

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 20200241-EI

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

DOCKET NO. 20210178-EI

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

DOCKET NO. 20210179-EI

ORDER NO. PSC-2022-0242-PHO-EI  
ISSUED: June 27, 2022

PREHEARING ORDER

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on June 21, 2022, in Tallahassee, Florida, before Commissioner Art Graham, as Prehearing Officer.

APPEARANCES:

RUSSELL BADDERS and KATE P. CONER, ESQUIRES, Florida Power & Light Company, 700 Universe Boulevard, Juno Beach, Florida 33408  
On behalf of Florida Power & Light Company (FPL) and Gulf Power Company (Gulf).

KENNETH HOFFMAN, VICE PRESIDENT REGULATORY AFFAIRS, Florida Power & Light Company, 134 W. Jefferson Street, Tallahassee, Florida 32301  
On behalf of Florida Power & Light Company (FPL).

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

SHAW STILLER and JENNIFER CRAWFORD, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850  
On behalf of the Florida Public Service Commission (Staff).

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Florida Public Service Commission General Counsel

## **I. CASE BACKGROUND**

On November 12, 2021, Gulf Power Company (Gulf) filed a Petition for Approval of Final/Actual Storm Restoration Costs and Associated True-Up Process Related to Hurricane Sally in Docket No. 20200241-EI. In this Petition, Gulf requests final reconciliation of actual recoverable costs with the amount it has collected pursuant to the Commission's previous approval of interim recovery in Order No. PSC-2021-0112-PC-EI, issued March 22, 2021.

Also on November 12, 2021, Gulf filed a Petition for Limited Proceeding for Recovery of Incremental Storm Restoration Costs and Associated True-Up Process Related to Hurricane Zeta. This Petition was assigned Docket No. 20210179-EI. Gulf requests in this Petition that the Commission approve the proposed recoverable interim storm restoration costs related to Hurricane Zeta, the storm restoration recovery surcharge, the recovery period, and the process to be used for true-up.

Separate from these two Gulf filings and also on November 12, 2021, Florida Power & Light Company (FPL) filed a Petition for Evaluation of Hurricane Isaias and Tropical Storm Eta Storm Costs.<sup>1</sup> This Petition was assigned Docket No. 20210178-EI. Because it recorded the storm costs related to Isaias and Eta as base O&M expense, FPL is not seeking recovery through an interim storm charge. FPL's only request in this Petition is that the Commission evaluate the storm costs and determine whether the activities undertaken were prudent and the associated costs reasonable.

The Office of Public Counsel (OPC) has intervened in all three dockets. There are no other parties in any of these dockets. By Order No. PSC-2022-0042-PCO-EI, issued January 26, 2022, these three dockets were consolidated and set for final hearing July 7-8, 2022.

## **II. CONDUCT OF PROCEEDINGS**

Pursuant to Rule 28-106.211, F.A.C., this Prehearing Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

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<sup>1</sup> FPL's rates were consolidated with those of Gulf (which was acquired by FPL's parent company) by Order No. PSC-2021-0446-S-EI, issued December 2, 2021, in Docket No. 20210015-EI, *In re: Petition for rate increase by Florida Power & Light Company*.

### **III. JURISDICTION**

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapters 120 and 366, Florida Statutes (F.S.). This hearing will be governed by said Chapters and Chapters 25-6, 25-22, and 28-106, F.A.C., as well as any other applicable provisions of law.

### **IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION**

Information for which proprietary confidential business information status is requested pursuant to Section 366.093, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Section 119.07(1), F.S., pending a formal ruling on such request by the Commission or pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Section 366.093, F.S. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, F.S., to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, F.S., at the hearing shall adhere to the following:

- (1) When confidential information is used in the hearing that has not been filed as prefiled testimony or prefiled exhibits, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents and with the confidential information highlighted. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- (2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Office of Commission Clerk's confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed

with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C., if continued confidentiality of the information is to be maintained.

## **V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES**

Testimony of all witnesses to be sponsored by the parties and Staff has been prefiled and will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to timely and appropriate objections. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to three minutes.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer. After all parties and Staff have had the opportunity to cross-examine the witness, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

The parties shall avoid duplicative or repetitious cross-examination. Further, friendly cross-examination will not be allowed. Cross-examination shall be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Any party conducting what appears to be a friendly cross-examination of a witness should be prepared to indicate why that witness's direct testimony is adverse to its interests.

## **VI. ORDER OF WITNESSES**

Each witness whose name is preceded by a plus sign (+) will present direct and rebuttal testimony together.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Manuel B. Miranda	FPL	2 – 5 and 7 – 9
Paul Talley (formerly Michael Spoor)	Gulf	2 – 5, and 7 – 9

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
Carmine Priore, III	Gulf	2 – 4 and 7 – 10
Clare Gerard	Gulf & FPL	4 and 5
David Hughes	Gulf & FPL	1 – 12
Tiffany C. Cohen	Gulf	12 and 13
Lane Kollen	OPC	1-7, 9 & 11-12 and OPC issue
Randy Futral	OPC	1-12 and OPC issue

Rebuttal

David Hughes	Gulf & FPL	1 – 12
Manuel B. Miranda	FPL	2-5 & 7-9

**VII. BASIC POSITIONS**

**Gulf/**

**FPL:**

FPL and Gulf submitted its petitions, supporting testimony and a Notice of Filing to facilitate the Commission’s evaluation of the Hurricanes Sally, Zeta, Isaias and Tropical Storm Eta storm related costs, and to support a finding that the costs were reasonable and the Companies’ activities in restoring power following the storms were prudent.

**Hurricane Sally (Docket No. 20200241-EI)**

Hurricane Sally was the eighteenth named storm and seventh hurricane of an extremely active 2020 Atlantic hurricane season. Sally was monitored over the Bahamas on September 11 as a tropical depression, reaching the coast of southeastern Florida near Cutler Bay on September 12. As Sally crossed southern Florida and entered the Gulf of Mexico, it was not projected to impact Gulf’s service area, but was forecasted to make landfall near the Texas/Louisiana state line as a tropical depression or a minimal tropical storm. On September 14, Sally intensified, becoming a Category 2 hurricane.

Late on September 15, while Hurricane Sally was still forecast to make landfall well west of Gulf’s service area, the storm made a drastic shift to the east. During the early morning hours of September 16, Sally made landfall near the Alabama/Florida state line near Gulf Shores, Alabama as a strong Category 2

hurricane with maximum sustained winds of 110. The slow-moving hurricane then tracked northeast across the panhandle of Florida for most of the day on September 16, hampering early restoration activities. In some areas of the Florida Panhandle, in addition to the Category 2 hurricane winds and stronger gusts, heavy and sustained rainfall caused widespread flooding of creeks, rivers, bays, and low-lying areas resulting in numerous road closures. Incoming storm surge was measured at 5.6 feet, compounding coastal flooding. Additionally, the U.S. Highway 98 – Pensacola Bay Bridge, which is a major corridor between Escambia, Santa Rosa, and other counties in Gulf’s coastal service area, was heavily damaged during the storm, causing it to be closed during restoration activities and remain closed for several months.

Specifically, Hurricane Sally caused significant damage to Gulf’s service area and caused approximately 285,000 customer outages. Topped trees, vegetation outside of Gulf’s trim zone, and wind-blown debris were the leading causes of outages. Outages caused by Hurricane Sally impacted Gulf’s service area from September 15 through September 22, resulting in widespread distribution outages. Hurricane Sally also damaged Gulf’s Plant Crist (now known as the Gulf Clean Energy Center). Plant Crist prepared for Hurricane Sally by implementing its hurricane preparation procedure – an extensive list of items that are addressed whenever the facility becomes aware of a potential extreme weather event. However, due to the heavy rain and sustained wind from Hurricane Sally, Plant Crist experienced significant storm surge that flooded the sub-basements of the facility with up to 18 feet of water. The flooding of brackish river water into the facility damaged numerous pieces of equipment at the plant.

Gulf followed its well developed, systematic and well tested plan to respond to such a weather event, which includes obtaining resources in advance of the storm. However, the late shift in the actual storm track and the change in the storm’s intensity presented early challenges for the team as it responded to ensure a successful restoration. The Gulf team was well prepared and trained with a proven plan; because of this, we were able to quickly pivot, engage additional resources, and respond in a timely manner to complete a safe and rapid restoration for our customers who could receive service in just 5 days, despite the increased challenges of road and bridge closures due to flooding and damage that limited crew movement and access to damaged areas, while at the same time maintaining COVID-19 protocols.

Gulf incurred a total of \$227.3 million in Hurricane Sally storm related costs, less \$2.3 million of ICCA adjustments, \$16.1 million in insurance receivables, and \$21.2 million of capital costs, resulting in \$186.6 million of incremental jurisdictionalized storm related costs.

**Hurricane Isaias and Tropical Storm Eta (Docket No. 20210178-EI)**

Hurricane Isaias was the ninth named storm and the second hurricane of the active 2020 hurricane season. Florida remained within the NHC forecasted cone of uncertainty (“forecasted cone”) for Hurricane Isaias from July 28, 2020 to August 2, 2020. The NHC began issuing public advisories on July 28 for the system which strengthened to Tropical Storm Isaias on July 29. On the evening of July 30, as Isaias approached the Florida peninsula, the NHC forecasted that the environment was “conducive enough for Isaias to become a hurricane in 24 to 36 hours” and issued a tropical storm watch for the east coast of Florida. Shortly before midnight on July 30, the NHC determined that Isaias had strengthened to a hurricane. On July 31, the NHC issued a hurricane watch for the east coast of Florida. The NHC’s afternoon forecast on July 31 acknowledged that the European and British hurricane models projected Isaias “making landfall in the 36-48 hours along the southeast Florida coast.” On the evening of July 31, the NHC’s forecast advisory upgraded the hurricane watch into a hurricane warning and storm surge for southeast Florida with the forecast of “hurricane conditions” expected along portions of the Florida east coast by the next day. Early on August 1, the NHC forecasted that Isaias was “expected to remain a hurricane as it passed near the Florida coast” and “hurricane conditions are expected along portions of Florida east coast.” The NHC’s afternoon forecast on August 1 showed that Isaias had weakened to a tropical storm. However, the NHC forecasted that Isaias would regain hurricane status later in the night as Isaias moved over the warm Gulfstream waters. The NHC forecast on August 1 continued “showing landfall along the east-central Florida coast in about 24 hours” and hurricane warning and storm surge watch remained in effect for portions of Florida’s east coast. On August 2, the NHC found that Isaias had not re-strengthened overnight. However, Isaias approached southeastern Florida with the center coming within 40 miles of West Palm Beach and Fort Lauderdale but remained off the coast of Florida as it traveled northward.

Tropical Storm Eta was the 28th named storm of the active 2020 hurricane season and one of several storms that was named using the Greek alphabet after the NHC exhausted its list of alphabetized storm names. Florida remained within the NHC’s forecasted cone for Tropical Storm Eta from November 3 to November 12, 2020. Tropical Storm Eta formed on October 31 from a tropical wave in the east-central Caribbean Sea and gradually strengthened as it moved westward, peaking at 150 mph sustained winds prior to making landfall in Nicaragua on November 3. After bringing days of devastating wind and rain, Tropical Storm Eta moved back into the warm waters south of Cuba. The NHC’s forecast advisory on November 6 highlighted the likelihood of an impact to the Florida Keys and South Florida by identifying the favorable conditions with the storm in “warm water, in a moist environment.” The NHC also advised that “wind field of Eta is expected to increase in size” and ultimately issued the first Tropical Storm Watches for Florida that evening. On November 7, the NHC issued a Hurricane Watch for the coast of Southern Florida and the hurricane hunter aircraft “found that Eta has continued to strengthen.” The NHC further predicted that the impact

“will likely cover much of the southern and central Florida peninsula due to the expected growth of Eta.” On November 8, the NHC’s latest models forecasted a landfall in the Florida Keys, warning that it could become a hurricane and that the “strongest winds are occurring, and are expected to occur, well to the north and east of the center” potentially impacting the southern and central portions of the Florida peninsula. Eta made its first landfall on November 8 in Lower Matecumbe Key, Florida as a Tropical Storm. Eta weakened after making landfall; however, the NHC advised that the storm could approach the Florida Gulf Coast later in the week. On the morning of November 11, the NHC issued Hurricane Watches for the west coast of Florida with a forecast that Eta could become a hurricane again offshore of Southwestern Florida. Eta made a second landfall near Cedar Key, Florida on November 12 with the center of the storm moving across North Florida by late afternoon.

Amid a global COVID-19 pandemic, FPL prepared for and effectively and efficiently responded to Hurricane Isaias and Tropical Storm Eta. Although Hurricane Isaias did not make a landfall in Florida, it posed a direct threat to FPL’s service area as it remained within NHC’s forecasted cone from July 31 to August 2, 2020, and threatened Florida’s east coast resulting in the NHC issuing Hurricane Warnings. Even a slight deviation by Isaias to the west of the actual track within the NHC forecasted cone could have resulted in a significant number of customers experiencing power outages. During this period, FPL actively prepared for any potential outcomes. As these severe storms approached our service areas, the Companies took all prudent and reasonable steps to be prepared to restore service safely and quickly to our customers.

FPL undertook reasonable, necessary, and prudent measures to prepare for and respond to the impacts of both Hurricane Isaias and Tropical Storm Eta. These preparations included complex and comprehensive logistical arrangements for mobilizing FPL employees, external contractors, and mutual aid utilities to support the restoration effort. Logistical arrangements and coordination of resources included, but were not limited to, staging sites, lodging, food, communications and fuel delivery.

FPL’s proactive approach to storm preparation, mobilization and pre-staging of resources, and execution of storm related activities including but not limited to restoration was not just prudent and reasonable, but was also highly successful in restoring service to its customers safely and as quickly as possible. FPL’s preparation and ensuing coordinated response enabled the Company to restore service to more than 184,000 customers. On average, customers’ outages were restored in approximately 2.5 hours. FPL’s significant investments over the past decade in smart grid technology, undergrounding power lines and strengthening the energy grid enabled FPL to restore faster and avoid outages. For example, infrastructure storm-hardened and placed underground performed well. Also,



more than 140,000 outages were avoided due to investments in smart grid technology (e.g., automated feeder switches).

It is important to note FPL is not seeking approval in this proceeding to recover, through a storm surcharge or due to depletion of the storm reserve, any of the Hurricane Isaias or Tropical Storm Eta storm related costs, because all non-capitalized storm-related costs were charged to base O&M expense as permitted under Part (1)(h) of Rule 25-6.0143, F.A.C. (“the Rule”). There is nothing in the Rule or FPL’s 2016 Rate Case Settlement Agreement approved by the Commission in Order No. PSC-2016-0560-AS-EI in Docket No. 20160021-EI (“2016 Settlement Agreement”) that requires FPL to file a petition for and obtain Commission approval to charge storm-related costs to base O&M expense. To the contrary, the Rule expressly allows a utility to do so “at its own option.” Accordingly, although the Commission initiated this docket to evaluate the Hurricane Isaias and Tropical Storm Eta storm related costs incurred by FPL, the recovery of these costs, through a storm surcharge or due to depletion of the storm reserve, has not been requested by FPL and is not an issue in this proceeding.<sup>1</sup>

FPL incurred a total of \$68.5 million in Hurricane Isaias storm related costs. FPL charged \$3 thousand as capitalized costs and \$2.0 million in ICCA adjustments to base O&M. This resulted in \$66.3 million of incremental jurisdictionalized storm related costs which FPL charged to base O&M expense.

FPL incurred a total of \$115.8 million in Tropical Storm Eta storm related costs. FPL charged \$439 thousand as capitalized costs and \$2.2 million in ICCA adjustments to base O&M. This resulted in \$112.7 million of incremental jurisdictionalized storm related costs which FPL charged to base O&M expense.

OPC’s proposed adjustments ignore the fact the rule in place at the time the storms took place. OPC witnesses do not assert that FPL’s storm-related costs were unreasonable or imprudent. Moreover, OPC’s proposed adjustments are contrary to the Rule, arbitrary and not factually supported. Therefore, OPC’s proposed adjustments to FPL’s prudent and reasonable storm restoration costs should be rejected by the Commission.

### **Hurricane Zeta (Docket No. 20210179-EI)**

Hurricane Zeta was the 27th named storm of an extremely active 2020 Atlantic hurricane season and the seventh major (category 3 or higher) hurricane to make landfall in the calendar year, tying historical records. Zeta was also the latest-landfalling major hurricane on record to strike the continental United States. After forming over the western Caribbean Sea in mid-October, Hurricane Zeta made landfall in the Yucatan Peninsula on October 26, 2020. Zeta then moved back into the Gulf of Mexico and began reorganizing and re-strengthening. Zeta turned northeasterly, approaching the Gulf Coast as a Category 3 hurricane. The

latest forecasts on October 28 and 29 from the National Hurricane Center (“NHC”) projected Hurricane Zeta to make landfall in Louisiana, and as a result the western Florida Panhandle would be impacted with strong, sustained tropical storm force winds as Zeta’s outer bands directly impacting Gulf’s service area. Hurricane Zeta made landfall at Cocodrie, Louisiana on October 28 as a strong Category 3 Hurricane. While hurricane Zeta did not directly make landfall in Gulf’s service area, it was impacted by severe weather and feeder bands as the large storm tracked toward the northeast. Wind gusts in excess of 50 mph were recorded in Pensacola, Gulf’s western-most service area. Amid a global COVID-19 pandemic, Gulf prepared for and effectively and efficiently responded to Hurricane Zeta.

Gulf undertook reasonable, necessary, and prudent measures to prepare for and respond to the impacts of the storm. These preparations included complex and comprehensive logistical arrangements for mobilizing Gulf’s employees, external contractors, and mutual aid utilities to support the restoration effort. Logistical arrangements and coordination of resources included, but were not limited to, staging sites, lodging, food, communications and fuel delivery.

Gulf’s proactive approach to storm preparation, mobilization and pre-staging of resources, and execution of storm related activities including but not limited to restoration was not just prudent and reasonable but was also highly successful in restoring service to its customers safely and as quickly as possible. Gulf’s preparation and ensuing coordinated response enabled the Company to restore service to approximately 52,000 customers, many of whom were still trying to recover from Hurricane Sally. Gulf’s restoration plan and execution of the plan was effective in safely and quickly restoring power to our impacted customers.

Gulf incurred a total of \$11.4 million in Hurricane Zeta storm related costs, less \$1.0 million of ICCA adjustments and \$292 thousand of capital costs, resulting in \$10.1 million of incremental jurisdictionalized storm related costs.

**OPC:** In prior settlement agreements entered into between Florida Power and Light (FPL) and Gulf Power Company (Gulf) with the OPC, process provisions were developed to improve the review of storm costs submitted for approval by the utilities. Pursuant to these process provisions, FPL and Gulf provided confidential Excel workbooks used to develop their claimed costs and exhibits, as well as other confidential materials consisting of Excel workbooks that included invoice information for their overhead line and vegetation management contractors and travel logs. The Excel workbooks summarizing costs for the overhead line and vegetation management contractors are referred to by the two Companies as contractor “flat files.” These “flat files” are extracts from the FPL-developed smart phone based iStormed App that is now required to be used by all such contractors of both Gulf Power Company and FPL. FPL committed to begin utilizing the iStormed App during the 2019 and 2020 hurricane seasons in phases

as part of the Hurricane Irma Settlement Agreement. Gulf was not required to implement the iStormed App until 2021, but implemented the application in 2020. Based on OPC's audit of the provided information and additional discovery, OPC has found that these processes have been effective in eliminating unjustified costs and streamlining the review process of the post-hurricane costs.

However, additional process improvements can and should be made to FPL's storm pre-planning process and its resourcing process that could reduce actual storm costs incurred. Therefore, OPC recommends that additional improvements be required by the Commission for FPL (which now includes Gulf's territory). On a going-forward basis, FPL should implement the following improvements in their hurricane processes:

- a. The utility should engage an external consulting assistance to review and further develop or replace the storm damage model to enhance its capabilities and predictive capability and accuracy.
- b. The utility should acquire and/or develop resourcing optimization software, all with goals of establishing and systematically implementing the utility's decision criteria for reasonable restoration times and to minimize outage costs.
- c. The utility should adopt written policies that describe and require them to plan and implement its storm damage and outage responses to minimize costs based on specific decision criteria, primarily reasonable outage times.
- d. The utility should adopt written documentation of their storm damage model, all related models, and their resourcing models, both prior to landfall and after landfall, including: 1) users' manuals; 2) use of the models and the methodologies employed; 3) and the decision criteria that are used to determine resource requirements, procure embedded and external resources to meet those requirements, and mobilize, move, and demobilize those resources throughout and after the restoration process.
- e. The utility should adopt written policies that describe and require them to minimize storm costs through careful management of the mobilization and demobilization of its contractors, including the acquisition and/or development of optimization software.
- f. The utility should provide copies of all correct contracts and detailed invoice information for overhead line and vegetation management contractors, as well as all other vendors, with its future Notices of Filings.

- g. The utility should institute a Binder file structure similar to the one that was used by Gulf Power Company in its Hurricane Michael response in order to collect vendor invoices for processing and review by vendor name to streamline the auditing process.
- h. The utility, if it has not already done so, should extend the application of the effective iStormed App process to all other storm restoration contractors, including, but not limited to, underground line contractors, arborists, transmission storm restoration contractors, and damage assessors.

In addition to these process improvements, OPC has determined through its audit of these storm costs that additional disallowances are needed. These additional disallowance are set forth in the individual issues.

**STAFF:** Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions stated herein.

### **VIII. ISSUES AND POSITIONS**

**ISSUE 1:** **Should the incremental cost and capitalization approach (ICCA) found in Rule 25-6.0143, F.A.C., be used to determine the reasonable and prudent amounts to be included in the restoration costs?**

- a. **Docket No. 20200241-EI for Gulf's Hurricane Sally.**
- b. **Docket No. 20210178-EI for FPL's Hurricane Isaias.**
- c. **Docket No. 20210178-EI for FPL's Tropical Storm Eta.**
- d. **Docket No. 20210179-EI for Gulf's Hurricane Zeta.**

**Gulf:** a. Docket No. 20200241-EI for Gulf's Hurricane Sally.  
The provisions of the ICCA methodology, as applicable when this storm event took place, should be used to calculate Gulf's Hurricane Sally storm costs and in calculating storm capital costs. (*Hughes*)

**FPL:** b. Docket No. 20210178-EI for FPL's Hurricane Isaias.  
The provisions of the ICCA methodology, as applicable when this storm event took place, should be used to calculate FPL's Hurricane Isaias storm costs. However, as a result of FPL's decision to charge both the incremental and non-incremental Hurricane Isaias storm related costs to base O&M expense, as permitted by Part (1)(h) of the Rule, certain provisions of the ICCA methodology related to incremental O&M costs (*i.e.*, regular payroll, vegetation management, etc.) which might otherwise be charged to the storm reserve are not applicable

because they make no difference to the total Hurricane Isaias storm related costs charged to base O&M. (*Hughes*)

**FPL:** c. Docket No. 20210178-EI for FPL's Tropical Storm Eta. The provisions of the ICCA methodology, as applicable when this storm event took place, should be used to calculate FPL's Tropical Storm Eta storm costs. However, as a result of FPL's decision to charge both the incremental and non-incremental Hurricane Isaias storm related costs to base O&M expense, as permitted by Part (1)(h) of the Rule, certain provisions of the ICCA methodology related to incremental O&M costs (*i.e.*, regular payroll, vegetation management, etc.) which might otherwise be charged to the storm reserve are not applicable because they make no difference to the total Tropical Storm Eta storm related costs charged to base O&M. (*Hughes*)

**Gulf:** d. Docket No. 20210179-EI for Gulf's Hurricane Zeta. The provisions of the ICCA methodology, as applicable when this storm event took place, should be used to calculate Gulf's Hurricane Zeta storm costs and in calculating storm capital costs. (*Hughes*)

**OPC:** a. Docket No. 20200241-EI for Gulf's Hurricane Sally. Yes. Pursuant to Rule 25-6.0143(1)(d), F.A.C., states that "[i]n determining the costs to be charged to cover storm-related damages, the utility must use an Incremental Cost and Capitalization Approach methodology (ICCA)." The Rule further states that "[u]nder the ICCA methodology, the cost charged to the cover storm-related damages must exclude those costs that normally would be charged to non-cost recovery clause operating expenses in the absence of a storm." Under the ICCA methodology, utilities are allowed to charge to Account 228.1 these incremental costs for non-cost recovery clause operating expense in the absence of a storm and are subject to reasonable and prudence review. A review of the processes and procedures used by the utility is necessary to ensure the cost incurred for recovery under the ICCA are fair, just, reasonable and prudent. Section 366.06(2), Florida Statutes, states that "[w]henver the commission finds, **upon request made** or upon its own motion, that the rates demanded, charged, or collected by any public utility for public utility service, or that the rules, regulations, **or practices of any public utility affecting such rates**, are unjust, unreasonable, unjustly discriminatory, or in violation of law; . . ." the Commission will hold a public hearing. (Emphasis added). Thus, the practices of the utility are a legitimate issue in the hearing. Currently, the utility does not have processes and procedure in place for pre-storm costs that ensure only fair, just and reasonable costs are recovered in its rates to customers. The processes and procedures should be improved as outlined in OPC's position on Issue 14. (*Kollen, Futral*)

b. Docket No. 20210178-EI for FPL's Hurricane Isaias.

Yes. Pursuant to Rule 25-6.0143(1)(d) , F.A.C., states that “[i]n determining the costs to be charged to cover storm-related damages, the utility must use an Incremental Cost and Capitalization Approach methodology (ICCA).” The Rule further states that “[u]nder the ICCA methodology, the cost charged to the cover storm-related damages must exclude those costs that normally would be charged to non-cost recovery clause operating expenses in the absence of a storm.” Under the ICCA methodology, utilities are allowed to charge to Account 228.1 these incremental costs for non-cost recovery clause operating expense in the absence of a storm and are subject to reasonable and prudence review.

Under Section 25-6.0143(1)(h), F.A.C., a utility may choose, at its own option, to charge these storm related costs as operating expense rather than charging them to Account No. 228.1. Usually a utility would not choose to charge storm costs to base O&M expense unless the amounts were minimal because the additional O&M expense would reduce its earned return, all else equal. However, FPL has a Reserve Surplus Adjustment Mechanism (RSAM) which allows them to use the depreciation reserve to manage its earned return (i.e. use monies from the surplus created from prior customer rates for depreciation that were higher than needed to fund the depreciate reserve based on the current approved depreciation study). The Rule has only one description of storm-related damages or storm costs that may recovered from customers, despite the form of recovery or use of the RSAM. Nor does the Rule contain an exculpatory term that relieves the utility from compliance with the Rule if it chooses to charge storm cost to base O&M, and then recover the storm-costs through the uses depreciation reserve (i.e. customer monies) under the RSAM. Thus, for storm-related costs to be determined reasonable and prudent, these storm-related costs must comply with the ICCA methodology.

A review of the processes and procedures used by the utility is necessary to ensure the cost incurred for recovery under the ICCA are fair, just, reasonable and prudent. Section 366.06(2), Florida Statutes, states that “[w]henver the commission finds, **upon request made** or upon its own motion, that the rates demanded, charged, or collected by any public utility for public utility service, or that the rules, regulations, **or practices of any public utility affecting such rates**, are unjust, unreasonable, unjustly discriminatory, or in violation of law; . . .” the Commission will hold a public hearing. (Emphasis added). Thus, the practices of the utility are a legitimate issue in the hearing. Currently, the utility does not have processes and procedure in place for pre-storm costs that ensure only fair, just and reasonable costs are recovered in its rates to customers. The processes and procedures should be improved as outlined in OPC’s position on Issue 14. (*Kollen, Futral*)

c. Docket No. 20210178-EI for FPL’s Tropical Storm Eta.

Yes. Pursuant to Rule 25-6.0143(1)(d), F.A.C., states that “[i]n determining the costs to be charged to cover storm-related damages, the utility must use an

Incremental Cost and Capitalization Approach methodology (ICCA).” The Rule further states that “[u]nder the ICCA methodology, the cost charged to the cover storm-related damages must exclude those costs that normally would be charged to non-cost recovery clause operating expenses in the absence of a storm.” Under the ICCA methodology, utilities are allowed to charge to Account 228.1 these incremental costs for non-cost recovery clause operating expense in the absence of a storm and are subject to reasonable and prudence review.

Under Section 25-6.0143(1)(h) , F.A.C., a utility may choose, at its own option, to charge these storm related costs as operating expense rather than charging them to Account No. 228.1. Usually a utility would not choose to charge storm costs to base O&M expense unless the amounts were minimal because the additional O&M expense would reduce its earned return, all else equal. However, FPL has a Reserve Surplus Adjustment Mechanism (RSAM) which allows them to use the depreciation reserve to manage its earned return (i.e. use monies from the surplus created from prior customer rates for depreciation that were higher than needed to fund the depreciate reserve based on the current approved depreciation study). The Rule has only one description of storm-related damages or storm costs that may recovered from customers, despite the form of recovery or use of the RSAM. Nor does the Rule contain an exculpatory term that relieves the utility from compliance with the Rule if it chooses to charge storm cost to base O&M, and then recover the storm-costs through the uses depreciation reserve (i.e. customer monies) under the RSAM. Thus, for storm-related costs to be determined reasonable and prudent, these storm-related costs must comply with the ICCA methodology.

A review of the processes and procedures used by the utility is necessary to ensure the cost incurred for recovery under the ICCA are fair, just, reasonable and prudent. Section 366.06(2), Florida Statutes, states that “[w]henver the commission finds, **upon request made** or upon its own motion, that the rates demanded, charged, or collected by any public utility for public utility service, or that the rules, regulations, **or practices of any public utility affecting such rates**, are unjust, unreasonable, unjustly discriminatory, or in violation of law; . . .” the Commission will hold a public hearing. (Emphasis added). Thus, the practices of the utility are a legitimate issue in the hearing. Currently, the utility does not have processes and procedure in place for pre-storm costs that ensure only fair, just and reasonable costs are recovered in its rates to customers. The processes and procedures should be improved as outlined in OPC’s position on Issue 14. (*Kollen, Futral*)

d. Docket No. 20210179-EI for Gulf’s Hurricane Zeta.

Yes. Pursuant to Rule 25-6.0143(1)(d), F.A.C., states that “[i]n determining the costs to be charged to cover storm-related damages, the utility must use an Incremental Cost and Capitalization Approach methodology (ICCA).” The Rule

further states that “[u]nder the ICCA methodology, the cost charged to the cover storm-related damages must exclude those costs that normally would be charged to non-cost recovery clause operating expenses in the absence of a storm.” Under the ICCA methodology, utilities are allowed to charge to Account 228.1 these incremental costs for non-cost recovery clause operating expense in the absence of a storm and are subject to reasonable and prudence review.

A review of the processes and procedures used by the utility is necessary to ensure the cost incurred for recovery under the ICCA are fair, just, reasonable and prudent. Section 366.06(2), Florida Statutes, states that “[w]henver the commission finds, **upon request made** or upon its own motion, that the rates demanded, charged, or collected by any public utility for public utility service, or that the rules, regulations, **or practices of any public utility affecting such rates**, are unjust, unreasonable, unjustly discriminatory, or in violation of law; . . .” the Commission will hold a public hearing. (Emphasis added). Thus, the practices of the utility are a legitimate issue in the hearing. Currently, the utility does not have processes and procedure in place for pre-storm costs that ensure only fair, just and reasonable costs are recovered in its rates to customers. The processes and procedures should be improved as outlined in OPC’s position on Issue 14. (*Kollen, Futral*)

**STAFF:** Staff has no position at this time.

**ISSUE 2: What is the reasonable and prudent amount of regular payroll expense to be included in the restoration costs?**

- a. **Docket No. 20200241-EI for Gulf’s Hurricane Sally.**
- b. **Docket No. 20210178-EI for FPL’s Hurricane Isaias.**
- c. **Docket No. 20210178-EI for FPL’s Tropical Storm Eta.**
- d. **Docket No. 20210179-EI for Gulf’s Hurricane Zeta.**

**Gulf:** a. Docket No. 20200241-EI for Gulf’s Hurricane Sally.  
A total of \$2.1 million is the reasonable and prudent amount of regular payroll expense (both incremental and non-incremental) for employee time spent in direct support of storm related activities including but not limited to restoration, which excludes bonuses and incentive compensation. OPC does not claim that any of these costs are unreasonable or imprudent. OPC’s proposed adjustment to reclassify the entire regular payroll expense as non-incremental and disallow these costs is unsupported. Gulf relied upon the Rule and Commission Orders which support the appropriateness of the calculations of non-incremental costs, including Paragraphs 21 and 22 of Order No. PSC-2006-0464-FOF-EI, Docket No. 20060038-EI, which allowed recovery of regular payroll which would otherwise normally be recovered through capital or cost recovery clauses; and Part (1)(f)7 of the Rule which specifically refers to the use of non-budgeted overtime or other



non-budgeted incremental call center and customer service costs when calculating incremental costs for those functions. *(Talley, Priore, Hughes)*

**FPL:**

b. Docket No. 20210178-EI for FPL's Hurricane Isaias.

A total of \$671 thousand is the reasonable and prudent amount of regular payroll expense (both incremental and non-incremental) that FPL charged to base O&M expense for employee time spent in direct support of storm related activities including but not limited to restoration, which excludes bonuses and incentive compensation. OPC does not claim that any of these costs are unreasonable or imprudent. OPC's proposed adjustment to reclassify the entire regular payroll expense as non-incremental and disallow these costs fails to recognize that all of the regular payroll expense associated with Hurricane Isaias was charged to base O&M expense or capital and, unless the non-incremental regular payroll expense is found to be unreasonable or imprudent, it will be charged to base O&M expense. *(Miranda, Hughes)*

**FPL:**

c. Docket No. 20210178-EI for FPL's Tropical Storm Eta.

A total of \$2.3 million is the reasonable and prudent amount of regular payroll expense (both incremental and non-incremental) that FPL charged to base O&M expense for employee time spent in direct support of storm related activities including but not limited to restoration, which excludes bonuses and incentive compensation. OPC does not claim that any of these costs are unreasonable or imprudent. OPC's proposed adjustment to reclassify the entire regular payroll expense as non-incremental and disallow these costs fails to recognize that all of the regular payroll expense associated with Tropical Storm Eta was charged to base O&M expense or capital and, unless the non-incremental regular payroll expense is found to be unreasonable or imprudent, it will be charged to base O&M expense. *(Miranda, Hughes)*

**Gulf:**

d. Docket No. 20210179-EI for Gulf's Hurricane Zeta.

A total of \$0.3 million is the reasonable and prudent amount of regular payroll expense (both incremental and non-incremental) for employee time spent in direct support of storm related activities including but not limited to restoration, which excludes bonuses and incentive compensation. OPC does not claim that any of these costs are unreasonable or imprudent. OPC's proposed adjustment to reclassify the entire regular payroll expense as non-incremental and disallow these costs is unsupported. Gulf relied upon the Rule and Commission Orders which support the appropriateness of the calculations of non-incremental costs, including Paragraphs 21 and 22 of Order No. PSC-2006-0464-FOF-EI, Docket No. 20060038-EI, which allowed recovery of regular payroll which would otherwise normally be recovered through capital or cost recovery clauses; and Part (1)(f)7 of the Rule which specifically refers to the use of non-budgeted overtime or other non-budgeted incremental call center and customer service costs when calculating incremental costs for those functions. *(Talley, Hughes)*

**OPC:**

a. Docket No. 20200241-EI for Gulf's Hurricane Sally.

Rule 25-6.0143(1)(f), F.A.C., lists the types of storm-related costs that are prohibited from being charged to customers under the ICCA methodology including base rate recoverable regular payroll and regular payroll-related costs for utility managerial and non-managerial personnel. The utility failed to limit its request to incremental costs by not removing all straight time payroll costs (regular payroll) and related costs from the storm costs, as required by the Rule. Thus, OPC recommends that \$0.957 million (jurisdictional) be disallowed in addition to the costs already removed by the utility. (*Kollen, Futral*)

b. Docket No. 20210178-EI for FPL's Hurricane Isaias.

Rule 25-6.0143(1)(f), F.A.C., lists the types of storm-related costs that are prohibited from being charged to customers under the ICCA methodology including base rate-recoverable regular payroll and regular payroll-related costs for utility managerial and non-managerial personnel. The utility failed to limit its request to incremental costs by not removing all straight time payroll costs (regular payroll) and related costs from the storm costs, as required by the Rule. Thus, OPC recommends that \$0.320 million (jurisdictional) be disallowed in addition to the costs already removed by the utility. (*Kollen, Futral*)

c. Docket No. 20210178-EI for FPL's Tropical Storm Eta.

Rule 25-6.0143(1)(f), F.A.C., lists the types of storm-related costs that are prohibited from being charged to customers under the ICCA methodology including base rate-recoverable regular payroll and regular payroll-related costs for utility managerial and non-managerial personnel. The utility failed to limit its request to incremental costs by not removing all straight time payroll costs (regular payroll) and related costs from the storm costs, as required by the Rule. Thus, OPC recommends that \$1.429 million (jurisdictional) be disallowed in addition to the costs already removed by the utility. (*Kollen, Futral*)

d. Docket No. 20210179-EI for Gulf's Hurricane Zeta.

Rule 25-6.0143(1)(f), F.A.C., lists the types of storm-related costs that are prohibited from being charged to customers under the ICCA methodology including base rate-recoverable regular payroll and regular payroll-related costs for utility managerial and non-managerial personnel. The utility failed to limit its request to incremental costs by not removing all straight time payroll costs (regular payroll) and related costs from the storm costs, as required by the Rule. Thus, OPC recommends that \$0.131 million (jurisdictional) be disallowed in addition to the costs already removed by the utility. (*Kollen, Futral*)

**STAFF:**

Staff has no position at this time.

**ISSUE 3:**

**What is the reasonable and prudent amount of overtime payroll expense to be included in the restoration costs?**

a. **Docket No. 20200241-EI for Gulf's Hurricane Sally.**

- b. Docket No. 20210178-EI for FPL’s Hurricane Isaias.**
- c. Docket No. 20210178-EI for FPL’s Tropical Storm Eta.**
- d. Docket No. 20210179-EI for Gulf’s Hurricane Zeta.**

**Gulf:** a. Docket No. 20200241-EI for Gulf’s Hurricane Sally.  
A total of \$3.2 million is the reasonable and prudent amount of overtime payroll expense for employee time spent in direct support of storm related activities including but not limited to restoration, which excludes bonuses and incentive compensation. OPC does not claim that any of these costs are unreasonable or imprudent. OPC’s adjustment fails to recognize that qualifying storm events and the associated overtime payroll expense are neither budgeted nor planned – they are, by definition, incremental in nature. (*Talley, Priore, Hughes*)

**FPL:** b. Docket No. 20210178-EI for FPL’s Hurricane Isaias.  
A total of \$4.7 million is the reasonable and prudent amount of overtime payroll expense that FPL charged to base O&M expense for employee time spent in direct support of storm related activities including but not limited to restoration, which excludes bonuses and incentive compensation. OPC does not claim that any of these costs are unreasonable or imprudent. Further, OPC’s proposal to reduce the overtime payroll expense by the non-incremental overtime payroll expense fails to recognize that all of the overtime payroll expense associated with Hurricane Isaias was charged to base O&M expense and, unless the non-incremental overtime payroll expense is found to be unreasonable or imprudent, it will be charged to base O&M expense. Moreover, OPC’s adjustment fails to recognize that qualifying storm events and the associated overtime payroll expense are neither budgeted nor planned – they are, by definition, incremental in nature. (*Hughes, Miranda*)

**FPL:** c. Docket No. 20210178-EI for FPL’s Tropical Storm Eta.  
A total of \$8.8 million is the reasonable and prudent amount of overtime payroll expense that FPL charged to base O&M expense for employee time spent in direct support of storm related activities including but not limited to restoration, which excludes bonuses and incentive compensation. OPC does not claim that any of these costs are unreasonable or imprudent. Further, OPC’s proposal to reduce the overtime payroll expense by the non-incremental overtime payroll expense fails to recognize that all of the overtime payroll expense associated with Tropical Storm Eta was charged to base O&M expense and, unless the non-incremental overtime payroll expense is found to be unreasonable or imprudent, it will be charged to base O&M expense. Moreover, OPC’s adjustment fails to recognize that qualifying storm events and the associated overtime payroll expense are neither budgeted nor planned – they are, by definition, incremental in nature. (*Hughes, Miranda*)

**Gulf:** d. Docket No. 20210179-EI for Gulf’s Hurricane Zeta.

A total of \$0.3 million is the reasonable and prudent amount of overtime payroll expense for employee time spent in direct support of storm related activities including but not limited to restoration, which excludes bonuses and incentive compensation OPC does not claim that any of these costs are unreasonable or imprudent. OPC's adjustment fails to recognize that qualifying storm events and the associated overtime payroll expense are neither budgeted nor planned – they are, by definition, incremental in nature. (*Talley, Hughes*)

**OPC:**

a. Docket No. 20200241-EI for Gulf's Hurricane Sally.

Rule 25-6.0143(1)(d), F.A.C., requires that storm costs must exclude those costs that would normally would be charged to non-cost recovery clause operating expenses in the absence of a storm. The utility failed to limit its request to incremental costs by not removing all non-incremental overtime payroll costs. The utility simply claims that the entire overtime payroll and related costs were incremental, although the base revenue requirement includes overtime payroll and related costs. Further, the utility failed to provide the amounts included in the base revenue requirement which results in overstating overtime. OPC recommends 25% of the requested overtime be disallowed in the absence of necessary detail being provided by the utility. Thus, \$0.802 million (jurisdictional) should be disallowed. (*Kollen, Futral*)

b. Docket No. 20210178-EI for FPL's Hurricane Isaias.

Rule 25-6.0143(1)(d), F.A.C., requires that storm costs must exclude those costs that would normally would be charged to non-cost recovery clause operating expenses in the absence of a storm. The utility failed to limit its request to incremental costs by not removing all non-incremental overtime payroll costs. The utility simply claims that the entire overtime payroll and related costs were incremental, although the base revenue requirement includes overtime payroll and related costs. Further, the utility failed to provide the amounts included in the base revenue requirement which results in overstating overtime. OPC recommends 25% of the requested overtime be disallowed in the absence of necessary detail being provided by the utility. Thus, \$1.146 million (jurisdictional) should be disallowed. (*Kollen, Futral*)

c. Docket No. 20210178-EI for FPL's Tropical Storm Eta.

Rule 25-6.0143(1)(d), F.A.C., requires that storm costs must exclude those costs that would normally would be charged to non-cost recovery clause operating expenses in the absence of a storm. The utility failed to limit its request to incremental costs by not removing all non-incremental overtime payroll costs. The utility simply claims that the entire overtime payroll and related costs were incremental, although the base revenue requirement includes overtime payroll and related costs. Further, the utility failed to provide the amounts included in the base revenue requirement which results in overstating overtime. OPC recommends 25% of the requested overtime be disallowed in the absence of

necessary detail being provided by the utility. Thus, \$2.097 million (jurisdictional) should be disallowed. (*Kollen, Futral*)

d. Docket No. 20210179-EI for Gulf's Hurricane Zeta.

Rule 25-6.0143(1)(d), F.A.C., requires that storm costs must exclude those costs that would normally be charged to non-cost recovery clause operating expenses in the absence of a storm. The utility failed to limit its request to incremental costs by not removing all non-incremental overtime payroll costs. The utility simply claims that the entire overtime payroll and related costs were incremental, although the base revenue requirement includes overtime payroll and related costs. Further, the utility failed to provide the amounts included in the base revenue requirement which results in overstating overtime. OPC recommends 25% of the requested overtime be disallowed in the absence of necessary detail being provided by the utility. Thus, \$0.084 million (jurisdictional) should be disallowed. (*Kollen, Futral*)

**STAFF:** Staff has no position at this time.

**ISSUE 4:** **What is the reasonable and prudent amount of contractor costs to be included in the restoration costs?**

- a. **Docket No. 20200241-EI for Gulf's Hurricane Sally.**
- b. **Docket No. 20210178-EI for FPL's Hurricane Isaias.**
- c. **Docket No. 20210178-EI for FPL's Tropical Storm Eta.**
- d. **Docket No. 20210179-EI for Gulf's Hurricane Zeta.**

**Gulf:** a. Docket No. 20200241-EI for Gulf's Hurricane Sally.

A total of \$125.6 million is the reasonable and prudent amount of contractor costs for line crews and mutual aid utilities that were necessary to support Gulf's Hurricane Sally storm restoration effort. Gulf's decision to acquire storm restoration line contractor resources prior to and during Hurricane Sally were reasonable and prudent. OPC does not claim that any of these costs are unreasonable or imprudent. OPC's proposed adjustment to Gulf's contractor costs fails to recognize that all line contractor costs related to supporting storm-related activities are by definition incremental. (*Talley, Priore, Hughes, Gerard*)

**FPL:** b. Docket No. 20210178-EI for FPL's Hurricane Isaias.

A total of \$36.3 million is the reasonable and prudent amount of contractor costs that FPL charged to base O&M expense for line crews and mutual aid utilities that were necessary to support FPL's Hurricane Isaias storm restoration effort. FPL's decision to acquire storm restoration line contractor resources prior to and during Hurricane Isaias were reasonable and prudent. OPC does not claim that any of these costs are unreasonable or imprudent. OPC's proposed adjustment to FPL's contractor costs fails to recognize that all line contractor costs related to

supporting storm-related activities are by definition incremental. OPC's proposed adjustment further fails to recognize that all of these expenses associated with Hurricane Isaias were charged to base O&M expense or capital and, unless the contractor expense is found to be unreasonable or imprudent, it will be charged to base O&M expense. (*Miranda, Hughes, Gerard*)

**FPL:**

c. Docket No. 20210178-EI for FPL's Tropical Storm Eta.

A total of \$77.4 million is the reasonable and prudent amount of contractor costs that FPL charged to base O&M expense for line crews and mutual aid utilities that were necessary to support FPL's Tropical Storm Eta storm restoration effort. FPL's decision to acquire storm restoration line contractor resources prior to and during Tropical Storm Eta were reasonable and prudent. OPC does not claim that any of these costs are unreasonable or imprudent. OPC's proposed adjustment to FPL's contractor costs fails to recognize that all line contractor costs related to supporting storm-related activities are by definition incremental. OPC's proposed adjustment further fails to recognize that all of these expenses associated with Tropical Storm Eta were charged to base O&M expense or capital and, unless the contractor expense is found to be unreasonable or imprudent, it will be charged to base O&M expense. (*Miranda, Hughes, Gerard*)

**Gulf:**

d. Docket No. 20210179-EI for Gulf's Hurricane Zeta.

A total of \$5.8 million is the reasonable and prudent amount of contractor costs for line crews and mutual aid utilities that were necessary to support Gulf's Hurricane Zeta storm restoration effort. Gulf's decision to acquire storm restoration line contractor resources prior to and during Hurricane Zeta were reasonable and prudent. OPC does not claim that any of these costs are unreasonable or imprudent. OPC's proposed adjustment to Gulf's contractor costs fails to recognize that all line contractor costs related to supporting storm-related activities are by definition incremental. (*Talley, Hughes, Gerard*)

**OPC:**

a. Docket No. 20200241-EI for Gulf's Hurricane Sally.

Rule 25-6.0143(1)(d), F.A.C., requires that storm costs must exclude those costs that would normally would be charged to non-cost recovery clause operating expenses in the absence of a storm. The utility failed to limit its request to incremental costs by not removing all non-incremental embedded contractor costs. Although the base revenue requirement includes costs for these embedded line contractors that normally work for the utility and were used for storm restoration, the utility did not provide the information necessary to exclude these embedded contractor costs based on the historic three-year average. The utility's failure to provide the amounts included in the base revenue requirement results in overstating contract labor in storm costs. OPC recommends 2% of the requested contract labor be disallowed in the absence of necessary detail being provided by the utility. Thus, \$1.416 million (jurisdictional) should be disallowed. (*Kollen, Futral*)

b. Docket No. 20210178-EI for FPL's Hurricane Isaias.

Rule 25-6.0143(1)(d), F.A.C., requires that storm costs must exclude those costs that would normally would be charged to non-cost recovery clause operating expenses in the absence of a storm. The utility failed to limit its request to incremental costs by not removing all non-incremental embedded contractor costs. Although the base revenue requirement includes costs for these embedded line contractors that normally work for the utility and were used for storm restoration, the utility did not provide the information necessary to exclude these embedded contractor costs based on the historic three-year average. The utility's failure to provide the amounts included in the base revenue requirement results in overstating contract labor in storm costs. OPC recommends 2% of the requested contract labor be disallowed in the absence of necessary detail being provided by the utility. Thus, \$0.612 million (jurisdictional) should be disallowed. (*Kollen, Futral*)

c. Docket No. 20210178-EI for FPL's Tropical Storm Eta.

Rule 25-6.0143(1)(d), F.A.C., requires that storm costs must exclude those costs that would normally would be charged to non-cost recovery clause operating expenses in the absence of a storm. The utility failed to limit its request to incremental costs by not removing all non-incremental embedded contractor costs. Although the base revenue requirement includes costs for these embedded line contractors that normally work for the utility and were used for storm restoration, the utility did not provide the information necessary to exclude these embedded contractor costs based on the historic three-year average. The utility's failure to provide the amounts included in the base revenue requirement results in overstating contract labor in storm costs. OPC recommends 2% of the requested contract labor be disallowed in the absence of necessary detail being provided by the utility. Thus, \$1.325 million (jurisdictional) should be disallowed. (*Kollen, Futral*)

d. Docket No. 20210179-EI for Gulf's Hurricane Zeta.

Rule 25-6.0143(1)(d), F.A.C., requires that storm costs must exclude those costs that would normally would be charged to non-cost recovery clause operating expenses in the absence of a storm. The utility failed to limit its request to incremental costs by not removing all non-incremental embedded contractor costs. Although the base revenue requirement includes costs for these embedded line contractors that normally work for the utility and were used for storm restoration, the utility did not provide the information necessary to exclude these embedded contractor costs based on the historic three-year average. The utility's failure to provide the amounts included in the base revenue requirement results in overstating contract labor in storm costs. OPC recommends 2% of the requested contract labor be disallowed in the absence of necessary detail being provided by the utility. Thus, \$0.109 million (jurisdictional) should be disallowed. (*Kollen, Futral*)

**STAFF:** Staff has no position at this time.

**ISSUE 5:** **What is the reasonable and prudent amount of vegetation and line clearing costs to be included in the restoration costs?**

- a. **Docket No. 20200241-EI for Gulf’s Hurricane Sally.**
- b. **Docket No. 20210178-EI for FPL’s Hurricane Isaias.**
- c. **Docket No. 20210178-EI for FPL’s Tropical Storm Eta.**
- d. **Docket No. 20210179-EI for Gulf’s Hurricane Zeta.**

**Gulf:** a. Docket No. 20200241-EI for Gulf’s Hurricane Sally.  
A total of \$27.3 million is the reasonable and prudent amount of vegetation and line clearing costs associated with Hurricane Sally. OPC does not claim that any of these costs are unreasonable or imprudent. *(Talley, Hughes, Gerard)*

**FPL:** b. Docket No. 20210178-EI for FPL’s Hurricane Isaias.  
A total of \$13.0 million is the reasonable and prudent amount of vegetation and line clearing costs associated with Hurricane Isaias that FPL charged to base O&M expense. OPC does not claim that any of these costs are unreasonable or imprudent. *(Miranda, Hughes, Gerard)*

**FPL:** c. Docket No. 20210178-EI for FPL’s Tropical Storm Eta.  
A total of \$11.2 million is the reasonable and prudent amount of vegetation and line clearing costs associated with Tropical Storm Eta that FPL charged to base O&M expense. OPC does not claim that any of these costs are unreasonable or imprudent. *(Miranda, Hughes, Gerard)*

**Gulf:** d. Docket No. 20210179-EI for Gulf’s Hurricane Zeta.  
A total of \$1.9 million is the reasonable and prudent amount of vegetation and line clearing costs associated with Hurricane Zeta. OPC does not claim that any of these costs are unreasonable or imprudent. *(Talley, Hughes, Gerard)*

**OPC:** a. Docket No. 20200241-EI for Gulf’s Hurricane Sally.  
Rule 25-6.0143(1)(d), F.A.C., requires that storm costs must exclude those costs that would normally would be charged to non-cost recovery clause operating expenses in the absence of a storm. Costs for various overhead line and vegetation management contractors were accrued as estimates and posted to the general ledger, but the invoices were either double posted, not received and paid, or different in amounts compared to the original estimates. Thus, OPC is recommending \$0.229 million (jurisdictional) be disallowed. *(Kollen, Futral)*

b. Docket No. 20210178-EI for FPL’s Hurricane Isaias.  
Rule 25-6.0143(1)(d), F.A.C., requires that storm costs must exclude those costs that would normally would be charged to non-cost recovery clause operating



expenses in the absence of a storm. Costs for various overhead line and vegetation management contractors were accrued as estimates and posted to the general ledger, but the invoices were either double posted, not received and paid, or different in amounts compared to the original estimates. Thus, OPC is recommending \$0.081 million (jurisdictional) be disallowed. (*Kollen, Futral*)

c. Docket No. 20210178-EI for FPL's Tropical Storm Eta. Rule 25-6.0143(1)(d), F.A.C., requires that storm costs must exclude those costs that would normally would be charged to non-cost recovery clause operating expenses in the absence of a storm. Costs for various overhead line and vegetation management contractors were accrued as estimates and posted to the general ledger, but the invoices were either double posted, not received and paid, or different in amounts compared to the original estimates. Thus, OPC is recommending \$0.116 million (jurisdictional) be disallowed. (*Kollen, Futral*)

d. Docket No. 20210179-EI for Gulf's Hurricane Zeta. Rule 25-6.0143(1)(d), F.A.C., requires that storm costs must exclude those costs that would normally would be charged to non-cost recovery clause operating expenses in the absence of a storm. Costs for various overhead line and vegetation management contractors were accrued as estimates and posted to the general ledger, but the invoices were either double posted, not received and paid, or different in amounts compared to the original estimates. Thus, OPC is recommending \$0.005 million (jurisdictional) be disallowed. (*Kollen, Futral*)

**STAFF:** Staff has no position at this time.

**ISSUE 6:** **What is the reasonable and prudent amount of employee expenses to be included in the restoration costs?**

- a. **Docket No. 20200241-EI for Gulf's Hurricane Sally.**
- b. **Docket No. 20210178-EI for FPL's Hurricane Isaias.**
- c. **Docket No. 20210178-EI for FPL's Tropical Storm Eta.**
- d. **Docket No. 20210179-EI for Gulf's Hurricane Zeta.**

**Gulf:** a. Docket No. 20200241-EI for Gulf's Hurricane Sally. A total of \$0.3 million is the reasonable and prudent amount of employee expenses associated with Hurricane Sally. OPC does not claim that any of these costs are unreasonable or imprudent, nor does OPC recommend any related disallowance. (*Hughes*)

**FPL:** b. Docket No. 20210178-EI for FPL's Hurricane Isaias. A total of \$14 thousand is the reasonable and prudent amount of employee expenses associated with Hurricane Isaias that FPL charged to base O&M

expense. OPC does not claim that any of these costs are unreasonable or imprudent, nor does OPC recommend any related disallowance. (*Hughes*)

**FPL:**

c. Docket No. 20210178-EI for FPL's Tropical Storm Eta.

A total of \$37 thousand is the reasonable and prudent amount of employee expenses associated with Tropical Storm Eta that FPL charged to base O&M expense. OPC does not claim that any of these costs are unreasonable or imprudent, nor does OPC recommend any related disallowance. (*Hughes*)

**Gulf:**

d. Docket No. 20210179-EI for Gulf's Hurricane Zeta.

A total of \$53 thousand is the reasonable and prudent amount of employee expenses associated with Hurricane Zeta. OPC does not claim that any of these costs are unreasonable or imprudent, nor does OPC recommend any related disallowance. (*Hughes*)

**OPC:**

a. Docket No. 20200241-EI for Gulf's Hurricane Sally.

The employee expenses included in the utility's request should be reduced consistent with OPC's positions on the disallowance of non-incremental regular payroll and overtime payroll. (*Kollen, Futral*)

b. Docket No. 20210178-EI for FPL's Hurricane Isaias.

The employee expenses included in the utility's request should be reduced consistent with OPC's positions on the disallowance of non-incremental regular payroll and overtime payroll. (*Kollen, Futral*)

c. Docket No. 20210178-EI for FPL's Tropical Storm Eta.

The employee expenses included in the utility's request should be reduced consistent with OPC's positions on the disallowance of non-incremental regular payroll and overtime payroll. (*Kollen, Futral*)

d. Docket No. 20210179-EI for Gulf's Hurricane Zeta.

The employee expenses included in the utility's request should be reduced consistent with OPC's positions on the disallowance of non-incremental regular payroll and overtime payroll. (*Kollen, Futral*)

**STAFF:**

Staff has no position at this time.

**ISSUE 7:**

**What is the reasonable and prudent amount of materials and supplies expense to be included in the restoration costs?**

- a. **Docket No. 20200241-EI for Gulf's Hurricane Sally.**
- b. **Docket No. 20210178-EI for FPL's Hurricane Isaias.**
- c. **Docket No. 20210178-EI for FPL's Tropical Storm Eta.**
- d. **Docket No. 20210179-EI for Gulf's Hurricane Zeta.**

- Gulf:** a. Docket No. 20200241-EI for Gulf's Hurricane Sally.  
A total of \$10.3 million is the reasonable and prudent amount of material and supplies expenses associated with Hurricane Sally. OPC does not claim that any of these costs are unreasonable or imprudent. (*Talley, Priore, Hughes*)
- FPL:** b. Docket No. 20210178-EI for FPL's Hurricane Isaias.  
A total of \$42 thousand is the reasonable and prudent amount of material and supplies expenses associated with Hurricane Isaias that FPL charged to base O&M expense. OPC does not claim that any of these costs are unreasonable or imprudent. (*Miranda, Hughes*)
- FPL:** c. Docket No. 20210178-EI for FPL's Tropical Storm Eta.  
A total of \$532 thousand is the reasonable and prudent amount of material and supplies expenses associated with Tropical Storm Eta that FPL charged to base O&M expense. OPC does not claim that any of these costs are unreasonable or imprudent. (*Miranda, Hughes*)
- Gulf:** d. Docket No. 20210179-EI for Gulf's Hurricane Zeta.  
A total of \$179 thousand is the reasonable and prudent amount of material and supplies expenses associated with Hurricane Zeta. OPC does not claim that any of these costs are unreasonable or imprudent. (*Talley, Hughes*)
- OPC:** a. Docket No. 20200241-EI for Gulf's Hurricane Sally.  
Rule 25-6.0143(1)(d), F.A.C., requires that storm costs must exclude those costs that would normally would be charged to non-cost recovery clause operating expenses in the absence of a storm. The utility failed to eliminate all non-incremental costs for materials and supplies. Although the utility objected, they did provide the information necessary to exclude these materials and supplies costs based on the historic three-year average. However, the utility did not remove all non-incremental costs which results in overstating materials and supplies in storm costs. Thus, OPC is recommending \$0.063 million (jurisdictional) be disallowed. (*Kollen, Futral*)
- b. Docket No. 20210178-EI for FPL's Hurricane Isaias.  
Rule 25-6.0143(1)(d), F.A.C., requires that storm costs must exclude those costs that would normally would be charged to non-cost recovery clause operating expenses in the absence of a storm. The utility failed to eliminate all non-incremental costs for materials and supplies. Although the utility objected, they did provide the information necessary to exclude these materials and supplies costs based on the historic three-year average. However, the utility did not remove all non-incremental costs which results in overstating materials and supplies in storm costs. Thus, OPC is recommending \$0.038 million (jurisdictional) be disallowed. (*Kollen, Futral*)

c. Docket No. 20210178-EI for FPL's Tropical Storm Eta. Rule 25-6.0143(1)(d), F.A.C., requires that storm costs must exclude those costs that would normally would be charged to non-cost recovery clause operating expenses in the absence of a storm. The utility failed to eliminate all non-incremental costs for materials and supplies. Although the utility objected, they did provide the information necessary to exclude these materials and supplies costs based on the historic three-year average. However, the utility did not remove all non-incremental costs which results in overstating materials and supplies in storm costs. Thus, OPC is recommending \$0.182 million (jurisdictional) be disallowed. (*Kollen, Futral*)

d. Docket No. 20210179-EI for Gulf's Hurricane Zeta. Rule 25-6.0143(1)(d), F.A.C., requires that storm costs must exclude those costs that would normally would be charged to non-cost recovery clause operating expenses in the absence of a storm. The utility failed to eliminate all non-incremental costs for materials and supplies. Although the utility objected, they did provide the information necessary to exclude these materials and supplies costs based on the historic three-year average. However, the utility did not remove all non-incremental costs which results in overstating materials and supplies in storm costs. Thus, OPC is recommending \$0.063 million (jurisdictional) be disallowed. (*Kollen, Futral*)

**STAFF:** Staff has no position at this time.

**ISSUE 8:** **What is the reasonable and prudent amount of logistics costs to be included in the restoration costs?**

- a. **Docket No. 20200241-EI for Gulf's Hurricane Sally.**
- b. **Docket No. 20210178-EI for FPL's Hurricane Isaias.**
- c. **Docket No. 20210178-EI for FPL's Tropical Storm Eta.**
- d. **Docket No. 20210179-EI for Gulf's Hurricane Zeta.**

**Gulf:** a. Docket No. 20200241-EI for Gulf's Hurricane Sally. A total of \$42.2 million is the reasonable and prudent amount of logistic costs associated with Hurricane Sally. OPC does not claim that any of these costs are unreasonable or imprudent, nor does OPC recommend any related disallowance. (*Talley, Priore, Hughes*)

**FPL:** b. Docket No. 20210178-EI for FPL's Hurricane Isaias. A total of \$9.3 million is the reasonable and prudent amount of logistic costs associated with Hurricane Isaias that FPL charged to base O&M expense. OPC does not claim that any of these costs are unreasonable or imprudent, nor does OPC recommend any related disallowance. (*Miranda, Hughes*)

**FPL:** c. Docket No. 20210178-EI for FPL's Tropical Storm Eta.  
A total of \$9.1 million is the reasonable and prudent amount of logistic costs associated with Tropical Storm Eta that FPL charged to base O&M expense. OPC does not claim that any of these costs are unreasonable or imprudent, nor does OPC recommend any related disallowance. (*Miranda, Hughes*)

**Gulf:** d. Docket No. 20210179-EI for Gulf's Hurricane Zeta.  
A total of \$1.4 million is the reasonable and prudent amount of logistic costs associated with Hurricane Zeta. OPC does not claim that any of these costs are unreasonable or imprudent, nor does OPC recommend any related disallowance. (*Talley, Hughes*)

**OPC:** a. Docket No. 20200241-EI for Gulf's Hurricane Sally.  
Rule 25-6.0143(1)(d), F.A.C., requires that storm costs must exclude those costs that would normally would be charged to non-cost recovery clause operating expenses in the absence of a storm. OPC is not recommending an adjustment to the cost included in the storm restoration costs for this storm. (*Futral*)

b. Docket No. 20210178-EI for FPL's Hurricane Isaias.  
Rule 25-6.0143(1)(d), F.A.C., requires that storm costs must exclude those costs that would normally would be charged to non-cost recovery clause operating expenses in the absence of a storm. OPC is not recommending an adjustment to the cost included in the storm restoration costs for this storm. (*Futral*)

c. Docket No. 20210178-EI for FPL's Tropical Storm Eta.  
Rule 25-6.0143(1)(d), F.A.C., requires that storm costs must exclude those costs that would normally would be charged to non-cost recovery clause operating expenses in the absence of a storm. OPC is not recommending an adjustment to the cost included in the storm restoration costs for this storm. (*Futral*)

d. Docket No. 20210179-EI for Gulf's Hurricane Zeta.  
Rule 25-6.0143(1)(d), F.A.C., requires that storm costs must exclude those costs that would normally would be charged to non-cost recovery clause operating expenses in the absence of a storm. OPC is not recommending an adjustment to the cost included in the storm restoration costs for this storm. (*Futral*)

**STAFF:** Staff has no position at this time.

**ISSUE 9:** **What is the reasonable and prudent total amount of costs to be included in the restoration costs?**

- a. **Docket No. 20200241-EI for Gulf's Hurricane Sally.**
- b. **Docket No. 20210178-EI for FPL's Hurricane Isaias.**
- c. **Docket No. 20210178-EI for FPL's Tropical Storm Eta.**

**d. Docket No. 20210179-EI for Gulf's Hurricane Zeta.**

- Gulf:** a. Docket No. 20200241-EI for Gulf's Hurricane Sally.  
A total of \$190.0 million is the reasonable and prudent amount of Hurricane Sally storm related costs. (*Talley, Priore, Hughes*)
- FPL:** b. Docket No. 20210178-EI for FPL's Hurricane Isaias.  
A total of \$68.5 million is the reasonable and prudent amount of Hurricane Isaias storm related costs that FPL charged to base O&M expense as permitted by Part(1)(h) of the Rule and Section 6 of the 2016 Settlement Agreement approved by the Commission in Order No. PSC-2016-0560-AS-EI in Docket No. 20160021-EI. (*Miranda, Hughes*)
- FPL:** c. Docket No. 20210178-EI for FPL's Tropical Storm Eta.  
A total of \$115.4 million is the reasonable and prudent amount of Tropical Storm Eta storm related costs that FPL charged to base O&M expense as permitted by Part(1)(h) of the Rule and Section 6 of the 2016 Settlement Agreement approved by the Commission in Order No. PSC-2016-0560-AS-EI in Docket No. 20160021-EI. (*Miranda, Hughes*)
- Gulf:** d. Docket No. 20210179-EI for Gulf's Hurricane Zeta.  
A total of \$11.1 million is the reasonable and prudent amount of Hurricane Zeta storm related costs. (*Talley, Hughes*)
- OPC:** a. Docket No. 20200241-EI for Gulf's Hurricane Sally.  
Gulf included \$0.311 million in interest on the unamortized storm cost for this storm. The Rule does not include interest as a recoverable cost. Thus, the total amount of costs to be included in restoration costs should be reduced by the disallowance recommendations in OPC's positions including the \$0.311 million in unauthorized interest. (*Kollen, Futral*)
- b. Docket No. 20210178-EI for FPL's Hurricane Isaias.  
The total amount of costs to be included in restoration costs should be reduced by the disallowance recommendations in OPC's positions. (*Kollen, Futral*)
- c. Docket No. 20210178-EI for FPL's Tropical Storm Eta.  
The total amount of costs to be included in restoration costs should be reduced by the disallowance recommendations in OPC's positions. (*Kollen, Futral*)
- d. Docket No. 20210179-EI for Gulf's Hurricane Zeta.  
Gulf included \$0.001 million in interest on the unamortized storm cost for this storm. The Rule does not include interest as a recoverable cost. Thus, the total amount of costs to be included in restoration costs should be reduced by the disallowance recommendations in OPC's positions including the \$0.001 million in unauthorized interest. (*Kollen, Futral*)

**STAFF:** Staff has no position at this time.

**ISSUE 10:** What is the reasonable and prudent amount of storm-related costs that should be capitalized?

- a. **Docket No. 20200241-EI for Gulf’s Hurricane Sally.**
- b. **Docket No. 20210178-EI for FPL’s Hurricane Isaias.**
- c. **Docket No. 20210178-EI for FPL’s Tropical Storm Eta.**
- d. **Docket No. 20210179-EI for Gulf’s Hurricane Zeta.**

**Gulf:** a. Docket No. 20200241-EI for Gulf’s Hurricane Sally.  
A total of \$21.2 million is the reasonable and prudent amount of Hurricane Sally storm related costs that should be and were capitalized, which includes \$16.4 million for contractor costs, \$3.0 million for materials and supplies, and \$1.8 million for other. To determine the amount of capitalized costs, Gulf used Part (1)(d) of the Rule, which states that “...the normal cost for the removal, retirement and replacement of those facilities in the absence of a storm, is the basis for calculating storm restoration capital.” (*Priore, Hughes*)

**FPL:** b. Docket No. 20210178-EI for FPL’s Hurricane Isaias.  
A total of \$3 thousand is the reasonable and prudent amount of Hurricane Isaias storm related costs that should be and were capitalized, which includes \$3 thousand for materials and supplies. To determine the amount of capitalized costs, FPL used Part (1)(d) of the Rule, which states that “...the normal cost for the removal, retirement and replacement of those facilities in the absence of a storm, is the basis for calculating storm restoration capital.” (*Hughes*)

**FPL:** c. Docket No. 20210178-EI for FPL’s Tropical Storm Eta.  
A total of \$439 thousand is the reasonable and prudent amount of Tropical Storm Eta storm related costs that should be and were capitalized, which includes \$3 thousand for regular payroll costs, \$28 thousand for contractor costs, \$347 thousand for materials and supplies, and \$61 thousand for other. To determine the amount of capitalized costs, FPL used Part (1)(d) of the Rule, which states that “...the normal cost for the removal, retirement and replacement of those facilities in the absence of a storm, is the basis for calculating storm restoration capital.” (*Hughes*)

**Gulf:** d. Docket No. 20210179-EI for Gulf’s Hurricane Zeta.  
A total of \$292 thousand is the reasonable and prudent amount of Hurricane Sally storm related costs that should be and were capitalized, which includes \$37 thousand for regular payroll costs, \$71 thousand for contractor costs, \$104 thousand for materials and supplies, and \$80 thousand for other. To determine the amount of capitalized costs, Gulf used Part (1)(d) of the Rule, which states

that "...the normal cost for the removal, retirement and replacement of those facilities in the absence of a storm, is the basis for calculating storm restoration capital." (*Hughes*)

**OPC:**

a. Docket No. 20200241-EI for Gulf's Hurricane Sally.

Rule 25-6.0143(1)(d), F.A.C., requires that storm costs must exclude those costs that would normally would be charged to non-cost recovery clause operating expenses in the absence of a storm. OPC is not recommending an adjustment to the capitalized cost included in the storm restoration costs for this storm. (*Kollen, Futral*)

b. Docket No. 20210178-EI for FPL's Hurricane Isaias.

Rule 25-6.0143(1)(d), F.A.C., requires that storm costs must exclude those costs that would normally would be charged to non-cost recovery clause operating expenses in the absence of a storm. OPC is not recommending an adjustment to the capitalized cost included in the storm restoration costs for this storm. (*Kollen, Futral*)

c. Docket No. 20210178-EI for FPL's Tropical Storm Eta.

Rule 25-6.0143(1)(d), F.A.C., requires that storm costs must exclude those costs that would normally would be charged to non-cost recovery clause operating expenses in the absence of a storm. OPC is not recommending an adjustment to the capitalized cost included in the storm restoration costs for this storm. (*Kollen, Futral*)

d. Docket No. 20210179-EI for Gulf's Hurricane Zeta.

Rule 25-6.0143(1)(d), F.A.C., requires that storm costs must exclude those costs that would normally would be charged to non-cost recovery clause operating expenses in the absence of a storm. OPC is not recommending an adjustment to the capitalized cost included in the storm restoration costs for this storm. (*Kollen, Futral*)

**STAFF:**

Staff has no position at this time.

**ISSUE 11: What is the appropriate accounting treatment associated with any storm costs found to have been imprudently incurred?**

**a. Docket No. 20210178-EI for FPL's Hurricane Isaias.**

**b. Docket No. 20210178-EI for FPL's Tropical Storm Eta.**

**FPL:**

a. Docket No. 20210178-EI for FPL's Hurricane Isaias.

All of FPL's Hurricane Isaias storm related costs have been charged as either capital costs or base O&M expense. In the event that the Commission were to find that any of FPL's Hurricane Isaias storm related costs charged as either



capital or base O&M expense were impudently incurred based on the actual conditions and circumstances at the time decisions were made, such costs would be charged below-the-line with a corresponding reduction in capital or above-the-line base O&M. For above-the-line base O&M, this would effectively increase the balance in FPL's amortization reserve mechanism. (*Hughes*)

**FPL:**

b. Docket No. 20210178-EI for FPL's Tropical Storm Eta.

All of FPL's Tropical Storm Eta related costs have been charged as either capital costs or base O&M expense. In the event that the Commission were to find that any of FPL's Tropical Storm Eta related costs charged as either capital or base O&M expense were impudently incurred based on the actual conditions and circumstances at the time decisions were made, such costs would be charged below-the-line with a corresponding reduction in capital or above-the-line base O&M. For above-the-line base O&M, this would effectively increase the balance in FPL's amortization reserve mechanism. (*Hughes*)

**OPC:**

a. Docket No. 20210178-EI for FPL's Hurricane Isaias.

Rule 25-6.0143(1)(d), F.A.C., requires that storm costs must exclude those costs that would normally would be charged to non-cost recovery clause operating expenses in the absence of a storm. Under the ICCA methodology, utilities are allowed to charge to Account 228.1 these incremental costs for non-cost recovery clause operating expense in the absence of a storm and are subject to reasonable and prudence review. Under Section 25-6.0143(1)(h), F.A.C., a utility may choose, at its own option, to charge these storm related costs as operating expense rather than charging them to Account No. 228.1.

The Rule has only one description of storm-related damages or storm costs that may be recovered from customers, despite the form of recovery or use of the RSAM. The Rule does not contain an exculpatory term that relieves the utility from compliance with the Rule if it chooses to charge storm cost to base O&M, and then recover the storm-costs through the use of the depreciation reserve (i.e. customer monies) under the RSAM. For storm-related costs to be determined reasonable and prudent, these storm-related costs must comply with the ICCA methodology. Thus, the costs improperly charged by FPL to base O&M expense and recovered through the depreciation reserve should be restored to the depreciation reserve in a manner that ensures the non-incremental costs remain available to customers, but are not available to FPL to increase earnings pursuant to the RSAM in the future. (*Kollen, Futral*)

b. Docket No. 20210178-EI for FPL's Tropical Storm Eta.

Rule 25-6.0143(1)(d), F.A.C., requires that storm costs must exclude those costs that would normally would be charged to non-cost recovery clause operating expenses in the absence of a storm. Under the ICCA methodology, utilities are allowed to charge to Account 228.1 these incremental costs for non-cost recovery clause operating expense in the absence of a storm and are subject to reasonable

and prudence review. Under Section 25-6.0143(1)(h), F.A.C., a utility may choose, at its own option, to charge these storm related costs as operating expense rather than charging them to Account No. 228.1.

The Rule has only one description of storm-related damages or storm costs that may be recovered from customers, despite the form of recovery or use of the RSAM. The Rule does not contain an exculpatory term that relieves the utility from compliance with the Rule if it chooses to charge storm cost to base O&M, and then recover the storm-costs through the use of the depreciation reserve (i.e. customer monies) under the RSAM. For storm-related costs to be determined reasonable and prudent, these storm-related costs must comply with the ICCA methodology. Thus, the charges improperly charged by FPL to base O&M expense and recovered through the depreciation reserve, should be restored to the depreciation reserve in a manner that ensures the non-incremental costs remain available to customers, but are not available to FPL to increase earnings pursuant to the RSAM in the future. (*Kollen, Futral*)

**STAFF:** Staff has no position at this time.

**ISSUE 12:** **Should the Commission approve Gulf Power Company's proposed tariffs and associated charges?**

- a. **Docket No. 20200241-EI for Gulf's Hurricane Sally.**
- b. **Docket No. 20210179-EI for Gulf's Hurricane Zeta.**

**Gulf:** Yes. Gulf's proposed tariff and associated charge will allow Gulf to recover the reasonable and prudent storm-related costs, in incurrence and amount. (*Hughes, Cohen*)

**OPC:** a. Docket No. 20200241-EI for Gulf's Hurricane Sally.  
No. Gulf should be required to file new tariffs that reflect the disallowances recommended in OPC's positions and approved by the Commission. (*Kollen, Futral*)

b. Docket No. 20210179-EI for Gulf's Hurricane Zeta.  
No. Gulf should be required to file new tariffs that reflect the disallowances recommended in OPC's positions and approved by the Commission. (*Kollen, Futral*)

**STAFF:** Staff has no position at this time.

**ISSUE 13:** **If applicable, how should any under-recovery or over-recovery be handled?**

- a. **Docket No. 20200241-EI for Gulf's Hurricane Sally.**
- b. **Docket No. 20210179-EI for Gulf's Hurricane Zeta.**

**Gulf:** No fewer than 90 days prior to the date Gulf expects to fully recover its final/actual recoverable storm amounts for Hurricane Sally and Zeta, Gulf will make a compliance filing with the Commission to provide notice of its intent to terminate the Proposed Storm Charges. Within 45 days after the Proposed Storm Charges expire, the Company will compare the final Recoverable Storm Amount approved for recovery by the Commission to actual revenues received from the Interim Storm Charge and Proposed Storm Charges in order to determine any excess or shortfall in recovery. Gulf will calculate final true-up rates and file with the Commission for approval to apply final true-up rates to customer bills for a one-month period in order to refund the excess or collect the shortfall. The final true-up rates will be designed in a manner that is consistent with methods ultimately approved by the Commission in this docket. Gulf will apply the true-up rates to customer bills starting on Cycle 1 of the first month that is more than 30 days after the date of Commission approval. (*Cohen*)

**OPC:** a. Docket No. 20200241-EI for Gulf's Hurricane Sally.  
If the approved storm costs have yet to be collected, the storm surcharge should reflect all disallowances. The current total surcharges on the bill for Gulf customer's is \$11/1,000 kWh (\$8/1,000 kWh for Hurricane Michael and \$3/1,000 kWh for Hurricane Sally). The combined surcharge for Gulf customers should not be increased above \$11/1,000 kWh and be used to collect for Hurricanes Michael at \$8/1,000 kWh, Hurricane Sally at \$2/kWh and \$1/\$1,000 kWh for Hurricane Zeta. Once Hurricane Michael costs are fully recovered, than the surcharge for Hurricane Sally should increase by an amount equivalent to the Hurricane Michael surcharge plus the current Hurricane Sally surcharge until fully recovered. If there is any over-recovery, it should be reflected as a one-time credit on Gulf's customers' bills.

b. Docket No. 20210179-EI for Gulf's Hurricane Zeta.  
If the approved storm costs have yet to be collected, the storm surcharge should reflect all disallowances. The current total surcharges on the bill for Gulf customer's is \$11/1,000 kWh (\$8/1,000 kWh for Hurricane Michael and \$3/1,000 kWh for Hurricane Sally). The combined surcharge for Gulf customers should not be increased above \$11/1,000 kWh and be used to collect for Hurricanes Michael at \$8/1,000 kWh, Hurricane Sally at \$2/kWh and \$1/\$1,000 kWh for Hurricane Zeta. Once Hurricane Michael costs are fully recovered, than the surcharge for Hurricane Sally should increase by an amount equivalent to the Hurricane Michael surcharge plus the current Hurricane Sally surcharge until fully recovered. If there is any over-recovery, it should be reflected as a one-time credit on Gulf's customers' bills.

**STAFF:** Staff has no position at this time.

**ISSUE 14: Should this docket be closed?**

- a. **Docket No. 20200241-EI for Gulf's Hurricane Sally.**
- b. **Docket No. 20210178-EI for FPL's Hurricane Isaias.**
- c. **Docket No. 20210178-EI for FPL's Tropical Storm Eta.**
- d. **Docket No. 20210179-EI for Gulf's Hurricane Zeta.**

**Gulf:** a. Docket No. 20200241-EI for Gulf's Hurricane Sally.  
The docket should be closed following the establishment of a final Recoverable Storm Amount and the approval of final true-up rates to be applied to customer bills for a one-month period starting on Cycle 1 of the first month that is more than 30 days after the date of Commission approval.

**FPL:** b. Docket No. 20210178-EI for FPL's Hurricane Isaias.  
Yes. FPL is not seeking approval in this proceeding to recover any of the Hurricane Isaias storm related costs through depletion of the storm reserve or through a storm surcharge, because all non-capitalized storm-related costs were charged to base O&M expense as permitted under Part (1)(h) of the Rule. Upon the issuance of an order finding that FPL's costs were reasonable and FPL's activities in restoring power following Hurricane Isaias were prudent, this docket should be closed.

**FPL:** c. Docket No. 20210178-EI for FPL's Tropical Storm Eta.  
Yes. FPL is not seeking approval in this proceeding to recover any of the Tropical Storm Eta storm related costs through depletion of the storm reserve or through a storm surcharge, because all non-capitalized storm-related costs were charged to base O&M expense as permitted under Part (1)(h) of the Rule. Upon the issuance of an order finding that FPL's costs were reasonable and FPL's activities in restoring power following Tropical Storm Eta were prudent, this docket should be closed.

**Gulf:** d. Docket No. 20210179-EI for Gulf's Hurricane Zeta.  
The docket should be closed following the establishment of a final Recoverable Storm Amount and the approval of final true-up rates to be applied to customer bills for a one-month period starting on Cycle 1 of the first month that is more than 30 days after the date of Commission approval.

**OPC:** a. Docket No. 20200241-EI for Gulf's Hurricane Sally.  
No position at this time.

b. Docket No. 20210178-EI for FPL's Hurricane Isaias.  
No position at this time.

c. Docket No. 20210178-EI for FPL's Tropical Storm Eta.  
No position at this time.

d. Docket No. 20210179-EI for Gulf's Hurricane Zeta.  
No position at this time.

**STAFF:** Staff has no position at this time.

**IX. EXHIBIT LIST**

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
			<u>Direct</u>
Paul Talley (formerly Michael Spoor)	Gulf	MS-1	Hurricane Sally Forecast Track on September 13, 2020  <i>Filed as Exhibit MS-1 in Docket No. 20200241-EI</i>
Paul Talley (formerly Michael Spoor)	Gulf	MS-2	Hurricane Sally's Path  <i>Filed as Exhibit MS-2 in Docket No. 20200241-EI</i>
Paul Talley (formerly Michael Spoor)	Gulf	MS-3	National Hurricane Center's Landfall Track for Hurricane Sally on September 16, 2020  <i>Filed as Exhibit MS-3 in Docket No. 20200241-EI</i>
Paul Talley (formerly Michael Spoor)	Gulf	MS-4	Hurricane Sally StormGeo Image on September 16, 2020  <i>Filed as Exhibit MS-4 in Docket No. 20200241-EI</i>
Paul Talley (formerly Michael Spoor)	Gulf	MS-5	Gulf's T&D Hurricane Sally Restoration Costs  <i>Filed as Exhibit MS-5 in Docket No. 20200241-EI</i>

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Paul Talley (formerly Michael Spoor)	Gulf	MS-6	Hurricane Zeta Landfall and Track  <i>Filed as Exhibit MS-1 in Docket No. 20200179-EI</i>
Paul Talley (formerly Michael Spoor)	Gulf	MS-7	Gulf's T&D Hurricane Zeta Restoration Costs  <i>Filed as Exhibit. MS-2 in Docket No. 20200179-EI</i>
Carmine Priore, III	Gulf	CP-1	List of Equipment at Plant Crist that was Damaged as a Result of Hurricane Sally  <i>Filed as Exhibit CP-1 in Docket No. 20200241-EI</i>
Carmine Priore, III	Gulf	CP-2	Pictures of Flooding and Damage at Plant Crist as a Result of Hurricane Sally  <i>Filed as Exhibit CP-2 in Docket No. 20200241-EI</i>
David Hughes	Gulf	DH-1	Hurricane Sally Incremental Cost and Capitalization Approach Adjustments (Restoration Costs as of October 31, 2021)  <i>Filed as Exhibit DH-1 in Docket No. 20200241-EI</i>
David Hughes	Gulf	DH-2	Hurricane Zeta Incremental Cost and Capitalization Approach Adjustments (Restoration Costs as of October 31, 2021)  <i>Filed as Exhibit DH-1 in Docket No. 20210179-EI</i>

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Tiffany C. Cohen	Gulf	TCC-1	Calculation of Proposed Storm Restoration Recovery Surcharges  Filed as Exhibit TCC-1 in Docket No. 20200241-EI
Tiffany C. Cohen	Gulf	TCC-2	Hurricane Sally Storm Restoration Recovery - First Revised Tariff Sheet No. 8.030.5  Filed as Exhibit TCC-2 in Docket No. 20200241-EI
Tiffany C. Cohen	Gulf	TCC-3	Hurricane Sally Storm Restoration Recovery – Second Revised Tariff Sheet No. 8.030.5  Filed as Exhibit TCC-3 in Docket No. 20200241-EI
Tiffany C. Cohen	Gulf	TCC-4	Calculation of Proposed Storm Restoration Recovery Charges (Hurricane Zeta)  Filed as Exhibit TCC-1 in Docket No. 20210179-EI
Tiffany C. Cohen	Gulf	TCC-5	Hurricane Zeta Storm Restoration Recovery – Original Tariff Sheet No. 8.030.6  Filed as Exhibit TCC-2 in Docket No. 20210179-EI
Manuel B. Miranda	FPL	MBM-1	Hurricane Isaias – National Hurricane Center’s Forecast Track  <i>Filed as Exhibit MBM-1 in Docket No. 20210178-EI</i>

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Manuel B. Miranda	FPL	MBM-2	Hurricane Isaias – Satellite View  <i>Filed as Exhibit MBM-2 in Docket No. 20210178-EI</i>
Manuel B. Miranda	FPL	MBM-3	Tropical Storm Eta – National Hurricane Center’s Forecast Track  <i>Filed as Exhibit MBM-3 in Docket No. 20210178-EI</i>
Manuel B. Miranda	FPL	MBM-4	Tropical Storm Eta – Satellite View  <i>Filed as Exhibit MBM-4 in Docket No. 20210178-EI</i>
Manuel B. Miranda	FPL	MBM-5	Tropical Storm Eta’s Path and Double Landfall in Florida  <i>Filed as Exhibit MBM-5 in Docket No. 20210178-EI</i>
Manuel B. Miranda	FPL	MBM-6	FPL’s T&D Hurricane Isaias Restoration Costs  <i>Filed as Exhibit MBM-6 in Docket No. 20210178-EI</i>
Manuel B. Miranda	FPL	MBM-7	FPL’s T&D Tropical Storm Eta Restoration Costs  <i>Filed as Exhibit MBM-7 in Docket No. 20210178-EI</i>
David Hughes	FPL	DH-3	Hurricane Isaias Incremental Cost and Capitalization Approach Adjustments (Restoration Costs as of July 31, 2021)  <i>Filed as Exhibit DH-1 in Docket No. 20210178-EI</i>



<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
David Hughes	FPL	DH-4	Tropical Storm Eta Incremental Cost and Capitalization Approach Adjustments (Restoration Costs as of July 31, 2021)  <i>Filed as Exhibit DH-2 in Docket No. 20210178-EI</i>
Lane Kollen	OPC	LK-1	Resume of Lane Kollen
Lane Kollen	OPC	LK-2	Interrogatory No. 31 Response
Lane Kollen	OPC	LK-3	Interrogatory No. 5 Response
Lane Kollen	OPC	LK-4	Confidential
Lane Kollen	OPC	LK-5	Confidential
Lane Kollen	OPC	LK-6	Confidential
Lane Kollen	OPC	LK-7	Interrogatory No. 55 Response
Lane Kollen	OPC	LK-8	Confidential
Lane Kollen	OPC	LK-9	Confidential
Randy Futral	OPC	RAF-1	Resume of Randy A. Futral
Randy Futral	OPC	RAF-2	Confidential
Randy Futral	OPC	RAF-3	Confidential
Randy Futral	OPC	RAF-4	Confidential
Randy Futral	OPC	RAF-5	Confidential
Randy Futral	OPC	RAF-6	Confidential
Randy Futral	OPC	RAF-7	Confidential
<u>Rebuttal</u>			
David Hughes	Gulf	DH-5	Updated Hurricane Sally Costs as of April 30, 2022

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
David Hughes	Gulf	DH-6	Updated Hurricane Zeta Costs as of April 30, 2022
David Hughes	FPL	DH-7	Updated Hurricane Isaias Costs as of April 30, 2022
David Hughes	FPL	DH-8	Updated Tropical Storm Eta Costs as of April 30, 2022

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

**X. PROPOSED STIPULATIONS**

There are no proposed stipulations at this time.

**XI. PENDING MOTIONS**

There are no pending motions at this time.

**XII. PENDING CONFIDENTIALITY MATTERS**

There are twelve pending confidentiality matters at this time.

1. Gulf's request for confidential classification of [DN 12676-2021] information provided in support of notice of filing confidential supporting materials in support of petition for evaluation of Hurricane Sally storm costs.
2. Gulf's request for confidential classification of [DN 13152-2021] information provided in provided in response to OPC's 1 set of interrogatories (Nos. 9 and 15) and 1st request for POD (No.40). (Sally)
3. Gulf's request for confidential classification of [DN 00236-2022] information provided in provided in response to OPC's 2nd request for PODs (Nos. 10, 11, 34). (Sally)
4. Gulf's request for confidential classification of [DN 00506-2022] information provided in provided in response to OPC's 2nd request for PODs (No. 32). (Sally)
5. FPL's and Gulf's request for confidential classification of [DN 02035-2022] information provided in provided in response to OPC's 2<sup>nd</sup> set of interrogatories (No 41), and 3<sup>rd</sup> PODs (Nos.47-48) (Sally). OPC's 2nd set of interrogatories (Nos. 40-42) and for 2<sup>nd</sup> request for PODs (Nos. 38, 39, 42). (Isaias/Eta). OPC's 2nd set of

- interrogatories (Nos. 38, 39, 41) and for 2<sup>nd</sup> request for PODs (Nos. 36, 38, 42, 43, 45). (Zeta).
6. FPL's and Gulf's request for confidential classification of [DN 02248-2022] information provided in provided in response to OPC's 3<sup>rd</sup> set of interrogatories (No 44-47), and 4<sup>th</sup> PODs (Nos.52-56) (Sally). OPC's 3<sup>rd</sup> set of interrogatories (Nos. 47-48) and for 3<sup>rd</sup> request for PODs (Nos. 44-47). (Isaias/Eta).
  7. Gulf's request for confidential classification of [DN 02547-2022] information provided in provided in response to OPC's 5<sup>th</sup> set of interrogatories (Nos. 51, 52, 54, 57-59, 66-68). (Sally)
  8. Gulf's request for confidential classification of [DN 02616-2022] information provided in provided in response to OPC's 4<sup>th</sup> set of interrogatories (Nos. 48-49) (Sally), OPC's 4<sup>th</sup> set of interrogatories (Nos. 49, 51-52) (Isaias/Eta), OPC's 3<sup>rd</sup> set of interrogatories (No. 42) (Zeta).
  9. FPL's and Gulf's request for confidential classification of [DN 03060-2022] information included in the direct testimony of OPC witnesses Lane Kollen and Randy Futral.
  10. FPL's request for confidential classification of [DN 00321-2022] information provided in response to OPC's 1 request for PODs (Nos. 4-5). (Isaias/Eta).
  11. FPL's request for confidential classification of [DN 00502-2022] information provided in response to OPC's 1 request for PODs (Nos. 8, 13, 26, 28). (Isaias/Eta).
  12. Gulf's request for confidential classification of [DN 00323-2021] information provided in provided in response to OPC's 2<sup>nd</sup> request for PODs (Nos. 4, 5, 7, 27). (Zeta).

### **XIII. POST-HEARING PROCEDURES**

If no bench decision is made, each party shall file a post-hearing statement of issues and positions. A summary of each position, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of this Prehearing Order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 75 words, it must be reduced to no more than 75 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, F.A.C., a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages and shall be filed at the same time, and no later than August 16, 2022.

### **XIV. RULINGS**

#### **1. Opening Statements and Witness Summaries**

Opening statements, if any, shall not exceed five minutes per party.

Witness summaries, if any, shall not exceed three minutes per witness.

2. OPC Contested Issue

OPC proposes the following issue: What changes, if any, should be made by FPL to their hurricane processes? After hearing argument from the parties at the Prehearing Conference and carefully reviewing the Prehearing Statements, I conclude that OPC's proposed issue is beyond the scope of this proceeding and will not be included.

FPL filed its petitions in November 2021 to recover storm-related costs arising from tropical events that occurred during 2020. OPC's proposed issue requests that the Commission identify and order FPL to implement new processes "on a going-forward basis." Disputed facts and issues related to potential new processes for the future are not material to the Commission's assessment of past actions for cost recovery purposes. If FPL fails to demonstrate that it is entitled to cost recovery, the appropriate relief is disallowance of the disputed cost, not the imposition of new procedural requirements to govern future requests for recovery.

Rule 25-6.0143, F.A.C., which guides the Commission in this docket, prescribes the methodology to calculate storm-related costs and the types of costs that are and are not recoverable. It does not contain standards to assess the types of processes OPC requests that the Commission mandate for future storm-recovery. The agreed-upon issues in the Prehearing Statements in this docket properly track existing Rule requirements and present to the Commission all relevant matters for decision.

It is therefore,

ORDERED by Commissioner Art Graham, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Art Graham, as Prehearing Officer, this 27th day of June, 2022.



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

SPS

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

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

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

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.