

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricanes Elsa, Eta, Isaias, Ian, Nicole, and Tropical Storm Fred, by Duke Energy Florida, LLC.

DOCKET NO. 20230020-EI

In re: Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricane Idalia, by Duke Energy Florida, LLC.

DOCKET NO. 20230116-EI
ORDER NO. PSC-2025-0169-PHO-EI
ISSUED: May 27, 2025

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 May 19, 2025, in Tallahassee, Florida, before Commissioner Gabriella Passidomo Smith, as Prehearing Officer.

APPEARANCES:

MATTHEW R. BERNIER, STEPHANIE A. CUELLO, ESQUIRES, 106 East College Avenue, Tallahassee, Florida 32301; and DIANNE M. TRIPLETT, Deputy General Counsel, 299 First Avenue North, St. Petersburg, Florida 33701
On behalf of Duke Energy Florida, LLC (DEF).

WALT TRIERWEILER, CHARLES J. REHWINKEL, OCTAVIO SIMOES-PONCE and AUSTIN WATROUS, ESQUIRES, Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Suite 812, Tallahassee, Florida 32239-1400
On behalf of Office of Public Counsel (OPC).

JAMES W. BREW and LAURA WYNN BAKER, ESQUIRES, Stone Mattheis Xenopoulos & Brew, PC, 1025 Thomas Jefferson Street, NW, Suite 800 West, Washington, DC 20007-5201
On behalf of White Springs Agricultural Chemicals, Inc. d/b/a PCS-Phosphate – White Springs (PCS Phosphate).

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

MARY ANNE HELTON, ESQUIRE, Interim General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
Florida Public Service Commission Interim General Counsel.

I. CASE BACKGROUND

On October 16, 2023, in Docket No. 20230116-EI, Duke Energy Florida, LLC (DEF) filed a petition seeking authority to implement an interim storm restoration recovery surcharge to recover approximately \$91.9 million in incremental storm restoration costs, replenishment of the storm reserve, and interest related to Hurricane Idalia, to begin with the first billing cycle of January 2024 through December 31, 2024, subject to final true-up. At that time, DEF also requested approval to combine the remaining \$73.9 million interim incremental storm restoration costs for Hurricanes Elsa, Eta, Isaias, Ian, Nicole, and Tropical Storm Fred, approved in Docket No. 20230020-EI, with Hurricane Idalia costs to recover a total of \$166.1 million, over the January through December 31, 2024 time period. Order No. PSC-2023-0375-PCO-EI, issued December 19, 2023, approved the requested combined interim storm cost recovery of \$166.1 million over the January through December 31, 2024 time period.

On May 14, 2024, Docket Nos. 20230020-EI and 20230116-EI were consolidated by Order No. PSC-2024-0151-PHO-EI. A hearing was held on May 21, 2024, to establish the final, prudent costs for Hurricanes Elsa, Eta, Isaias, Ian, Nicole, and Tropical Storm Fred. Final storm restoration costs for Hurricanes Elsa, Eta, Isaias, Ian, Nicole, and Tropical Storm Fred in the amount of \$431,380,637 plus estimated interest were approved by Order No. PSC-2024-0377-FOF-EI, issued August 27, 2024. The Office of Public Counsel (OPC) was acknowledged as a party in Docket No. 20230116-EI by Order No. 2024-0050-PCO-EI, issued on May 14, 2024. Walmart, Inc. (Walmart) and White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate-White Springs (PCS Phosphate) were parties to Docket No. 20230020-EI and became parties to Docket 20230116-EI upon the consolidation of the dockets on May 14, 2024. On May 13, 2025, Walmart filed a letter stating that it did not wish to participate in the May 19 Prehearing or the June 3 hearing resolving issues associated with Hurricane Idalia. That being the case, Walmart has not filed a Prehearing Statement in this proceeding and did not attend the May 19 Prehearing.

On September 23, 2024, DEF filed its petition to determine several issues: (1) to determine the prudent storm cost for Hurricane Idalia; (2) to determine the money actually collected over the April 2023 to December 2024 combined time period in which the storm cost recovery surcharge was in effect; (3) to combine the \$431,380,637 costs approved as prudent for Hurricanes Elsa, Eta, Isaias, Ian, Nicole, and Tropical Storm Fred with the costs determined to be prudent for Hurricane Idalia; and (4) to calculate the true-up of collected moneys with the combined prudent storm recovery costs. The Commission has set a hearing for June 3-4, 2025.

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.

III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapter 366, Florida Statutes (F.S.). This hearing will be governed by said Chapter, Chapter 120, F.S., and Chapters 25-6, 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 (3) 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' direct testimony is adverse to its interests.

VI. ORDER OF WITNESSES

Each witness, whether participating or excused, and their prefiled exhibits, will be taken up in the following order:

| <u>Witness</u> | <u>Proffered By</u> | <u>Issues #</u> |
|-----------------------|---------------------|-----------------|
| <u>Direct</u> | | |
| *Christopher Menendez | DEF | 1, 2, 15, 17 |

| <u>Witness</u> | <u>Proffered By</u> | <u>Issues #</u> |
|----------------|---------------------|-----------------|
| *Jimmy New | DEF | 1-16 |
| *Todd Fountain | DEF | 2, 3-10, 16 |
| *Curt Mouring | Staff | 1-14 |

* Parties have agreed that these witnesses can be excused.

VII. BASIC POSITIONS

DEF: Not applicable. DEF's positions on specific issues are listed below.

OPC: The OPC's basic position is that DEF's recovery of the storm restoration cost should be based only on reasonable and prudent costs incurred for Hurricanes Elsa, Eta, Isaias, Ian, Nicole, Tropical Storm Fred and Hurricane Idalia in accordance with the provisions of Rule 25-5.0143, F.A.C., the 2019 Storm Cost Settlement Agreement ("Corrected") and Commission practice and policy. DEF has the burden to prove that the recovery of costs for which it seeks approval in this docket meets that burden. At this point the OPC is not convinced that the company has fully met that burden for Hurricanes Elsa, Eta, Isaias, Ian, Nicole, Tropical Storm Fred and Hurricane Idalia.

PCS

Phosphate: Only costs prudently incurred and legally authorized may be recovered by Duke Energy Florida, LLC ("DEF") in its petition to recover storm restoration costs related to Hurricane Idalia. In the *Order Approving Duke Energy, LLC's Interim Storm Cost Recovery Charge*, Order No. PSC-2023-0375-PCO-EI, issued on December 19, 2023, the Commission approved DEF's request to combine Hurricane Idalia costs with the remaining interim incremental storm restoration costs for Hurricanes Elsa, Eta, Isaias, Ian, Nicole, and Tropical Storm Fred, approved in Docket No. 20230020-EI, for a total of \$166.1 million to be recovered over the January 2024 to December 2024 timeframe. DEF must satisfy the burden of proving the reasonableness of any expenditures for which recovery or other relief is sought in this proceeding.

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:** Proposed Type 1 Stipulation; see Section X.
- ISSUE 2:** Proposed Type 1 Stipulation; see Section X.
- ISSUE 3:** Proposed Type 1 Stipulation; see Section X.
- ISSUE 4:** Proposed Type 1 Stipulation; see Section X.
- ISSUE 5:** Proposed Type 1 Stipulation; see Section X.
- ISSUE 6:** Proposed Type 1 Stipulation; see Section X.
- ISSUE 7:** Proposed Type 1 Stipulation; see Section X.
- ISSUE 8:** Proposed Type 1 Stipulation; see Section X.
- ISSUE 9:** Proposed Type 1 Stipulation; see Section X.
- ISSUE 10:** Proposed Type 1 Stipulation; see Section X.
- ISSUE 11:** Proposed Type 1 Stipulation; see Section X.
- ISSUE 12:** Proposed Type 1 Stipulation; see Section X.
- ISSUE 13:** Proposed Type 1 Stipulation; see Section X.
- ISSUE 14:** Proposed Type 1 Stipulation; see Section X.
- ISSUE 15:** Proposed Type 1 Stipulation; see Section X.
- ISSUE 16:** Proposed Type 1 Stipulation; see Section X.
- ISSUE 17:** Proposed Type 1 Stipulation; see Section X.
- ISSUE 18:** Proposed Type 1 Stipulation; see Section X.

IX. EXHIBIT LIST

| <u>Witness</u> | <u>Proffered By</u> | | <u>Description</u> |
|----------------------|---------------------|---------|-----------------------------------------------------------------------------------------------------------|
| <u>Direct</u> | | | |
| Christopher Menendez | DEF | (CAM-1) | Total recoverable restoration costs, along with monthly revenues and interest collected through July 2024 |
| Jimmy New | DEF | (JN-1) | Cost Summary Storm Reserve |
| Jimmy New | DEF | (JN-2) | Hurricane Idalia Cost Summary |
| Jimmy New | DEF | (JN-3) | Remaining Recovery from Docket No. 20230020 |
| Jimmy New | DEF | (JN-4) | Interest and Unrecovered Costs Calculation |
| Curt Mouring | Staff | (CM-1) | Auditor Report dated March 18, 2025 |

X. PROPOSED STIPULATIONS

There are Type 1 Stipulations on all issues in this docket. A Type 1 Stipulation occurs on an issue when all parties agree on the stated resolution of the issue. The proposed stipulations are as follows:

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 restoration costs for Hurricane Idalia?

Stipulation: The ICAA approach in Rule 25-6.0143, F.A.C., and the terms of the 2019 Irma Settlement Agreement approved by Order No. PSC-2019-0232-AS-EI should be used to determine the reasonable and prudent amounts included in the restoration costs.

ISSUE 2: Have the terms of DEF's 2021 Settlement Agreement, approved by Order No. PSC-2021-0202A-AS-EI, issued June 28, 2021, been complied with? If not, why not?

Stipulation: Yes.

ISSUE 3: What is the reasonable and prudent amount of regular payroll expense to be included in Total Storm Related Restoration Costs for Hurricane Idalia?

Stipulation: The reasonable and prudent amount of regular payroll expense is \$2,727,108 to be included in the total storm related restoration costs for Hurricane Idalia.

ISSUE 4: What is the reasonable and prudent amount of overtime payroll expense to be included in Total Storm Related Restoration Costs for Hurricane Idalia?

Stipulation: The reasonable and prudent amount of overtime payroll expense is \$6,240,229 to be included in the total storm related restoration costs for Hurricane Idalia.

ISSUE 5: What is the reasonable and prudent amount of contractor costs, including vegetation and line clearing, to be included in Total Storm Related Restoration Costs for Hurricane Idalia?

Stipulation: The reasonable and prudent amount of contractor costs is \$77,261,347 to be included in the total storm related restoration costs for Hurricane Idalia.

ISSUE 6: What is the reasonable and prudent amount of vehicle and fuel expense to be included in Total Storm Related Restoration Costs for Hurricane Idalia?

Stipulation: The reasonable and prudent amount of vehicle and fuel expense is \$1,199,229 to be included in the total storm related restoration costs for Hurricane Idalia.

ISSUE 7: What is the reasonable and prudent amount of employee expenses to be included in Total Storm Related Restoration Costs for Hurricane Idalia?

Stipulation: The reasonable and prudent amount of employee expenses is \$721,666 to be included in the total storm related restoration costs for Hurricane Idalia.

ISSUE 8: What is the reasonable and prudent amount of materials and supplies expense to be included in Total Storm Related Restoration Costs for Hurricane Idalia?

Stipulation: The reasonable and prudent amount of material and supplies expense is \$12,265,808 to be included in the total storm related restoration costs for Hurricane Idalia.

ISSUE 9: What is the reasonable and prudent amount of other costs to be included in Total Storm Related Restoration Costs for Hurricane Idalia?

Stipulation: The reasonable and prudent amount of other costs is \$5,033,852 and \$17,592,325 in logistics costs to be included in the total storm related restoration costs for Hurricane Idalia.

ISSUE 10: What is the reasonable and prudent total amount of costs to be included in Total Storm Related Restoration Costs for Hurricane Idalia?

Stipulation: The reasonable and prudent total amount of costs to be included is \$123,041,564 to be included in the total storm related restoration costs for Hurricane Idalia.

ISSUE 11: What is the reasonable and prudent amount of storm-related costs that should be capitalized for Hurricane Idalia?

Stipulation: The reasonable and prudent amount of storm-related costs that should be capitalized is \$18,110,417 for Hurricane Idalia.

ISSUE 12: What is the reasonable and prudent amount of storm-related costs that should be ICCA non-incremental O&M adjustments for Hurricane Idalia?

Stipulation: The reasonable and prudent amount of storm-related costs that should be ICCA non-incremental O&M adjustments for Hurricane Idalia is \$4,510,971.

ISSUE 13: What is the reasonable and prudent amount of retail Recoverable Storm Costs for Hurricane Idalia?

Stipulation: The reasonable and prudent amount of retail Recoverable Storm Costs for Hurricane Idalia is \$97,052,694 plus interest to be determined.

ISSUE 14: What is the reasonable and prudent amount of the combined retail Recoverable Storm Costs for Hurricanes Elsa, Eta, Isaias, Ian, Nicole, Tropical Storm Fred and Hurricane Idalia?

Stipulation: The reasonable and prudent amount of the combined retail recoverable storm costs for Hurricanes Elsa, Eta, Isaias, Ian, Nicole, and Tropical Storm Fred is \$437,687,173 and for Hurricane Idalia is \$97,052,694, plus interest to be determined subsequently, for a total of \$534,739,867.

ISSUE 15: What is the combined amount of Recoverable Storm Costs recovered through the Storm Cost Recovery Surcharge for Hurricanes Elsa, Eta, Isaias, Ian, Nicole, Tropical Storm Fred and Hurricane Idalia?

Stipulation: The combined amount of revenues from the storm surcharge is \$535,373,165.

ISSUE 16: What is the appropriate accounting treatment associated with any storm cost for Hurricane Idalia found to have been imprudently recovered?

Stipulation: Imprudently incurred storm costs should not be charged to the storm reserve or recovered through a storm restoration charge on customer bills. No storm

restoration costs were imprudently incurred; therefore, no such adjustment is necessary.

ISSUE 17: If applicable, how should any under-recovery or over-recovery be handled?

Stipulation: DEF will compare the final storm recovery amount approved by the Commission to actual revenues from the storm restoration charge to determine any excess or shortfall. Interest will be applied to this amount at the 30-day commercial paper rate. Thereafter, DEF will collect or refund the excess or shortfall through the fuel clause.

ISSUE 18: Should these dockets be closed?

Stipulation: No.

XI. PENDING MOTIONS

There are no pending motions at this time.

XII. PENDING CONFIDENTIALITY MATTERS

There are no pending confidentiality matters.

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.

XIV. RULINGS

Opening statements, if any, shall not exceed 3 minutes per party.

PCS Phosphate has been excused from the hearing on June 3-4, 2025.

Walmart is a party to this docket because Docket No. 20230116-EI was consolidated with Docket No. 20230020-EI. By letter dated May 13, 2025, Walmart stated that it did not intend to participate in this proceeding and would not take any positions on any issues. The May 13, 2025 letter will be treated as a request for recusal from this proceeding, which is hereby granted.

On May 16, 2025, OPC and DEF jointly filed a Stipulated Confirmations and Commitments document, which was made to facilitate resolution of Docket Nos. 20230020-EI and 20230116-EI. The parties have asked that this document be entered into the record and attached to the final order issued in this docket. Accordingly, the Stipulated Confirmations and Commitments document shall be identified as an exhibit on the Comprehensive Exhibit List, entered into the record, and attached to the final order issued in this docket.

It is therefore,

ORDERED by Commissioner Gabriella Passidomo Smith, 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 Gabriella Passidomo Smith, as Prehearing Officer, this 27th day of May, 2025.



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

SBr

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.