor were the decision criteria consistent among the utilities or even among each utility's SPP programs and projects.[3]

Neither FPUC nor FPL developed or relied on any benefit/cost analysis. Although neither DEF nor Tampa developed or relied on benefit/cost analyses as a threshold decision criterion to qualify their programs, they both used a form of benefit/cost analysis for the ranking and the magnitude of their programs.

[3] I have attached a brief summary of each utility's decision criteria as my Exhibit LK-2.

Q. WHY IS AN ECONOMIC JUSTIFICATION NECESSARY AS A THRESHOLD DECISION CRITERION TO QUALIFY PROGRAMS OR PROJECTS FOR INCLUSION IN THE SPP?

A. Fundamentally, SPP programs and projects should be authorized only if the benefits exceed the costs; in other words, the benefit-to-cost ratio should be at least 100%. Neither the statute nor the SPP Rule require the Commission to approve SPP programs and projects that are uneconomic even if they meet the statutory and SPP Rule objectives to reduce restoration costs and outage times.

The programs and projects submitted within the SPP are discretionary and must be incremental, meaning their scope and the costs should be above and beyond the present scope and costs for actual and planned capital expenditures and O&M expenses recovered in base rates in the normal course of business. By its terms, the SPP Rule requires the utility to address and undertake projects "to enhance the utility's existing infrastructure for the purpose of reducing restoration costs and outage times associated with extreme weather conditions therefore improving overall service reliability." Rule 25-6.030(2)(a), F.A.C.

The SPP programs and projects must be incremental, including the expansions of the pole inspection and vegetation management programs and projects that were previously in effect. If the projects actually had been necessary as base rate programs in the normal course of business, but the utility failed to undertake them, then the utility would have been, and would continue to be, imprudent for its failure to construct "transmission and distribution facilities" that would withstand "extreme weather events" and its failure to undertake maintenance activities that would reduce outage durations and outage expenses. No utility and no other party has made that argument.

The economic justification standard allows the utility to propose, and the Commission to set, an appropriate and reasonable benefit-to-cost threshold, whether it is the minimum 100% that I recommend or something greater or lesser.

In addition, the economic justification allows the utility and the Commission to rank proposed programs and projects to achieve the greatest value at the lowest customer rate impact.

Further, the economic justification allows the utility and the Commission to determine the maximum amount (magnitude) of expenditures for each SPP program and project that will result in net benefits to the utility's customers.

Q. HOW SHOULD THE COMMISSION DETERMINE WHETHER THE PROPOSED SPP PROGRAMS AND PROJECTS ARE ECONOMICALLY JUSTIFIED?

A. Typically, economic justification is based on a comparison of the incremental revenues or benefits (savings) that are achieved or achievable to the incremental costs of a project, with the benefits measured as the avoided costs that will not be incurred due to the SPP programs and projects and the incremental costs as the sum of the annual revenue requirements for the SPP programs and projects. The savings in costs includes not only the avoided outage restoration costs that will not be incurred due to extreme weather events, but also the reductions in maintenance expense from the new SPP assets that require less maintenance than the base rate assets that were replaced and the future savings due to near-term accelerated and enhanced vegetation management activities and expense.

Q. DOES THE SPP RULE REQUIRE THAT THE UTILITIES PROVIDE A COMPARISON OF THE "COSTS" AND "BENEFITS" TO DETERMINE IF THE PROGRAMS AND PROJECTS ARE ECONOMICALLY JUSTIFIED?

A. Yes. The SPP Rule requires the utility to provide "[a] comparison of the costs identified in subparagraph (3)(d)3. and the benefits identified in subparagraph (3)(d)1." Rule 25-6.030(3)(d)4, F.A.C. The context and juxtaposition of the terms "costs" and "benefits" strongly imply a comparison of dollar costs and dollar benefits, not a comparison of dollar costs and qualitative benefits. The latter comparison provides no useful decision making information because it does not provide a useful threshold decision criterion to qualify programs and projects, does not provide a framework for ranking programs and projects, and does not allow a rational quantitative basis for the magnitude of programs and projects.

Q. DID EACH OF THE UTILITIES PROVIDE THE REQUIRED COMPARISON OF THE "COSTS" AND "BENEFITS" IN THEIR SPP FILINGS OR IN RESPONSE TO DISCOVERY?

A. No. FPUC and FPL provided no dollar quantifications of benefits in their SPP filings and refused to provide any dollar quantifications in response to OPC discovery. FPUC claimed that it had not quantified avoided cost savings benefits and stated that it did not rely on an economic benefit cost criterion for the selection, ranking, or magnitude of its proposed programs and projects. Both FPUC and FPL argued that the SPP Rule's text requiring the comparison of costs and benefits did not require the utilities to provide a dollar quantification of the benefits, but instead required only that there had to be benefits, which

they qualitatively described to meet the "objectives" and or "requirements" of the SPP Rule.[4]

In contrast to FPUC and FPL, DEF and Tampa quantified expected dollar benefits in their SPP filings based on their modeling results and provided additional detail on their modeling and quantifications of the dollar benefits in response to OPC discovery.

DEF developed its benefit quantifications using a storm damage model developed by Guidehouse. Tampa developed its benefit quantifications using a Storm Resilience Model, which includes a Storm Impact Model, developed by 1898 & Co.

Q. DOES FPL HAVE A STORM DAMAGE MODEL SIMILAR TO THE MODELS THAT WERE USED BY DEF AND TAMPA TO CALCULATE DOLLAR BENEFITS?

A. Yes. All four utilities have storm damage models that can be used to quantify the dollar benefits of the SPP programs and projects. However, while DEF and Tampa used their models for their SPPs; FPL and FPUC did not. FPL has developed a storm damage model that it uses to estimate potential damage and restoration costs from hurricanes and tropical storms. This model could be used to quantify the costs that could be avoided (dollar benefits) due to its SPP programs and projects.

Regardless of whether FPL has a model that could have been used to calculate dollar benefits, the fact is that FPL chose not to provide dollar benefits in its SPP filing and refused to do so in response to OPC discovery.

---

[4] FPL's response to Interrogatory No. 14(a) in OPC's Third Set of Interrogatories in Docket No. 20220051-EI. I have attached a copy of this response as my Exhibit LK-3.

Q. ARE ANY OF THE UTILITIES' SPP PROGRAMS ECONOMICALLY JUSTIFIED?

A. No. This is extremely problematic. None of the SPP programs has benefits that exceed the costs. None of the utilities used a benefit/cost test to qualify its programs or projects, although DEF and Tampa used a flawed form of a benefit/cost test to rank their programs and projects and to determine the maximum expenditure levels for its programs.

Q. IF THE SPP PROGRAMS ARE NOT ECONOMICALLY JUSTIFIED, CAN THE PROGRAMS AND PROJECTS OR THE RELATED COSTS BE PRUDENT OR REASONABLE?

A. No. The statute and the SPP Rule require that the programs and the incremental cost of the programs be prudent and reasonable. If the programs and projects are not economically justified, then the costs should not be incurred; if they are not economically justified, then the programs and projects cannot be prudent and the costs would be imprudent and unreasonable.

The Commission, not the utility, is the arbiter of whether these programs and projects are prudent and reasonable. It is not enough for the utility simply to assert that the programs and projects will reduce restoration costs and outage times (without quantifying the dollar benefits from the reduction of restoration costs and outage times). This bar is a starting point as an initial screening criterion, but it is insufficient in and of itself for a determination of prudence and reasonableness.

Prudence requires that additional decision criteria be applied to determine the selection, ranking, and magnitude of the programs and projects and the costs. Specifically,

an economic benefit/cost criterion is required to determine what programs, if any, are cost effective to undertake. In simple terms, it defies rational thought to undertake discretionary programs and projects and to incur the incremental costs for those programs and projects if the economic benefits are not at least equal to the costs. This is especially relevant given the current economic hardships for ratepayers.

Q. WHAT ARE YOUR RECOMMENDATIONS?

A. I recommend that the Commission adopt and consistently apply specific decision criteria for the selection, ranking, and magnitude of the utilities' SPP programs and projects for the four utilities to ensure that the utilities are not able to use the SPP and SPPCRC process to displace base rate costs that are subject to and recoverable through the base rate process and shift those costs to recover them through the SPP and SPPCRC process.

I concur with Witness Mara's recommendation to exclude the costs of programs and projects that displace base rate costs that would have been incurred during the normal course of business and that are not incurred on an incremental basis specifically to achieve the objectives of the SPP Rule.

I recommend that the Commission reject all proposed SPP projects that are not economic, meaning that they do not have a benefit-to-cost ratio of at least 100%. Projects with a benefit-to-cost ratio of less than 100% are not economic, cannot be considered prudent at the point of decision in this proceeding, and cannot be considered prudent or just and reasonable for future recovery through the SPPCRC.

Alternatively, I recommend that the Commission minimize the customer rate impact (harm) of uneconomic SPP programs and projects by setting a minimum threshold

benefit/cost ratio for the selection and magnitude of the SPP programs and projects, such as 70%, or limiting the rate impact over the life of the SPP to a defined threshold, such as 10% over the ten-year term of each utility's proposed SPP programs. Such thresholds would result in ranking projects with greater benefits to customers and winnowing projects with lesser benefits to customers, as well as limiting the magnitude of the customer rate impact of the SPP programs and projects.

III. METHODOLOGIES TO CALCULATE THE REVENUE REQUIREMENTS AND CUSTOMER RATE IMPACTS

Q. DID THE UTILITIES CONSISTENTLY CALCULATE THE REVENUE REQUIREMENT EFFECTS OF THEIR SPP PROGRAMS?

A. No. Although each of the utilities calculated the revenue requirements as the sum of the return on rate base plus O&M expense, depreciation expense, and property tax expense, there were differences among the utilities in their calculations of rate base, depreciation expense, and property tax expense. Most significantly, there were differences in their assumptions regarding the conversions of CWIP to plant in service and the resulting calculations of depreciation expense and differences in the calculations of property tax expense.

Only Tampa reflected any reductions in depreciation expense on retired plant recovered in base rates that will be replaced by SPP plant assets and recovered through the SPPCRCs. None of utilities reflected reductions in O&M expenses recovered in base rates due to savings from the SPP programs and projects. Both reductions are necessary to

ensure that the utilities do not recover costs that they no longer incur as a result of the SPP programs.

If these additional savings are not considered in these SPP proceedings and accounted for in the SPPCRC proceeding or otherwise reflected in a negotiated resolution, then the utilities will retain the savings due to the reductions in expenses that presently are recovered in base rates.

Q. DID FPL'S CALCULATIONS OF THE ESTIMATED REVENUE REQUIREMENTS ALSO INCLUDE UNIQUE ERRORS THAT SHOULD BE CORRECTED IN THESE PROCEEDINGS?

A. Yes. FPL had one unique error in its calculations of the SPP revenue requirements and customer rate impact. FPL improperly calculated property tax expense on the net plant balance at the end of each year rather than at the end of the prior year.[5] This error should be considered and corrected in this SPP proceeding and in the SPPCRC proceeding.

Q. DID THE UTILITIES ALL INCLUDE CWIP IN RATE BASE?

A. Yes, although there were differences in the assumptions regarding the conversions of CWIP to plant in service among the utilities. More specifically, FPUC assumed that all capital expenditures were closed to plant in service as expended in the current year. DEF assumed that CWIP was converted to plant in service throughout the current year. Tampa assumed that CWIP was converted to plant in service throughout the current year. FPL

[5] Refer to the SPP revenue requirement calculations provided in FPL's response to POD No. 1 in OPC's First Request for Production in Docket No. 20220051-EI as an Excel attachment named "SPP – Annual Rev Req Calculation."

assumed that capital expenditures were closed to plant in service 50% in the current year and 50% in the following year.

Q. IS A RETURN ON CWIP IN RATE BASE EXPLICITLY AUTHORIZED IN THE STATUTE, SPP RULE, OR THE SPPCRC RULE?

A. No. Section 366.96(9), Fla. Stat. states "[i]f a capital expenditure is recoverable as a transmission and distribution storm protection plan cost, the public utility may recover the annual depreciation on the cost, calculated at the public utility's current approved depreciation rates, and a return on the undepreciated balance of the costs calculated at the public utility's weighted average cost of capital using the last approved return on equity." Similarly, the SPPCRC Rule states "[t]he utility may recover the annual depreciation expense on capitalized Storm Protection Plan expenditures using the utility's most recent Commission-approved depreciation rates. The utility may recover a return on the undepreciated balance of the costs calculated at the utility's weighted average cost of capital using the return on equity most recently approved by the Commission." Rule 25-6.031(6)(c), F.A.C.

The term "undepreciated balance" is not defined in the statute or the SPPCRC Rule, but typically has meaning in an accounting and ratemaking context as "net plant," defined as gross plant in service less accumulated depreciation. The term "undepreciated" typically is not applied to CWIP because CWIP is not depreciated; only plant in service is depreciated.

Q. IS IT POSSIBLE TO LEGITIMATELY ASSESS WHETHER CWIP COSTS ARE PRUDENT PRIOR TO THE COMPLETION OF CONSTRUCTION AND THE CONVERSION OF THE CWIP TO PLANT IN SERVICE?

. No. The Commission cannot legitimately assess whether CWIP costs incurred are prudent until all costs have been incurred and converted to plant in service (or an abandonment has occurred), whether the scope of the work actually completed was consistent with the scope included in the approved SPP programs and projects, and whether the costs actually incurred were consistent with the utility's estimated costs included in the approved SPP programs and projects.

Q. ARE THERE ALTERNATIVES TO A RETURN ON CWIP IN RATE BASE INCLUDED IN THE REVENUE REQUIREMENT AND CUSTOMER IMPACTS CONSISTENT WITH THE SUBSEQUENT CONSIDERATION OF PRUDENCE AFTER THE CWIP HAS BEEN CONVERTED TO PLANT IN SERVICE?

A. Yes. As alternatives, a return on CWIP can be deferred either as allowance for funds used during construction ("AFUDC") or as a miscellaneous deferred debit. Once construction is completed and the CWIP is converted to plant in service, then the deferred return will be added to the direct construction expenditures as plant in service in rate base and included in the depreciation expense in the SPPCRC revenue requirement.

Q. WHY IS THE RETURN ON CWIP A CONCERN THAT NEEDS TO BE ADDRESSED IN THESE PROCEEDINGS?

A. It is a concern because construction expenditures are not converted from CWIP to plant in service as they are incurred, but rather only after construction is completed. There will be no actual depreciation expense until the construction expenditures are converted from CWIP to plant in service.

The return on CWIP is also a concern because all of the utilities incur engineering costs prior to incurring actual construction expenditures on specific projects. Those costs cannot be deemed prudent or reasonable unless and until the costs are charged to specific projects, construction is completed (or prudently abandoned), and the CWIP is converted to plant in service.

Q. IS THERE A SIMILAR CONCERN WITH ANOTHER COST INCLUDED IN RATE BASE BY TAMPA THAT SHOULD BE ADDRESSED FOR ALL FOUR UTILITIES?

A. Yes. Tampa has established a separate warehouse and inventory of materials and supplies for its SPP programs and included these costs in rate base and the return on these inventories in its SPP revenue requirement and customer rate impact, which raises a concern similar to the return on CWIP. Such inventory costs should not be included in rate base or the return on these inventories in the SPP revenue requirement and customer rate impact in any utility's SPP or SPPCRC. This type of item should not be included in any company's SPP. As an alternative, a return on such inventories can be deferred either as

AFUDC or as a miscellaneous deferred debit, similar to the alternatives for the return on CWIP.

Q. DOES THIS COMPLETE YOUR PREFILED DIRECT TESTIMONY?

A. Yes.

ATTACHMENT 3

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Storm Protection Plan, pursuant to Rule 25-6.030, F.A.C., Florida Power & Light Company.	DOCKET NO. 20220051-EI FILED: May 31, 2022

DIRECT TESTIMONY

OF

LANE KOLLEN

ON BEHALF OF THE OFFICE OF PUBLIC COUNSEL

Richard Gentry
Public Counsel

Charles Rehwinkel
Deputy Public Counsel
Florida Bar No. 527599
Rehwinkel.Charles@leg.state.fl.us

Stephanie Morse
Associate Public Counsel
Florida Bar No. 0068713
Morse.Stephanie@leg.state.fl.us

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
(850) 488-9330

Attorneys for the Citizens
of the State of Florida

TABLE OF CONTENTS

EXHIBITS:

I. QUALIFICATIONS AND SUMMARY

A. Qualifications

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Lane Kollen. My business address is J. Kennedy and Associates, Inc. ("Kennedy and Associates"), 570 Colonial Park Drive, Suite 305, Roswell, Georgia 30075.

Q. DESCRIBE YOUR EDUCATION AND PROFESSIONAL EXPERIENCE.

A. I earned a Bachelor of Business Administration ("BBA") degree in accounting and a Master of Business Administration ("MBA") degree from the University of Toledo. I also earned a Master of Arts ("MA") degree in theology from Luther Rice College & Seminary. I am a Certified Public Accountant ("CPA"), with a practice license, Certified Management Accountant ("CMA"), and Chartered Global Management Accountant ("CGMA"). I am a member of numerous professional organizations, including the American Institute of Certified Public Accountants, Institute of Management Accounting, Georgia Society of CPAs, and Society of Depreciation Professionals.

I have been an active participant in the utility industry for more than forty years, initially as an employee of The Toledo Edison Company from 1976 to 1983 and thereafter as a consultant in the industry since 1983. I have testified as an expert witness on hundreds of occasions in proceedings before regulatory commissions and courts at the federal and state levels. In those proceedings, I have addressed ratemaking, accounting, finance, tax, and planning issues, among others.

I have testified before the Florida Public Service Commission on numerous occasions, including base rate, fuel adjustment clause, acquisition, and territorial

proceedings involving Florida Power & Light Company ("FPL"), Duke Energy Florida ("DEF"), Talquin Electric Cooperative, City of Tallahassee, and City of Vero Beach.[1]

B. Purpose of Testimony

Q. ON WHOSE BEHALF ARE YOU PROVIDING TESTIMONY?

A. I am providing this testimony on behalf of the Florida Office of Public Counsel ("OPC").

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to address and make recommendations regarding the proposed Storm Protection Plans ("SPP") filed by Florida Public Utilities Company ("FPUC"), Duke Energy Florida, LLC ("DEF"), Tampa Electric Company ("Tampa"), and Florida Power and Light Company ("FPL") (collectively, the "utilities"). In this testimony, I specifically address the SPP filed by FPL.

I address the scope of the proposed SPPs and the threshold economic decision criteria that the Commission should apply to the selection, ranking, and magnitude of SPP programs and projects, consistent with the statutory requirements set forth in Section 366.96, Florida Statutes (2022), *Storm Protection Plan Cost Recovery* ("SPP Statute"), Rule 25-6.030, Florida Administrative Code ("SPP Rule"), and Rule 25-6.031, F.A.C. ("SPPCRC Rule") to the extent that the outcome of these proceedings will affect the cost recoveries in the Storm Protection Plan Cost Recovery Clause ("SPPCRC") proceedings pursuant to the SPPCRC Rule. My testimony should be considered in conjunction with the testimony of Mr. Kevin Mara on behalf of OPC.

[1] I have attached a more detailed description of my qualifications and regulatory appearances as my Exhibit LK-1.

C. Scope of the SPP Requests

Q. PLEASE SUMMARIZE THE SPP REQUESTS.

A. In the aggregate, the four utilities seek authorization for programs and projects they estimate will cost $25.323 billion over the next ten years (2023-2032), consisting of $23.167 billion in capital expenditures and $2.156 billion in operation and maintenance ("O&M") expense. The capital expenditures will have a growing and cumulative ratemaking impact for the duration of the SPPs and beyond of 40 or more years over the service lives of the plant assets. These amounts are in addition to the capital expenditures and O&M expense expended in prior years and this year for storm hardening and storm protection programs. The utilities also expect to seek authorization for additional amounts in subsequent SPP updates beyond the ten years reflected in these proceedings.

The following tables provide a summary of the estimated SPP program expenditures for each utility by year and in total for the ten-year period.

Florida Public Utilities Company
SPP Program Expenditures
$ Millions

SPP Costs by Year	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	Total
Capital Total	2.3	6.7	16.9	54.2	53.2	19.9	19.6	19.8	25.3	25.2	243.1
O&M Expense Total	1.4	1.6	1.9	3.0	2.9	1.8	1.8	1.8	1.9	1.9	20.0
Overall Total	3.7	8.3	18.7	57.2	56.1	21.8	21.4	21.6	27.2	27.1	263.1

Duke Energy Florida, LLC
SPP Program Expenditures
$ Millions

SPP Costs by Year	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	Total
Capital Total	602.7	693.4	775.2	748.8	747.7	749.7	748.5	750.6	749.4	751.6	7,317.5
O&M Expense Total	72.1	77.1	79.0	78.1	79.0	81.8	82.4	85.8	86.8	90.0	812.0
Overall Total	674.8	770.5	854.1	826.9	826.7	831.5	830.9	836.4	836.2	841.6	8,129.5

Tampa Electric Company
SPP Program Expenditures
$ Millions

SPP Costs by Year	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	Total
Capital Total	169.9	168.7	173.1	172.9	169.0	167.5	169.6	166.0	172.5	169.4	1,698.7
O&M Expense Total	31.0	34.0	33.7	35.2	36.3	37.7	39.6	41.2	43.1	45.3	377.1
Overall Total	200.9	202.7	206.8	208.2	205.4	205.2	209.2	207.3	215.6	214.7	2,075.9

Florida Power & Light Company
SPP Program Expenditures
$ Millions

SPP Costs by Year Total Company	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	Total
Capital Total	1,458.9	1,559.5	1,520.4	1,200.8	1,319.0	1,350.0	1,388.4	1,423.4	1,347.6	1,340.1	13,908.0
O&M Expense Total	86.0	86.7	88.0	88.2	94.1	100.3	99.8	100.5	100.9	101.5	946.2
Overall Total	1,544.9	1,646.3	1,608.4	1,289.0	1,413.1	1,450.3	1,488.2	1,523.9	1,448.5	1,441.6	14,854.2

Q. WHAT EFFECTS WILL THE REQUESTS HAVE ON CUSTOMER RATES?

A. The incremental effects on present customer rates will be significant as measured over multiple ratemaking metrics, including SPP revenue requirements, net plant in service, annual electric revenues, and cost per customer. The following table provides a summary of the revenue requirements by utility and in the aggregate by year and in total for the ten-year period.

Florida Public Utilities Company
SPP Program Revenue Requirements
$ Millions

SPP Revenue Requirements By Year	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	Total
Capital Total	0.3	0.6	2.0	6.0	12.5	17.0	19.0	21.0	23.2	25.7	127.3
O&M Expense Total	1.4	1.6	1.9	3.0	2.9	1.8	1.8	1.8	1.9	1.9	20.0
Overall Total	1.7	2.2	3.9	9.0	15.4	18.9	20.8	22.8	25.1	27.6	147.3

Duke Energy Florida, LLC
SPP Program Revenue Requirements
$ Millions

SPP Revenue Requirements By Year	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	Total
Capital Total	77.3	144.2	217.9	303.3	378.5	451.1	522.2	590.7	657.8	722.1	4,065.2
O&M Expense Total	72.1	77.1	79.0	78.1	79.0	81.8	82.4	85.8	86.8	90.0	812.0
Overall Total	149.4	221.3	296.8	381.4	457.5	533.0	604.7	676.5	744.6	812.1	4,877.2

Tampa Electric Company
SPP Program Revenue Requirements
$ Millions

SPP Revenue Requirements By Year	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	Total
Capital Total	17.2	35.8	53.8	72.3	91.4	109.8	127.9	145.5	163.0	180.0	996.6
O&M Expense Total	30.7	33.6	33.4	34.9	36.0	37.4	39.3	40.9	42.8	44.9	374.0
Overall Total	47.9	69.4	87.2	107.2	127.4	147.3	167.2	186.4	205.7	224.9	1,370.7

Florida Power & Light Company
SPP Program Revenue Requirements
$ Millions

SPP Revenue Requirements By Year Jurisdictional	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	Total
Capital Total	332.9	509.3	685.9	836.6	971.5	1,112.3	1,254.0	1,396.5	1,533.2	1,661.6	10,293.8
O&M Expense Total	85.2	85.9	87.2	87.5	93.3	99.4	98.9	99.6	100.0	100.6	937.6
Overall Total	418.0	595.2	773.2	924.1	1,064.8	1,211.7	1,352.9	1,496.1	1,633.2	1,762.2	11,231.3

In addition to the revenue requirement effects of the proposed SPPs shown on the preceding tables, the following tables compare other ratemaking metrics, including capital expenditures compared to present net plant in service, increases in the revenue requirement compared to present revenues, and the cost per customer. These metrics provide additional context as to the magnitude and the impacts on customer rates.

Total 10-Year Projected Spend and Revenue Requirements
Compared to Total Net Plant in Service and Revenues
Actual Results For the 12 Months Ended December 31, 2021
$ Millions

	Net Plant In Service	10-Year Proposed Capital Spend	Percentage Increase in Net Plant	2021 Electric Revenues	Projected SPP Revenue Requirement In Year 10	Percentage Increase in Revenues
FPL	44,891.0	13,908.0	31.0%	12,244.3	1,762.2	14.4%
Duke	16,946.5	7,317.5	43.2%	5,111.8	812.1	15.9%
TEC	7,215.5	1,698.7	23.5%	2,180.0	224.9	10.3%
FPUC	94.0	243.1	258.6%	83.7	27.6	33.0%
Total	69,147.0	23,167.4	33.5%	19,619.8	2,826.8	14.4%

Total 10-Year Projected SPP Investment Per Customer
Includes Capital and O&M Investment

	Customers	Projected 10-Year Total Investment $ Millions	10-Year Investment Per Customer $
FPL	5,700,000	14,854.2	2,606
Duke	1,879,073	8,129.5	4,326
TEC	824,322	2,075.9	2,518
FPUC	32,993	263.1	7,976
Total	8,436,388	25,322.7	3,002

Q. HOW DO THESE COSTS COMPARE TO THE BENEFITS FROM POTENTIAL SAVINGS IN STORM DAMAGE AND RESTORATION COSTS?

A. The estimated costs are much greater than the benefits from potential savings for each utility and for nearly all of the programs and projects, although FPUC and FPL did not,

and refused to, provide quantifications of the benefits from potential savings in storm damage and restoration costs.

The following table provides a summary of the costs and dollar benefits by utility and in the aggregate by year and in total for the ten-year period and a fifty-year period. I show $0 ("n/a") in benefits for FPUC and FPL, consistent with their failure to quantify any benefits from potential savings in storm damage and restoration costs.

Total 10-Year Projected SPP Costs and Benefits Summary
Includes Capital and O&M Investment

	Projected 10-Year Total Investment $ Millions	Projected Annual Avoided Restoration Costs $ Millions	Escalated Avoided Restoration Costs Over 10 Years $ Millions	Benefits to Costs Ratio 10 Years %	Escalated Avoided Restoration Costs Over 50 Years $ Millions	Benefits to Costs Ratio 50 Years %
FPL	14,854.2	n/a	n/a	n/a	n/a	n/a
Duke	8,129.5	56.5	647.7	8%	6,373.0	78%
TEC	2,075.9	13.0	149.5	7%	1,470.6	71%
FPUC	263.1	n/a	n/a	n/a	n/a	n/a
Total	25,322.7	69.5	797.2		7,843.6	

Note: Benefits Calculations Not Provided by FPL and FPUC.

Q. WHY ARE THESE SUMMARIES AND COMPARISONS SIGNIFICANT IN THESE PROCEEDINGS?

A. They provide context for the Commission in its review of the proposed SPPs, including the sheer magnitude of the incremental capital expenditures and O&M expense and the rate impacts of these costs, as well as for the establishment and application of threshold decision criteria for the selection, ranking, and magnitude of the SPP programs and projects that are

authorized. They also demonstrate that the costs of the proposed SPP programs and projects far outweigh the benefits from savings in storm damage and restoration costs.

The Commission also should keep in mind that the impact of the SPP programs is yet another addition to the customer bill in an environment of high inflation, skyrocketing natural gas prices and other base rate increases.

D. Summary of Conclusions and Recommendations

Q. PLEASE SUMMARIZE YOUR CONCLUSIONS AND RECOMMENDATIONS.

A. Each utility's proposed SPP capital expenditures, O&M expenses, increases in rate base, and resulting increases in customer rates are significant. The SPP capital expenditures and O&M expenses are incremental costs with incremental customer rate impacts. The framework, scope, selection, ranking, magnitude, prudence, and authorization to proceed of the SPP programs and projects will be determined in these proceedings, not in the subsequent SPPCRC proceeding. Therefore, the decision criteria, ratemaking principles, and rate recovery of the SPP project costs are important factors in the decision making process in this and the other SPP proceedings now pending.

To qualify for inclusion in the SPP proceedings and cost recovery in the SPPCRC proceedings, the projects and the costs of the projects must be incremental, not simply displacements of base rate costs that would have been incurred during the normal course of business, as well as prudent, used and useful, and just and reasonable both as to amount and customer impact. These factors must be considered in the decision process in the SPP proceedings, not limited to the review that will take place in the SPPCRC proceedings after the projects are selected and costs already have been incurred.

The Commission should apply rational and specific decision criteria to the selection, ranking, and magnitude of the proposed programs and projects and apply those decision criteria consistently to all four utilities in these proceedings. The decision criteria should include justification in the form of a benefit/cost analysis in addition to the qualitative assessments of whether the programs and projects will reduce restoration costs and outage times. The economic justification is an important consideration in whether the programs and projects are prudent and reasonable, a determination that can only be made in the SPP proceedings, in contrast to whether the costs actually incurred during implementation of the programs and projects were prudently incurred and reasonable, which is determined in the SPPCRC proceeding.

In addition, the total multi-year customer rate impact can be considered only in the SPP proceeding. The SPPCRC proceedings address the actual recovery and annual customer rate impact only after the decision process in these SPP proceedings is complete, projects are approved, and the SPP programs and projects are implemented.

Further, it is critical that the customer rate impact reflect only the incremental cost of the SPP projects and that all avoided cost savings be reflected as offsets to those costs either through reductions to the SPPCRC or through reductions to base rates. However, in their SPP filings, the utilities did not, with limited exceptions, explicitly exclude the costs presently recovered in base rates or expressly account for any avoided cost savings. The utilities will retain the avoided cost savings for costs presently recovered in base rates unless these costs are addressed in this proceeding and the SPPCRC proceedings or otherwise included in a negotiated resolution.

I recommend that the Commission adopt and consistently apply decision criteria for the selection, ranking, magnitude, and prudence of the SPP programs and projects for the four utilities to ensure that the utilities do not use the SPP and SPPCRC process to displace costs that are subject to and recoverable through the base rate process and shift those costs to recover them through the SPP and SPPCRC process.

I concur with Witness Mara's recommendation to exclude the costs of programs and projects that displace base rate costs that would have been incurred during the normal course of business and that are not incurred on an incremental basis specifically to achieve the objectives of the SPP Rule.

I recommend that the Commission reject all proposed SPP projects that are not economic, meaning that they do not have a benefit-to-cost ratio of at least 100%. Projects with a benefit-to-cost ratio of less than 100% are not economic, cannot be considered prudent at the point of decision in this proceeding, and cannot be considered prudent or just and reasonable for future recovery through the SPPCRC.

I recommend that the Commission adopt and consistently apply uniform methodologies among the utilities to determine the revenue requirements and rate impacts of the programs and projects in these proceedings and that it carry through those uniform methodologies to the rate calculations in the SPPCRC proceeding. More specifically, I recommend that the Commission: 1) exclude construction work in progress ("CWIP") from both the return on rate base and depreciation expense, and instead allow a deferred return on the CWIP until it is converted to plant in service or prudently abandoned, 2) allow property tax only on the net plant at the beginning of each year, 3) require a credit for the avoided depreciation expense on plant that is retired due to SPP plant investments, 4)

require a realignment of the costs of pole inspections and vegetation management from base rates to the SPPCRC, and 5) require a credit for the avoided O&M expenses due to the SPP plant investments and SPP O&M expenses.

II. DECISION CRITERIA FOR THE RATIONAL SELECTION, RANKING, AND MAGNITUDE OF SPP PROGRAMS AND PROJECTS

Q. DESCRIBE THE FRAMEWORK FOR THE SELECTION AND RANKING OF SPP PROGRAMS AND PROJECTS.

A. Section 366.96, Fla. Stat., and Rule 25-6.030, F.A.C., establish the required framework for the utility's SPP, including the utility's identification of projects that are designed to reduce outage restoration costs and outage times, information necessary to develop and apply decision criteria for the selection, ranking, and magnitude of the SPP programs and costs, estimates of the customer rate impacts, and parameters for recovery of the actual costs incurred for the SPP projects offset by costs recovered through base rates and other clause recoveries as well as savings in those costs.

The SPP framework provides important customer safeguards that should be enforced to require the utility to: 1) identify new programs and projects or the expansion of existing programs and projects that are not within the scope of its existing base rate programs and cost recoveries in the normal course of business; 2) limit requests to programs and projects that are prudent and reasonable; 3) justify the selections, rankings, and magnitude of SPP programs, projects, and costs; 4) ensure there is a comparison of benefits to costs; 5) effectively consider the rate impact on customers, and 6) ensure that the utility only recovers incremental costs, net of decremental (avoided) costs or reductions in costs (savings), through the SPPCRC.

More specifically, Section 366.96(8), Fla. Stat. limits SPP programs and projects to costs not recovered through the utility's base rates. Section 366.96(8), Fla. Stat., states in part: "The annual transmission and distribution storm protection plan costs may not include costs recovered through the public utility's base rates."

Section 366.96(2)(c), Fla. Stat., limits SPP programs and projects to costs that are prudent and reasonable. The Statute further defines "[t]ransmission and distribution storm protection plan costs" as "the reasonable and prudent costs to implement an approved transmission and distribution storm protection plan." § 366.96(2)(c), Fla. Stat. Similarly, the SPPCRC Rule requires that costs included in the SPPCRC be "prudent" and "reasonable." Rule 25-6.031(3), F.A.C. Although the requirements found in the statute are repeated in the SPPCRC Rule, the determination of whether the costs included in the SPPCRC are prudent and reasonable necessarily requires that the SPP programs and projects approved in the SPP docket must be prudent to undertake and implement and that the estimated costs of the programs and projects are reasonable as a threshold matter. The sequential nature of these determinations effectively limits any subsequent assessment of prudence and reasonableness in the SPPCRC proceeding to an after-the-fact assessment of the utility's implementation of each project and the actual costs incurred.

In addition, the SPP Rule requires that the utility quantify the "benefits" and costs, compare the benefits to the costs, and provide an estimate of the revenue requirement effects for each year of the SPP. Rule 25-6.030(3)(d)4, and (3)(g), F.A.C. Section 366.96(4), Fla. Stat. requires the Commission to consider this evidence in its evaluation of the SPPs. This information allows the Commission and intervening parties to determine if the proposed projects are economic, or cost-justified, to establish thresholds, or cutoff

limitations, based on whether the projects are wholly or partially self-funding through cost savings, or "benefits," and to consider these factors in establishing limitations based on the customer rate impact, not only in the first year, but over the life of the SPP itself, and then beyond the SPP, extending over the lives of the SPP project costs that were capitalized.

Further, Section 366.96, Fla. Stat., and the SPPCRC Rule limit the costs eligible for recovery through the SPPCRC to incremental costs net of avoided costs (savings). The statute and this Rule specifically require the exclusion of costs that are recovered through base rates and other clause forms of ratemaking recovery.[2]

Q. ARE THE SPP RULE AND THE SPPCRC RULE SEQUENTIAL AND INTERRELATED?

A. Yes. Certain ratemaking determinations required pursuant to the SPPCRC Rule necessarily start with an assessment of the SPP programs and projects that can only be performed in the SPP proceeding, and then are confirmed and refined in the SPPCRC proceeding for cost recovery purposes.

In the SPP proceeding, the Commission must determine the prudence of the programs upfront based on whether they are economically justified, whether the projected costs are just and reasonable, and whether the customer rate impact is reasonable. This requires the application of objective thresholds and related screening criteria to select, rank, and determine the magnitude of SPP projects. The Commission also must determine whether the Company has quantified the revenue requirement and customer rate impacts

[2] § 366.96(8), Fla. Stat.; Rule 25.6.031(6)(a), F.A.C.

in an accurate and comprehensive manner, although the final SPPCRC rate quantifications will be performed in the SPPCRC proceeding.

Q. ARE EACH OF THE UTILITIES' PROPOSED SPP PROGRAMS AND PROJECTS OUTSIDE THE SCOPE OF THE EXISTING BASE RATE PROGRAMS AND COST RECOVERIES IN THE NORMAL COURSE OF BUSINESS?

A. No. FPL and each of the other utilities have included programs and projects that are within the scope of their existing base rate programs and base rate recoveries in the normal course of business. These programs and projects are listed and addressed in greater detail by Witness Mara. These programs and projects should be excluded from the SPPs and the costs should be excluded from recovery through the SPPCRCs.

The SPPs and SPPCRCs are for new and expanded programs and projects that will reduce restoration costs and outage times and for the recovery of the incremental costs of the SPP programs and projects, not to displace base rate programs and base rate recoveries. Nor are the SPPs and SPPCRCs an alternative and expedited form of rate recovery for any and all costs that arguably improve resiliency or reliability. Absent a demonstrable simultaneous, equivalent corresponding reduction of base rates, neither the SPP Statute nor the SPP or SPPCRC Rules authorize the Commission or the utilities to displace and exclude programs and costs from base rates and then include the programs and costs in the SPPs and SPPCRCs.

Q. ARE EACH OF FPL's PROPOSED PROGRAMS AND PROJECTS PRUDENT AND REASONABLE?

A. No. FPL's programs and costs are not prudent and reasonable unless they meet all of the requirements of the SPP and the SPPCRC Rules that I previously described. Certain of the utility's programs and projects fail these requirements because they are not new or expansions of existing programs outside of base rates in the normal course of business; certain programs and projects fail because they are not economic.

Q. DID THE UTILITIES CONSISTENTLY APPLY A BENEFIT/COST ANALYSIS TO DETERMINE THE SELECTION, RANKING, AND MAGNITUDE OF THE SPP PROGRAMS?

A. No. The utilities used a variety of decision criteria, qualitative and quantitative, but none of them relied on a benefit/cost analysis as a threshold decision criterion to qualify a program or project for inclusion in its SPP. Nor were the decision criteria consistent among the utilities or even among each utility's SPP programs and projects.[3]

Neither FPUC nor FPL developed or relied on any benefit/cost analysis. Although neither DEF nor Tampa developed or relied on benefit/cost analyses as a threshold decision criterion to qualify their programs, they both used a form of benefit/cost analysis for the ranking and the magnitude of their programs.

[3] I have attached a brief summary of each utility's decision criteria as my Exhibit LK-2.

Q. WHY IS AN ECONOMIC JUSTIFICATION NECESSARY AS A THRESHOLD DECISION CRITERION TO QUALIFY PROGRAMS OR PROJECTS FOR INCLUSION IN THE SPP?

A. Fundamentally, SPP programs and projects should be authorized only if the benefits exceed the costs; in other words, the benefit-to-cost ratio should be at least 100%. Neither the statute nor the SPP Rule require the Commission to approve SPP programs and projects that are uneconomic even if they meet the statutory and SPP Rule objectives to reduce restoration costs and outage times.

The programs and projects submitted within the SPP are discretionary and must be incremental, meaning their scope and the costs should be above and beyond the present scope and costs for actual and planned capital expenditures and O&M expenses recovered in base rates in the normal course of business. By its terms, the SPP Rule requires the utility to address and undertake projects "to enhance the utility's existing infrastructure for the purpose of reducing restoration costs and outage times associated with extreme weather conditions therefore improving overall service reliability." Rule 25-6.030(2)(a), F.A.C.

The SPP programs and projects must be incremental, including the expansions of the pole inspection and vegetation management programs and projects that were previously in effect. If the projects actually had been necessary as base rate programs in the normal course of business, but the utility failed to undertake them, then the utility would have been, and would continue to be, imprudent for its failure to construct "transmission and distribution facilities" that would withstand "extreme weather events" and its failure to undertake maintenance activities that would reduce outage durations and outage expenses. No utility and no other party has made that argument.

The economic justification standard allows the utility to propose, and the Commission to set, an appropriate and reasonable benefit-to-cost threshold, whether it is the minimum 100% that I recommend or something greater or lesser.

In addition, the economic justification allows the utility and the Commission to rank proposed programs and projects to achieve the greatest value at the lowest customer rate impact.

Further, the economic justification allows the utility and the Commission to determine the maximum amount (magnitude) of expenditures for each SPP program and project that will result in net benefits to the utility's customers.

Q. HOW SHOULD THE COMMISSION DETERMINE WHETHER THE PROPOSED SPP PROGRAMS AND PROJECTS ARE ECONOMICALLY JUSTIFIED?

A. Typically, economic justification is based on a comparison of the incremental revenues or benefits (savings) that are achieved or achievable to the incremental costs of a project, with the benefits measured as the avoided costs that will not be incurred due to the SPP programs and projects and the incremental costs as the sum of the annual revenue requirements for the SPP programs and projects. The savings in costs includes not only the avoided outage restoration costs that will not be incurred due to extreme weather events, but also the reductions in maintenance expense from the new SPP assets that require less maintenance than the base rate assets that were replaced and the future savings due to near-term accelerated and enhanced vegetation management activities and expense.

Q. DOES THE SPP RULE REQUIRE THAT THE UTILITIES PROVIDE A COMPARISON OF THE "COSTS" AND "BENEFITS" TO DETERMINE IF THE PROGRAMS AND PROJECTS ARE ECONOMICALLY JUSTIFIED?

A. Yes. The SPP Rule requires the utility to provide "[a] comparison of the costs identified in subparagraph (3)(d)3. and the benefits identified in subparagraph (3)(d)1." Rule 25-6.030(3)(d)4, F.A.C. The context and juxtaposition of the terms "costs" and "benefits" strongly imply a comparison of dollar costs and dollar benefits, not a comparison of dollar costs and qualitative benefits. The latter comparison provides no useful decision making information because it does not provide a useful threshold decision criterion to qualify programs and projects, does not provide a framework for ranking programs and projects, and does not allow a rational quantitative basis for the magnitude of programs and projects.

Q. DID EACH OF THE UTILITIES PROVIDE THE REQUIRED COMPARISON OF THE "COSTS" AND "BENEFITS" IN THEIR SPP FILINGS OR IN RESPONSE TO DISCOVERY?

A. No. FPUC and FPL provided no dollar quantifications of benefits in their SPP filings and refused to provide any dollar quantifications in response to OPC discovery. FPUC claimed that it had not quantified avoided cost savings benefits and stated that it did not rely on an economic benefit cost criterion for the selection, ranking, or magnitude of its proposed programs and projects. Both FPUC and FPL argued that the SPP Rule's text requiring the comparison of costs and benefits did not require the utilities to provide a dollar quantification of the benefits, but instead required only that there had to be benefits, which

they qualitatively described to meet the "objectives" and or "requirements" of the SPP Rule.[4]

In contrast to FPUC and FPL, DEF and Tampa quantified expected dollar benefits in their SPP filings based on their modeling results and provided additional detail on their modeling and quantifications of the dollar benefits in response to OPC discovery.

DEF developed its benefit quantifications using a storm damage model developed by Guidehouse. Tampa developed its benefit quantifications using a Storm Resilience Model, which includes a Storm Impact Model, developed by 1898 & Co.

Q. DOES FPL HAVE A STORM DAMAGE MODEL SIMILAR TO THE MODELS THAT WERE USED BY DEF AND TAMPA TO CALCULATE DOLLAR BENEFITS?

A. Yes. All four utilities have storm damage models that can be used to quantify the dollar benefits of the SPP programs and projects. However, while DEF and Tampa used their models for their SPPs; FPL and FPUC did not. FPL has developed a storm damage model that it uses to estimate potential damage and restoration costs from hurricanes and tropical storms. This model could be used to quantify the costs that could be avoided (dollar benefits) due to its SPP programs and projects.

Regardless of whether FPL has a model that could have been used to calculate dollar benefits, the fact is that FPL chose not to provide dollar benefits in its SPP filing and refused to do so in response to OPC discovery.

---

[4] FPL's response to Interrogatory No. 14(a) in OPC's Third Set of Interrogatories in Docket No. 20220051-EI. I have attached a copy of this response as my Exhibit LK-3.

Q. ARE ANY OF THE UTILITIES' SPP PROGRAMS ECONOMICALLY JUSTIFIED?

A. No. This is extremely problematic. None of the SPP programs has benefits that exceed the costs. None of the utilities used a benefit/cost test to qualify its programs or projects, although DEF and Tampa used a flawed form of a benefit/cost test to rank their programs and projects and to determine the maximum expenditure levels for its programs.

Q. IF THE SPP PROGRAMS ARE NOT ECONOMICALLY JUSTIFIED, CAN THE PROGRAMS AND PROJECTS OR THE RELATED COSTS BE PRUDENT OR REASONABLE?

A. No. The statute and the SPP Rule require that the programs and the incremental cost of the programs be prudent and reasonable. If the programs and projects are not economically justified, then the costs should not be incurred; if they are not economically justified, then the programs and projects cannot be prudent and the costs would be imprudent and unreasonable.

The Commission, not the utility, is the arbiter of whether these programs and projects are prudent and reasonable. It is not enough for the utility simply to assert that the programs and projects will reduce restoration costs and outage times (without quantifying the dollar benefits from the reduction of restoration costs and outage times). This bar is a starting point as an initial screening criterion, but it is insufficient in and of itself for a determination of prudence and reasonableness.

Prudence requires that additional decision criteria be applied to determine the selection, ranking, and magnitude of the programs and projects and the costs. Specifically,

an economic benefit/cost criterion is required to determine what programs, if any, are cost effective to undertake. In simple terms, it defies rational thought to undertake discretionary programs and projects and to incur the incremental costs for those programs and projects if the economic benefits are not at least equal to the costs. This is especially relevant given the current economic hardships for ratepayers.

Q. WHAT ARE YOUR RECOMMENDATIONS?

A. I recommend that the Commission adopt and consistently apply specific decision criteria for the selection, ranking, and magnitude of the utilities' SPP programs and projects for the four utilities to ensure that the utilities are not able to use the SPP and SPPCRC process to displace base rate costs that are subject to and recoverable through the base rate process and shift those costs to recover them through the SPP and SPPCRC process.

I concur with Witness Mara's recommendation to exclude the costs of programs and projects that displace base rate costs that would have been incurred during the normal course of business and that are not incurred on an incremental basis specifically to achieve the objectives of the SPP Rule.

I recommend that the Commission reject all proposed SPP projects that are not economic, meaning that they do not have a benefit-to-cost ratio of at least 100%. Projects with a benefit-to-cost ratio of less than 100% are not economic, cannot be considered prudent at the point of decision in this proceeding, and cannot be considered prudent or just and reasonable for future recovery through the SPPCRC.

Alternatively, I recommend that the Commission minimize the customer rate impact (harm) of uneconomic SPP programs and projects by setting a minimum threshold

benefit/cost ratio for the selection and magnitude of the SPP programs and projects, such as 70%, or limiting the rate impact over the life of the SPP to a defined threshold, such as 10% over the ten-year term of each utility's proposed SPP programs. Such thresholds would result in ranking projects with greater benefits to customers and winnowing projects with lesser benefits to customers, as well as limiting the magnitude of the customer rate impact of the SPP programs and projects.

III. METHODOLOGIES TO CALCULATE THE REVENUE REQUIREMENTS AND CUSTOMER RATE IMPACTS

Q. DID THE UTILITIES CONSISTENTLY CALCULATE THE REVENUE REQUIREMENT EFFECTS OF THEIR SPP PROGRAMS?

A. No. Although each of the utilities calculated the revenue requirements as the sum of the return on rate base plus O&M expense, depreciation expense, and property tax expense, there were differences among the utilities in their calculations of rate base, depreciation expense, and property tax expense. Most significantly, there were differences in their assumptions regarding the conversions of CWIP to plant in service and the resulting calculations of depreciation expense and differences in the calculations of property tax expense.

Only Tampa reflected any reductions in depreciation expense on retired plant recovered in base rates that will be replaced by SPP plant assets and recovered through the SPPCRCs. None of utilities reflected reductions in O&M expenses recovered in base rates due to savings from the SPP programs and projects. Both reductions are necessary to

ensure that the utilities do not recover costs that they no longer incur as a result of the SPP programs.

If these additional savings are not considered in these SPP proceedings and accounted for in the SPPCRC proceeding or otherwise reflected in a negotiated resolution, then the utilities will retain the savings due to the reductions in expenses that presently are recovered in base rates.

Q. DID FPL'S CALCULATIONS OF THE ESTIMATED REVENUE REQUIREMENTS ALSO INCLUDE UNIQUE ERRORS THAT SHOULD BE CORRECTED IN THESE PROCEEDINGS?

A. Yes. FPL had one unique error in its calculations of the SPP revenue requirements and customer rate impact. FPL improperly calculated property tax expense on the net plant balance at the end of each year rather than at the end of the prior year.[5] This error should be considered and corrected in this SPP proceeding and in the SPPCRC proceeding.

Q. DID THE UTILITIES ALL INCLUDE CWIP IN RATE BASE?

A. Yes, although there were differences in the assumptions regarding the conversions of CWIP to plant in service among the utilities. More specifically, FPUC assumed that all capital expenditures were closed to plant in service as expended in the current year. DEF assumed that CWIP was converted to plant in service throughout the current year. Tampa assumed that CWIP was converted to plant in service throughout the current year. FPL

[5] Refer to the SPP revenue requirement calculations provided in FPL's response to POD No. 1 in OPC's First Request for Production in Docket No. 20220051-EI as an Excel attachment named "SPP – Annual Rev Req Calculation."

assumed that capital expenditures were closed to plant in service 50% in the current year and 50% in the following year.

Q. IS A RETURN ON CWIP IN RATE BASE EXPLICITLY AUTHORIZED IN THE STATUTE, SPP RULE, OR THE SPPCRC RULE?

A. No. Section 366.96(9), Fla. Stat. states "[i]f a capital expenditure is recoverable as a transmission and distribution storm protection plan cost, the public utility may recover the annual depreciation on the cost, calculated at the public utility's current approved depreciation rates, and a return on the undepreciated balance of the costs calculated at the public utility's weighted average cost of capital using the last approved return on equity." Similarly, the SPPCRC Rule states "[t]he utility may recover the annual depreciation expense on capitalized Storm Protection Plan expenditures using the utility's most recent Commission-approved depreciation rates. The utility may recover a return on the undepreciated balance of the costs calculated at the utility's weighted average cost of capital using the return on equity most recently approved by the Commission." Rule 25-6.031(6)(c), F.A.C.

The term "undepreciated balance" is not defined in the statute or the SPPCRC Rule, but typically has meaning in an accounting and ratemaking context as "net plant," defined as gross plant in service less accumulated depreciation. The term "undepreciated" typically is not applied to CWIP because CWIP is not depreciated; only plant in service is depreciated.

Q. IS IT POSSIBLE TO LEGITIMATELY ASSESS WHETHER CWIP COSTS ARE PRUDENT PRIOR TO THE COMPLETION OF CONSTRUCTION AND THE CONVERSION OF THE CWIP TO PLANT IN SERVICE?

. No. The Commission cannot legitimately assess whether CWIP costs incurred are prudent until all costs have been incurred and converted to plant in service (or an abandonment has occurred), whether the scope of the work actually completed was consistent with the scope included in the approved SPP programs and projects, and whether the costs actually incurred were consistent with the utility's estimated costs included in the approved SPP programs and projects.

Q. ARE THERE ALTERNATIVES TO A RETURN ON CWIP IN RATE BASE INCLUDED IN THE REVENUE REQUIREMENT AND CUSTOMER IMPACTS CONSISTENT WITH THE SUBSEQUENT CONSIDERATION OF PRUDENCE AFTER THE CWIP HAS BEEN CONVERTED TO PLANT IN SERVICE?

A. Yes. As alternatives, a return on CWIP can be deferred either as allowance for funds used during construction ("AFUDC") or as a miscellaneous deferred debit. Once construction is completed and the CWIP is converted to plant in service, then the deferred return will be added to the direct construction expenditures as plant in service in rate base and included in the depreciation expense in the SPPCRC revenue requirement.

Q. WHY IS THE RETURN ON CWIP A CONCERN THAT NEEDS TO BE ADDRESSED IN THESE PROCEEDINGS?

A. It is a concern because construction expenditures are not converted from CWIP to plant in service as they are incurred, but rather only after construction is completed. There will be no actual depreciation expense until the construction expenditures are converted from CWIP to plant in service.

The return on CWIP is also a concern because all of the utilities incur engineering costs prior to incurring actual construction expenditures on specific projects. Those costs cannot be deemed prudent or reasonable unless and until the costs are charged to specific projects, construction is completed (or prudently abandoned), and the CWIP is converted to plant in service.

Q. IS THERE A SIMILAR CONCERN WITH ANOTHER COST INCLUDED IN RATE BASE BY TAMPA THAT SHOULD BE ADDRESSED FOR ALL FOUR UTILITIES?

A. Yes. Tampa has established a separate warehouse and inventory of materials and supplies for its SPP programs and included these costs in rate base and the return on these inventories in its SPP revenue requirement and customer rate impact, which raises a concern similar to the return on CWIP. Such inventory costs should not be included in rate base or the return on these inventories in the SPP revenue requirement and customer rate impact in any utility's SPP or SPPCRC. This type of item should not be included in any company's SPP. As an alternative, a return on such inventories can be deferred either as

AFUDC or as a miscellaneous deferred debit, similar to the alternatives for the return on CWIP.

Q. DOES THIS COMPLETE YOUR PREFILED DIRECT TESTIMONY?

A. Yes.

ATTACHMENT 4

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Storm Protection Plan, pursuant to Rule 25-6.030, F.A.C., Florida Power & Light Company.	DOCKET NO. 20220051-EI FILED: May 31, 2022

DIRECT TESTIMONY

OF

LANE KOLLEN

ON BEHALF OF THE OFFICE OF PUBLIC COUNSEL

Richard Gentry
Public Counsel

Charles Rehwinkel
Deputy Public Counsel
Florida Bar No. 527599
Rehwinkel.Charles@leg.state.fl.us

Stephanie Morse
Associate Public Counsel
Florida Bar No. 0068713
Morse.Stephanie@leg.state.fl.us

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
(850) 488-9330

Attorneys for the Citizens
of the State of Florida

TABLE OF CONTENTS

I. QUALIFICATIONS AND SUMMARY

A. Qualifications

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Lane Kollen. My business address is J. Kennedy and Associates, Inc. ("Kennedy and Associates"), 570 Colonial Park Drive, Suite 305, Roswell, Georgia 30075.

Q. DESCRIBE YOUR EDUCATION AND PROFESSIONAL EXPERIENCE.

A. I earned a Bachelor of Business Administration ("BBA") degree in accounting and a Master of Business Administration ("MBA") degree from the University of Toledo. I also earned a Master of Arts ("MA") degree in theology from Luther Rice College & Seminary. I am a Certified Public Accountant ("CPA"), with a practice license, Certified Management Accountant ("CMA"), and Chartered Global Management Accountant ("CGMA"). I am a member of numerous professional organizations, including the American Institute of Certified Public Accountants, Institute of Management Accounting, Georgia Society of CPAs, and Society of Depreciation Professionals.

I have been an active participant in the utility industry for more than forty years, initially as an employee of The Toledo Edison Company from 1976 to 1983 and thereafter as a consultant in the industry since 1983. I have testified as an expert witness on hundreds of occasions in proceedings before regulatory commissions and courts at the federal and state levels. In those proceedings, I have addressed ratemaking, accounting, finance, tax, and planning issues, among others.

I have testified before the Florida Public Service Commission on numerous occasions, including base rate, fuel adjustment clause, acquisition, and territorial

proceedings involving Florida Power & Light Company ("FPL"), Duke Energy Florida ("DEF"), Talquin Electric Cooperative, City of Tallahassee, and City of Vero Beach.[1]

B. Purpose of Testimony

Q. ON WHOSE BEHALF ARE YOU PROVIDING TESTIMONY?

A. I am providing this testimony on behalf of the Florida Office of Public Counsel ("OPC").

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to address and make recommendations regarding the proposed Storm Protection Plans ("SPP") filed by Florida Public Utilities Company ("FPUC"), Duke Energy Florida, LLC ("DEF"), Tampa Electric Company ("Tampa"), and Florida Power and Light Company ("FPL") (collectively, the "utilities"). In this testimony, I specifically address the SPP filed by FPL.

I address the scope of the proposed SPPs and the threshold economic decision criteria that the Commission should apply to the selection, ranking, and magnitude of SPP programs and projects, consistent with the statutory requirements set forth in Section 366.96, Florida Statutes (2022), *Storm Protection Plan Cost Recovery* ("SPP Statute"), Rule 25-6.030, Florida Administrative Code ("SPP Rule"), and Rule 25-6.031, F.A.C. ("SPPCRC Rule") to the extent that the outcome of these proceedings will affect the cost recoveries in the Storm Protection Plan Cost Recovery Clause ("SPPCRC") proceedings pursuant to the SPPCRC Rule. My testimony should be considered in conjunction with the testimony of Mr. Kevin Mara on behalf of OPC.

[1] I have attached a more detailed description of my qualifications and regulatory appearances as my Exhibit LK-1.

C. Scope of the SPP Requests

Q. PLEASE SUMMARIZE THE SPP REQUESTS.

A. In the aggregate, the four utilities seek authorization for programs and projects they estimate will cost $25.323 billion over the next ten years (2023-2032), consisting of $23.167 billion in capital expenditures and $2.156 billion in operation and maintenance ("O&M") expense. The capital expenditures will have a growing and cumulative ratemaking impact for the duration of the SPPs and beyond of 40 or more years over the service lives of the plant assets. These amounts are in addition to the capital expenditures and O&M expense expended in prior years and this year for storm hardening and storm protection programs. The utilities also expect to seek authorization for additional amounts in subsequent SPP updates beyond the ten years reflected in these proceedings.

The following tables provide a summary of the estimated SPP program expenditures for each utility by year and in total for the ten-year period.

Florida Public Utilities Company
SPP Program Expenditures
$ Millions

SPP Costs by Year	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	Total
Capital Total	2.3	6.7	16.9	54.2	53.2	19.9	19.6	19.8	25.3	25.2	243.1
O&M Expense Total	1.4	1.6	1.9	3.0	2.9	1.8	1.8	1.8	1.9	1.9	20.0
Overall Total	3.7	8.3	18.7	57.2	56.1	21.8	21.4	21.6	27.2	27.1	263.1

Duke Energy Florida, LLC
SPP Program Expenditures
$ Millions

SPP Costs by Year	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	Total
Capital Total	602.7	693.4	775.2	748.8	747.7	749.7	748.5	750.6	749.4	751.6	7,317.5
O&M Expense Total	72.1	77.1	79.0	78.1	79.0	81.8	82.4	85.8	86.8	90.0	812.0
Overall Total	674.8	770.5	854.1	826.9	826.7	831.5	830.9	836.4	836.2	841.6	8,129.5

Tampa Electric Company SPP Program Expenditures $ Millions											
SPP Costs by Year	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	Total
Capital Total	169.9	168.7	173.1	172.9	169.0	167.5	169.6	166.0	172.5	169.4	1,698.7
O&M Expense Total	31.0	34.0	33.7	35.2	36.3	37.7	39.6	41.2	43.1	45.3	377.1
Overall Total	200.9	202.7	206.8	208.2	205.4	205.2	209.2	207.3	215.6	214.7	2,075.9

Florida Power & Light Company SPP Program Expenditures $ Millions											
SPP Costs by Year Total Company	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	Total
Capital Total	1,458.9	1,559.5	1,520.4	1,200.8	1,319.0	1,350.0	1,388.4	1,423.4	1,347.6	1,340.1	13,908.0
O&M Expense Total	86.0	86.7	88.0	88.2	94.1	100.3	99.8	100.5	100.9	101.5	946.2
Overall Total	1,544.9	1,646.3	1,608.4	1,289.0	1,413.1	1,450.3	1,488.2	1,523.9	1,448.5	1,441.6	14,854.2

Q. WHAT EFFECTS WILL THE REQUESTS HAVE ON CUSTOMER RATES?

A. The incremental effects on present customer rates will be significant as measured over multiple ratemaking metrics, including SPP revenue requirements, net plant in service, annual electric revenues, and cost per customer. The following table provides a summary of the revenue requirements by utility and in the aggregate by year and in total for the ten-year period.

Florida Public Utilities Company SPP Program Revenue Requirements $ Millions											
SPP Revenue Requirements By Year	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	Total
Capital Total	0.3	0.6	2.0	6.0	12.5	17.0	19.0	21.0	23.2	25.7	127.3
O&M Expense Total	1.4	1.6	1.9	3.0	2.9	1.8	1.8	1.8	1.9	1.9	20.0
Overall Total	1.7	2.2	3.9	9.0	15.4	18.9	20.8	22.8	25.1	27.6	147.3

Duke Energy Florida, LLC
SPP Program Revenue Requirements
$ Millions

SPP Revenue Requirements By Year	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	Total
Capital Total	77.3	144.2	217.9	303.3	378.5	451.1	522.2	590.7	657.8	722.1	4,065.2
O&M Expense Total	72.1	77.1	79.0	78.1	79.0	81.8	82.4	85.8	86.8	90.0	812.0
Overall Total	149.4	221.3	296.8	381.4	457.5	533.0	604.7	676.5	744.6	812.1	4,877.2

Tampa Electric Company
SPP Program Revenue Requirements
$ Millions

SPP Revenue Requirements By Year	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	Total
Capital Total	17.2	35.8	53.8	72.3	91.4	109.8	127.9	145.5	163.0	180.0	996.6
O&M Expense Total	30.7	33.6	33.4	34.9	36.0	37.4	39.3	40.9	42.8	44.9	374.0
Overall Total	47.9	69.4	87.2	107.2	127.4	147.3	167.2	186.4	205.7	224.9	1,370.7

Florida Power & Light Company
SPP Program Revenue Requirements
$ Millions

SPP Revenue Requirements By Year Jurisdictional	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	Total
Capital Total	332.9	509.3	685.9	836.6	971.5	1,112.3	1,254.0	1,396.5	1,533.2	1,661.6	10,293.8
O&M Expense Total	85.2	85.9	87.2	87.5	93.3	99.4	98.9	99.6	100.0	100.6	937.6
Overall Total	418.0	595.2	773.2	924.1	1,064.8	1,211.7	1,352.9	1,496.1	1,633.2	1,762.2	11,231.3

In addition to the revenue requirement effects of the proposed SPPs shown on the preceding tables, the following tables compare other ratemaking metrics, including capital expenditures compared to present net plant in service, increases in the revenue requirement compared to present revenues, and the cost per customer. These metrics provide additional context as to the magnitude and the impacts on customer rates.

Total 10-Year Projected Spend and Revenue Requirements
Compared to Total Net Plant in Service and Revenues
Actual Results For the 12 Months Ended December 31, 2021
$ Millions

	Net Plant In Service	10-Year Proposed Capital Spend	Percentage Increase in Net Plant	2021 Electric Revenues	Projected SPP Revenue Requirement In Year 10	Percentage Increase in Revenues
FPL	44,891.0	13,908.0	31.0%	12,244.3	1,762.2	14.4%
Duke	16,946.5	7,317.5	43.2%	5,111.8	812.1	15.9%
TEC	7,215.5	1,698.7	23.5%	2,180.0	224.9	10.3%
FPUC	94.0	243.1	258.6%	83.7	27.6	33.0%
Total	69,147.0	23,167.4	33.5%	19,619.8	2,826.8	14.4%

Total 10-Year Projected SPP Investment Per Customer
Includes Capital and O&M Investment

	Customers	Projected 10-Year Total Investment $ Millions	10-Year Investment Per Customer $
FPL	5,700,000	14,854.2	2,606
Duke	1,879,073	8,129.5	4,326
TEC	824,322	2,075.9	2,518
FPUC	32,993	263.1	7,976
Total	8,436,388	25,322.7	3,002

Q. HOW DO THESE COSTS COMPARE TO THE BENEFITS FROM POTENTIAL SAVINGS IN STORM DAMAGE AND RESTORATION COSTS?

A. The estimated costs are much greater than the benefits from potential savings for each utility and for nearly all of the programs and projects, although FPUC and FPL did not,

and refused to, provide quantifications of the benefits from potential savings in storm damage and restoration costs.

The following table provides a summary of the costs and dollar benefits by utility and in the aggregate by year and in total for the ten-year period and a fifty-year period. I show $0 ("n/a") in benefits for FPUC and FPL, consistent with their failure to quantify any benefits from potential savings in storm damage and restoration costs.

Total 10-Year Projected SPP Costs and Benefits Summary
Includes Capital and O&M Investment

	Projected 10-Year Total Investment $ Millions	Projected Annual Avoided Restoration Costs $ Millions	Escalated Avoided Restoration Costs Over 10 Years $ Millions	Benefits to Costs Ratio 10 Years %	Escalated Avoided Restoration Costs Over 50 Years $ Millions	Benefits to Costs Ratio 50 Years %
FPL	14,854.2	n/a	n/a	n/a	n/a	n/a
Duke	8,129.5	56.5	647.7	8%	6,373.0	78%
TEC	2,075.9	13.0	149.5	7%	1,470.6	71%
FPUC	263.1	n/a	n/a	n/a	n/a	n/a
Total	25,322.7	69.5	797.2		7,843.6	

Note: Benefits Calculations Not Provided by FPL and FPUC.

Q. WHY ARE THESE SUMMARIES AND COMPARISONS SIGNIFICANT IN THESE PROCEEDINGS?

A. They provide context for the Commission in its review of the proposed SPPs, including the sheer magnitude of the incremental capital expenditures and O&M expense and the rate impacts of these costs, as well as for the establishment and application of threshold decision criteria for the selection, ranking, and magnitude of the SPP programs and projects that are

authorized. They also demonstrate that the costs of the proposed SPP programs and projects far outweigh the benefits from savings in storm damage and restoration costs.

The Commission also should keep in mind that the impact of the SPP programs is yet another addition to the customer bill in an environment of high inflation, skyrocketing natural gas prices and other base rate increases.

D. Summary of Conclusions and Recommendations

Q. PLEASE SUMMARIZE YOUR CONCLUSIONS AND RECOMMENDATIONS.

A. Each utility's proposed SPP capital expenditures, O&M expenses, increases in rate base, and resulting increases in customer rates are significant. The SPP capital expenditures and O&M expenses are incremental costs with incremental customer rate impacts. The framework, scope, selection, ranking, magnitude, prudence, and authorization to proceed of the SPP programs and projects will be determined in these proceedings, not in the subsequent SPPCRC proceeding. Therefore, the decision criteria, ratemaking principles, and rate recovery of the SPP project costs are important factors in the decision making process in this and the other SPP proceedings now pending.

To qualify for inclusion in the SPP proceedings and cost recovery in the SPPCRC proceedings, the projects and the costs of the projects must be incremental, not simply displacements of base rate costs that would have been incurred during the normal course of business, as well as prudent, used and useful, and just and reasonable both as to amount and customer impact. These factors must be considered in the decision process in the SPP proceedings, not limited to the review that will take place in the SPPCRC proceedings after the projects are selected and costs already have been incurred.

The Commission should apply rational and specific decision criteria to the selection, ranking, and magnitude of the proposed programs and projects and apply those decision criteria consistently to all four utilities in these proceedings. The decision criteria should include justification in the form of a benefit/cost analysis in addition to the qualitative assessments of whether the programs and projects will reduce restoration costs and outage times. The economic justification is an important consideration in whether the programs and projects are prudent and reasonable, a determination that can only be made in the SPP proceedings, in contrast to whether the costs actually incurred during implementation of the programs and projects were prudently incurred and reasonable, which is determined in the SPPCRC proceeding.

In addition, the total multi-year customer rate impact can be considered only in the SPP proceeding. The SPPCRC proceedings address the actual recovery and annual customer rate impact only after the decision process in these SPP proceedings is complete, projects are approved, and the SPP programs and projects are implemented.

Further, it is critical that the customer rate impact reflect only the incremental cost of the SPP projects and that all avoided cost savings be reflected as offsets to those costs either through reductions to the SPPCRC or through reductions to base rates. However, in their SPP filings, the utilities did not, with limited exceptions, explicitly exclude the costs presently recovered in base rates or expressly account for any avoided cost savings. The utilities will retain the avoided cost savings for costs presently recovered in base rates unless these costs are addressed in this proceeding and the SPPCRC proceedings or otherwise included in a negotiated resolution.

I recommend that the Commission adopt and consistently apply decision criteria for the selection, ranking, magnitude, and prudence of the SPP programs and projects for the four utilities to ensure that the utilities do not use the SPP and SPPCRC process to displace costs that are subject to and recoverable through the base rate process and shift those costs to recover them through the SPP and SPPCRC process.

I concur with Witness Mara's recommendation to exclude the costs of programs and projects that displace base rate costs that would have been incurred during the normal course of business and that are not incurred on an incremental basis specifically to achieve the objectives of the SPP Rule.

I recommend that the Commission reject all proposed SPP projects that are not economic, meaning that they do not have a benefit-to-cost ratio of at least 100%. Projects with a benefit-to-cost ratio of less than 100% are not economic, cannot be considered prudent at the point of decision in this proceeding, and cannot be considered prudent or just and reasonable for future recovery through the SPPCRC.

I recommend that the Commission adopt and consistently apply uniform methodologies among the utilities to determine the revenue requirements and rate impacts of the programs and projects in these proceedings and that it carry through those uniform methodologies to the rate calculations in the SPPCRC proceeding. More specifically, I recommend that the Commission: 1) exclude construction work in progress ("CWIP") from both the return on rate base and depreciation expense, and instead allow a deferred return on the CWIP until it is converted to plant in service or prudently abandoned, 2) allow property tax only on the net plant at the beginning of each year, 3) require a credit for the avoided depreciation expense on plant that is retired due to SPP plant investments, 4)

require a realignment of the costs of pole inspections and vegetation management from base rates to the SPPCRC, and 5) require a credit for the avoided O&M expenses due to the SPP plant investments and SPP O&M expenses.

II. DECISION CRITERIA FOR THE RATIONAL SELECTION, RANKING, AND MAGNITUDE OF SPP PROGRAMS AND PROJECTS

Q. DESCRIBE THE FRAMEWORK FOR THE SELECTION AND RANKING OF SPP PROGRAMS AND PROJECTS.

A. Section 366.96, Fla. Stat., and Rule 25-6.030, F.A.C., establish the required framework for the utility's SPP, including the utility's identification of projects that are designed to reduce outage restoration costs and outage times, information necessary to develop and apply decision criteria for the selection, ranking, and magnitude of the SPP programs and costs, estimates of the customer rate impacts, and parameters for recovery of the actual costs incurred for the SPP projects offset by costs recovered through base rates and other clause recoveries as well as savings in those costs.

The SPP framework provides important customer safeguards that should be enforced to require the utility to: 1) identify new programs and projects or the expansion of existing programs and projects that are not within the scope of its existing base rate programs and cost recoveries in the normal course of business; 2) limit requests to programs and projects that are prudent and reasonable; 3) justify the selections, rankings, and magnitude of SPP programs, projects, and costs; 4) ensure there is a comparison of benefits to costs; 5) effectively consider the rate impact on customers, and 6) ensure that the utility only recovers incremental costs, net of decremental (avoided) costs or reductions in costs (savings), through the SPPCRC.

More specifically, Section 366.96(8), Fla. Stat. limits SPP programs and projects to costs not recovered through the utility's base rates. Section 366.96(8), Fla. Stat., states in part: "The annual transmission and distribution storm protection plan costs may not include costs recovered through the public utility's base rates."

Section 366.96(2)(c), Fla. Stat., limits SPP programs and projects to costs that are prudent and reasonable. The Statute further defines "[t]ransmission and distribution storm protection plan costs" as "the reasonable and prudent costs to implement an approved transmission and distribution storm protection plan." § 366.96(2)(c), Fla. Stat. Similarly, the SPPCRC Rule requires that costs included in the SPPCRC be "prudent" and "reasonable." Rule 25-6.031(3), F.A.C. Although the requirements found in the statute are repeated in the SPPCRC Rule, the determination of whether the costs included in the SPPCRC are prudent and reasonable necessarily requires that the SPP programs and projects approved in the SPP docket must be prudent to undertake and implement and that the estimated costs of the programs and projects are reasonable as a threshold matter. The sequential nature of these determinations effectively limits any subsequent assessment of prudence and reasonableness in the SPPCRC proceeding to an after-the-fact assessment of the utility's implementation of each project and the actual costs incurred.

In addition, the SPP Rule requires that the utility quantify the "benefits" and costs, compare the benefits to the costs, and provide an estimate of the revenue requirement effects for each year of the SPP. Rule 25-6.030(3)(d)4, and (3)(g), F.A.C. Section 366.96(4), Fla. Stat. requires the Commission to consider this evidence in its evaluation of the SPPs. This information allows the Commission and intervening parties to determine if the proposed projects are economic, or cost-justified, to establish thresholds, or cutoff

limitations, based on whether the projects are wholly or partially self-funding through cost savings, or "benefits," and to consider these factors in establishing limitations based on the customer rate impact, not only in the first year, but over the life of the SPP itself, and then beyond the SPP, extending over the lives of the SPP project costs that were capitalized.

Further, Section 366.96, Fla. Stat., and the SPPCRC Rule limit the costs eligible for recovery through the SPPCRC to incremental costs net of avoided costs (savings). The statute and this Rule specifically require the exclusion of costs that are recovered through base rates and other clause forms of ratemaking recovery.[2]

Q. ARE THE SPP RULE AND THE SPPCRC RULE SEQUENTIAL AND INTERRELATED?

A. Yes. Certain ratemaking determinations required pursuant to the SPPCRC Rule necessarily start with an assessment of the SPP programs and projects that can only be performed in the SPP proceeding, and then are confirmed and refined in the SPPCRC proceeding for cost recovery purposes.

In the SPP proceeding, the Commission must determine the prudence of the programs upfront based on whether they are economically justified, whether the projected costs are just and reasonable, and whether the customer rate impact is reasonable. This requires the application of objective thresholds and related screening criteria to select, rank, and determine the magnitude of SPP projects. The Commission also must determine whether the Company has quantified the revenue requirement and customer rate impacts

[2] § 366.96(8), Fla. Stat.; Rule 25.6.031(6)(a), F.A.C.

in an accurate and comprehensive manner, although the final SPPCRC rate quantifications will be performed in the SPPCRC proceeding.

Q. ARE EACH OF THE UTILITIES' PROPOSED SPP PROGRAMS AND PROJECTS OUTSIDE THE SCOPE OF THE EXISTING BASE RATE PROGRAMS AND COST RECOVERIES IN THE NORMAL COURSE OF BUSINESS?

A. No. FPL and each of the other utilities have included programs and projects that are within the scope of their existing base rate programs and base rate recoveries in the normal course of business. These programs and projects are listed and addressed in greater detail by Witness Mara. These programs and projects should be excluded from the SPPs and the costs should be excluded from recovery through the SPPCRCs.

The SPPs and SPPCRCs are for new and expanded programs and projects that will reduce restoration costs and outage times and for the recovery of the incremental costs of the SPP programs and projects, not to displace base rate programs and base rate recoveries. Nor are the SPPs and SPPCRCs an alternative and expedited form of rate recovery for any and all costs that arguably improve resiliency or reliability. Absent a demonstrable simultaneous, equivalent corresponding reduction of base rates, neither the SPP Statute nor the SPP or SPPCRC Rules authorize the Commission or the utilities to displace and exclude programs and costs from base rates and then include the programs and costs in the SPPs and SPPCRCs.

Q. ARE EACH OF FPL's PROPOSED PROGRAMS AND PROJECTS PRUDENT AND REASONABLE?

A. No. FPL's programs and costs are not prudent and reasonable unless they meet all of the requirements of the SPP and the SPPCRC Rules that I previously described. Certain of the utility's programs and projects fail these requirements because they are not new or expansions of existing programs outside of base rates in the normal course of business; certain programs and projects fail because they are not economic.

Q. DID THE UTILITIES CONSISTENTLY APPLY A BENEFIT/COST ANALYSIS TO DETERMINE THE SELECTION, RANKING, AND MAGNITUDE OF THE SPP PROGRAMS?

A. No. The utilities used a variety of decision criteria, qualitative and quantitative, but none of them relied on a benefit/cost analysis as a threshold decision criterion to qualify a program or project for inclusion in its SPP. Nor were the decision criteria consistent among the utilities or even among each utility's SPP programs and projects.[3]

Neither FPUC nor FPL developed or relied on any benefit/cost analysis. Although neither DEF nor Tampa developed or relied on benefit/cost analyses as a threshold decision criterion to qualify their programs, they both used a form of benefit/cost analysis for the ranking and the magnitude of their programs.

[3] I have attached a brief summary of each utility's decision criteria as my Exhibit LK-2.

Q. WHY IS AN ECONOMIC JUSTIFICATION NECESSARY AS A THRESHOLD DECISION CRITERION TO QUALIFY PROGRAMS OR PROJECTS FOR INCLUSION IN THE SPP?

A. Fundamentally, SPP programs and projects should be authorized only if the benefits exceed the costs; in other words, the benefit-to-cost ratio should be at least 100%. Neither the statute nor the SPP Rule require the Commission to approve SPP programs and projects that are uneconomic even if they meet the statutory and SPP Rule objectives to reduce restoration costs and outage times.

The programs and projects submitted within the SPP are discretionary and must be incremental, meaning their scope and the costs should be above and beyond the present scope and costs for actual and planned capital expenditures and O&M expenses recovered in base rates in the normal course of business. By its terms, the SPP Rule requires the utility to address and undertake projects "to enhance the utility's existing infrastructure for the purpose of reducing restoration costs and outage times associated with extreme weather conditions therefore improving overall service reliability." Rule 25-6.030(2)(a), F.A.C.

The SPP programs and projects must be incremental, including the expansions of the pole inspection and vegetation management programs and projects that were previously in effect. If the projects actually had been necessary as base rate programs in the normal course of business, but the utility failed to undertake them, then the utility would have been, and would continue to be, imprudent for its failure to construct "transmission and distribution facilities" that would withstand "extreme weather events" and its failure to undertake maintenance activities that would reduce outage durations and outage expenses. No utility and no other party has made that argument.

The economic justification standard allows the utility to propose, and the Commission to set, an appropriate and reasonable benefit-to-cost threshold, whether it is the minimum 100% that I recommend or something greater or lesser.

In addition, the economic justification allows the utility and the Commission to rank proposed programs and projects to achieve the greatest value at the lowest customer rate impact.

Further, the economic justification allows the utility and the Commission to determine the maximum amount (magnitude) of expenditures for each SPP program and project that will result in net benefits to the utility's customers.

Q. HOW SHOULD THE COMMISSION DETERMINE WHETHER THE PROPOSED SPP PROGRAMS AND PROJECTS ARE ECONOMICALLY JUSTIFIED?

A. Typically, economic justification is based on a comparison of the incremental revenues or benefits (savings) that are achieved or achievable to the incremental costs of a project, with the benefits measured as the avoided costs that will not be incurred due to the SPP programs and projects and the incremental costs as the sum of the annual revenue requirements for the SPP programs and projects. The savings in costs includes not only the avoided outage restoration costs that will not be incurred due to extreme weather events, but also the reductions in maintenance expense from the new SPP assets that require less maintenance than the base rate assets that were replaced and the future savings due to near-term accelerated and enhanced vegetation management activities and expense.

Q. DOES THE SPP RULE REQUIRE THAT THE UTILITIES PROVIDE A COMPARISON OF THE "COSTS" AND "BENEFITS" TO DETERMINE IF THE PROGRAMS AND PROJECTS ARE ECONOMICALLY JUSTIFIED?

A. Yes. The SPP Rule requires the utility to provide "[a] comparison of the costs identified in subparagraph (3)(d)3. and the benefits identified in subparagraph (3)(d)1." Rule 25-6.030(3)(d)4, F.A.C. The context and juxtaposition of the terms "costs" and "benefits" strongly imply a comparison of dollar costs and dollar benefits, not a comparison of dollar costs and qualitative benefits. The latter comparison provides no useful decision making information because it does not provide a useful threshold decision criterion to qualify programs and projects, does not provide a framework for ranking programs and projects, and does not allow a rational quantitative basis for the magnitude of programs and projects.

Q. DID EACH OF THE UTILITIES PROVIDE THE REQUIRED COMPARISON OF THE "COSTS" AND "BENEFITS" IN THEIR SPP FILINGS OR IN RESPONSE TO DISCOVERY?

A. No. FPUC and FPL provided no dollar quantifications of benefits in their SPP filings and refused to provide any dollar quantifications in response to OPC discovery. FPUC claimed that it had not quantified avoided cost savings benefits and stated that it did not rely on an economic benefit cost criterion for the selection, ranking, or magnitude of its proposed programs and projects. Both FPUC and FPL argued that the SPP Rule's text requiring the comparison of costs and benefits did not require the utilities to provide a dollar quantification of the benefits, but instead required only that there had to be benefits, which

they qualitatively described to meet the "objectives" and or "requirements" of the SPP Rule.[4]

In contrast to FPUC and FPL, DEF and Tampa quantified expected dollar benefits in their SPP filings based on their modeling results and provided additional detail on their modeling and quantifications of the dollar benefits in response to OPC discovery. DEF developed its benefit quantifications using a storm damage model developed by Guidehouse. Tampa developed its benefit quantifications using a Storm Resilience Model, which includes a Storm Impact Model, developed by 1898 & Co.

Q. DOES FPL HAVE A STORM DAMAGE MODEL SIMILAR TO THE MODELS THAT WERE USED BY DEF AND TAMPA TO CALCULATE DOLLAR BENEFITS?

A. Yes. All four utilities have storm damage models that can be used to quantify the dollar benefits of the SPP programs and projects. However, while DEF and Tampa used their models for their SPPs; FPL and FPUC did not. FPL has developed a storm damage model that it uses to estimate potential damage and restoration costs from hurricanes and tropical storms. This model could be used to quantify the costs that could be avoided (dollar benefits) due to its SPP programs and projects.

Regardless of whether FPL has a model that could have been used to calculate dollar benefits, the fact is that FPL chose not to provide dollar benefits in its SPP filing and refused to do so in response to OPC discovery.

---

[4] FPL's response to Interrogatory No. 14(a) in OPC's Third Set of Interrogatories in Docket No. 20220051-EI. I have attached a copy of this response as my Exhibit LK-3.

Q. ARE ANY OF THE UTILITIES' SPP PROGRAMS ECONOMICALLY JUSTIFIED?

A. No. This is extremely problematic. None of the SPP programs has benefits that exceed the costs. None of the utilities used a benefit/cost test to qualify its programs or projects, although DEF and Tampa used a flawed form of a benefit/cost test to rank their programs and projects and to determine the maximum expenditure levels for its programs.

Q. IF THE SPP PROGRAMS ARE NOT ECONOMICALLY JUSTIFIED, CAN THE PROGRAMS AND PROJECTS OR THE RELATED COSTS BE PRUDENT OR REASONABLE?

A. No. The statute and the SPP Rule require that the programs and the incremental cost of the programs be prudent and reasonable. If the programs and projects are not economically justified, then the costs should not be incurred; if they are not economically justified, then the programs and projects cannot be prudent and the costs would be imprudent and unreasonable.

The Commission, not the utility, is the arbiter of whether these programs and projects are prudent and reasonable. It is not enough for the utility simply to assert that the programs and projects will reduce restoration costs and outage times (without quantifying the dollar benefits from the reduction of restoration costs and outage times). This bar is a starting point as an initial screening criterion, but it is insufficient in and of itself for a determination of prudence and reasonableness.

Prudence requires that additional decision criteria be applied to determine the selection, ranking, and magnitude of the programs and projects and the costs. Specifically,

an economic benefit/cost criterion is required to determine what programs, if any, are cost effective to undertake. In simple terms, it defies rational thought to undertake discretionary programs and projects and to incur the incremental costs for those programs and projects if the economic benefits are not at least equal to the costs. This is especially relevant given the current economic hardships for ratepayers.

Q. WHAT ARE YOUR RECOMMENDATIONS?

A. I recommend that the Commission adopt and consistently apply specific decision criteria for the selection, ranking, and magnitude of the utilities' SPP programs and projects for the four utilities to ensure that the utilities are not able to use the SPP and SPPCRC process to displace base rate costs that are subject to and recoverable through the base rate process and shift those costs to recover them through the SPP and SPPCRC process.

I concur with Witness Mara's recommendation to exclude the costs of programs and projects that displace base rate costs that would have been incurred during the normal course of business and that are not incurred on an incremental basis specifically to achieve the objectives of the SPP Rule.

I recommend that the Commission reject all proposed SPP projects that are not economic, meaning that they do not have a benefit-to-cost ratio of at least 100%. Projects with a benefit-to-cost ratio of less than 100% are not economic, cannot be considered prudent at the point of decision in this proceeding, and cannot be considered prudent or just and reasonable for future recovery through the SPPCRC.

Alternatively, I recommend that the Commission minimize the customer rate impact (harm) of uneconomic SPP programs and projects by setting a minimum threshold

benefit/cost ratio for the selection and magnitude of the SPP programs and projects, such as 70%, or limiting the rate impact over the life of the SPP to a defined threshold, such as 10% over the ten-year term of each utility's proposed SPP programs. Such thresholds would result in ranking projects with greater benefits to customers and winnowing projects with lesser benefits to customers, as well as limiting the magnitude of the customer rate impact of the SPP programs and projects.

III. METHODOLOGIES TO CALCULATE THE REVENUE REQUIREMENTS AND CUSTOMER RATE IMPACTS

Q. DID THE UTILITIES CONSISTENTLY CALCULATE THE REVENUE REQUIREMENT EFFECTS OF THEIR SPP PROGRAMS?

A. No. Although each of the utilities calculated the revenue requirements as the sum of the return on rate base plus O&M expense, depreciation expense, and property tax expense, there were differences among the utilities in their calculations of rate base, depreciation expense, and property tax expense. Most significantly, there were differences in their assumptions regarding the conversions of CWIP to plant in service and the resulting calculations of depreciation expense and differences in the calculations of property tax expense.

Only Tampa reflected any reductions in depreciation expense on retired plant recovered in base rates that will be replaced by SPP plant assets and recovered through the SPPCRCs. None of utilities reflected reductions in O&M expenses recovered in base rates due to savings from the SPP programs and projects. Both reductions are necessary to

ensure that the utilities do not recover costs that they no longer incur as a result of the SPP programs.

If these additional savings are not considered in these SPP proceedings and accounted for in the SPPCRC proceeding or otherwise reflected in a negotiated resolution, then the utilities will retain the savings due to the reductions in expenses that presently are recovered in base rates.

Q. DID FPL'S CALCULATIONS OF THE ESTIMATED REVENUE REQUIREMENTS ALSO INCLUDE UNIQUE ERRORS THAT SHOULD BE CORRECTED IN THESE PROCEEDINGS?

A. Yes. FPL had one unique error in its calculations of the SPP revenue requirements and customer rate impact. FPL improperly calculated property tax expense on the net plant balance at the end of each year rather than at the end of the prior year.[5] This error should be considered and corrected in this SPP proceeding and in the SPPCRC proceeding.

Q. DID THE UTILITIES ALL INCLUDE CWIP IN RATE BASE?

A. Yes, although there were differences in the assumptions regarding the conversions of CWIP to plant in service among the utilities. More specifically, FPUC assumed that all capital expenditures were closed to plant in service as expended in the current year. DEF assumed that CWIP was converted to plant in service throughout the current year. Tampa assumed that CWIP was converted to plant in service throughout the current year. FPL

[5] Refer to the SPP revenue requirement calculations provided in FPL's response to POD No. 1 in OPC's First Request for Production in Docket No. 20220051-EI as an Excel attachment named "SPP – Annual Rev Req Calculation."

assumed that capital expenditures were closed to plant in service 50% in the current year and 50% in the following year.

Q. IS A RETURN ON CWIP IN RATE BASE EXPLICITLY AUTHORIZED IN THE STATUTE, SPP RULE, OR THE SPPCRC RULE?

A. No. Section 366.96(9), Fla. Stat. states "[i]f a capital expenditure is recoverable as a transmission and distribution storm protection plan cost, the public utility may recover the annual depreciation on the cost, calculated at the public utility's current approved depreciation rates, and a return on the undepreciated balance of the costs calculated at the public utility's weighted average cost of capital using the last approved return on equity." Similarly, the SPPCRC Rule states "[t]he utility may recover the annual depreciation expense on capitalized Storm Protection Plan expenditures using the utility's most recent Commission-approved depreciation rates. The utility may recover a return on the undepreciated balance of the costs calculated at the utility's weighted average cost of capital using the return on equity most recently approved by the Commission." Rule 25-6.031(6)(c), F.A.C.

The term "undepreciated balance" is not defined in the statute or the SPPCRC Rule, but typically has meaning in an accounting and ratemaking context as "net plant," defined as gross plant in service less accumulated depreciation. The term "undepreciated" typically is not applied to CWIP because CWIP is not depreciated; only plant in service is depreciated.

Q. IS IT POSSIBLE TO LEGITIMATELY ASSESS WHETHER CWIP COSTS ARE PRUDENT PRIOR TO THE COMPLETION OF CONSTRUCTION AND THE CONVERSION OF THE CWIP TO PLANT IN SERVICE?

. No. The Commission cannot legitimately assess whether CWIP costs incurred are prudent until all costs have been incurred and converted to plant in service (or an abandonment has occurred), whether the scope of the work actually completed was consistent with the scope included in the approved SPP programs and projects, and whether the costs actually incurred were consistent with the utility's estimated costs included in the approved SPP programs and projects.

Q. ARE THERE ALTERNATIVES TO A RETURN ON CWIP IN RATE BASE INCLUDED IN THE REVENUE REQUIREMENT AND CUSTOMER IMPACTS CONSISTENT WITH THE SUBSEQUENT CONSIDERATION OF PRUDENCE AFTER THE CWIP HAS BEEN CONVERTED TO PLANT IN SERVICE?

A. Yes. As alternatives, a return on CWIP can be deferred either as allowance for funds used during construction ("AFUDC") or as a miscellaneous deferred debit. Once construction is completed and the CWIP is converted to plant in service, then the deferred return will be added to the direct construction expenditures as plant in service in rate base and included in the depreciation expense in the SPPCRC revenue requirement.

Q. WHY IS THE RETURN ON CWIP A CONCERN THAT NEEDS TO BE ADDRESSED IN THESE PROCEEDINGS?

A. It is a concern because construction expenditures are not converted from CWIP to plant in service as they are incurred, but rather only after construction is completed. There will be no actual depreciation expense until the construction expenditures are converted from CWIP to plant in service.

The return on CWIP is also a concern because all of the utilities incur engineering costs prior to incurring actual construction expenditures on specific projects. Those costs cannot be deemed prudent or reasonable unless and until the costs are charged to specific projects, construction is completed (or prudently abandoned), and the CWIP is converted to plant in service.

Q. IS THERE A SIMILAR CONCERN WITH ANOTHER COST INCLUDED IN RATE BASE BY TAMPA THAT SHOULD BE ADDRESSED FOR ALL FOUR UTILITIES?

A. Yes. Tampa has established a separate warehouse and inventory of materials and supplies for its SPP programs and included these costs in rate base and the return on these inventories in its SPP revenue requirement and customer rate impact, which raises a concern similar to the return on CWIP. Such inventory costs should not be included in rate base or the return on these inventories in the SPP revenue requirement and customer rate impact in any utility's SPP or SPPCRC. This type of item should not be included in any company's SPP. As an alternative, a return on such inventories can be deferred either as

AFUDC or as a miscellaneous deferred debit, similar to the alternatives for the return on CWIP.

Q. DOES THIS COMPLETE YOUR PREFILED DIRECT TESTIMONY?

A. Yes.