

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: August 22, 2025

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Accounting and Finance (Vogel, Gatlin, Hinson) *MC*
Division of Economics (Hampson) *ED*
Division of Engineering (P. Buys, Ramos, Smith II) *TB*
Office of the General Counsel (Brownless, Crawford) *JSC*

RE: Docket No. 20240149-EI – Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricanes Debby, Helene, and Milton, by Florida Power & Light Company.

AGENDA: 09/04/25 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Fay

CRITICAL DATES: 10/29/25 (date by which Petition must be ruled on pursuant to Section 120.542, F.S.)

SPECIAL INSTRUCTIONS: None

Case Background

On October 29, 2024, Florida Power & Light Company (FPL or Company) filed a petition for a limited proceeding seeking authority to implement an interim storm restoration recovery charge to recover \$1.2 billion for the incremental restoration costs related to Hurricanes Debby, Helene, and Milton, as well as the replenishment of its retail storm reserve. The Commission granted FPL's petition by Order No. PSC-2024-0503-PCO-EI, issued December 17, 2024, and approved an interim storm restoration recovery charge subject to final true-up once the total actual storm

costs were known. Intervention by the Office of Public Counsel (OPC) was acknowledged by Order No. PSC-2024-0490-PCO-EI, issued December 6, 2024.

On July 31, 2025, FPL filed a Petition for temporary variance from waiver of Rule 25-6.0143(1)(g), Florida Administrative Code (F.A.C.)(Petition). Rule 25-6.0143, F.A.C., addresses electric utilities' use of accumulated provision accounts 228.1, 228.2, and 228.4.¹ Paragraph 1(g) of Rule 25-6.0143 requires that under the Incremental Cost and Capitalization Approach methodology for determining the allowable costs to be charged to cover storm-related damages, certain storm costs may be charged to Account 228.1 only after review and approval by the Commission. Before the Commission makes this determination, the utility may defer the costs if they were incurred prior to June 1 of the year following the storm event.

Rule 25-6.0143(1)(g), F.A.C. further requires that:

By September 30 a utility must file a petition for the disposition of any costs deferred prior to June 1 of the year following the storm event giving rise to the deferred costs.

Hurricanes Debby, Helene, and Milton impacted FPL's service area during the 2024 storm season. Because FPL's storm restoration costs related to those storms were incurred prior to June 1, 2025, FPL is required by Rule 25-6.0143(1)(g), F.A.C., to file its petition and documentation concerning the disposition of deferred storm costs related to Hurricanes Debby, Helene, and Milton no later than September 30, 2025.

FPL is asking for a temporary variance or waiver of the September 30 filing requirement. FPL is asking that it be allowed until December 31, 2025, to file its petition and supporting documentation.

Notice of FPL's Petition was published in the August 5, 2025, edition of the *Florida Administrative Register*, as required by Section 120.542(6), Florida Statutes (F.S.). No one commented on the Petition within the 14-day comment period provided by Rule 28-104.003, F.A.C. Under Section 120.542(8), F.S., the Commission must approve or deny the Petition by October 29, 2025, or the Petition would be deemed approved.

The purpose of this recommendation is to address only the request for waiver and variance. The Commission has jurisdiction under Sections 120.542, 350.115, 366.04, 366.05, and 366.06, F.S.

¹ Investor-owned electric utilities are required to maintain their accounts and records in conformity with the Uniform System of Accounts for Public Utilities and Licensees. Rule 25-6.014(1), F.A.C.

Date: August 22, 2025

Discussion of Issues

Issue 1: Should the Commission grant Florida Power & Light Company's Petition for a temporary waiver or variance of Rule 25-6.0143(1)(g), F.A.C.

Recommendation: Yes. The Commission should grant FPL's Petition for a temporary variance or waiver of Rule 25-6.0143(1)(g), F.A.C., to allow FPL to file its petition and documentation supporting the review and true-up of the total actual incremental storm restoration costs related to Hurricanes Debby, Helene, and Milton no later than December 31, 2025. (Brownless)

Staff Analysis: FPL is requesting that the Commission grant it a temporary variance from or waiver of Rule 25-6.0143(1)(g), F.A.C. Pursuant to this rule provision, FPL is required to file its petition for disposition of certain deferred costs by September 30, 2025.

Legal Standard for Rule Variances or Waivers

Pursuant to Section 120.542(2), F.S., the Commission is required to grant waivers and variances from its rules "when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness." A "substantial hardship" is defined by statute as a "demonstrated economic, technological, legal, or other type of hardship."

Rule 25-6.0143, F.A.C., implements Section 350.115, F.S., which allows the Commission to prescribe by rule uniform systems and classifications of accounts for each type of regulated company and approve or establish adequate, fair, and reasonable depreciation rates and charges. The rule also implements Section 366.04(2)(a), F.S., which gives the Commission power over electric utilities to prescribe uniform systems and classifications of accounts.

FPL's Petition

FPL stated that application of Rule 25-6.0143(1)(g), F.A.C., to require the preparation and filing of the petition and documentation supporting the review and true-up of the total actual incremental storm restoration costs related to Hurricanes Debby, Helene, and Milton no later than September 30, 2025, will create a substantial hardship. In its October 29, 2024 petition, FPL estimated that the total storm-related restoration costs for Hurricanes Debby, Helene, and Milton to total \$1.2 billion. Given the volume of invoices to be reviewed and the fact that three separate storms significantly impacted FPL's system late in the 2024 hurricane season, additional time has been required to process, review, and finalize storm restoration invoices for payment. FPL does not estimate that its review process can be completed until late August or early September 2025.

FPL has also been engaged with the other investor-owned electric utilities (IOUs) with open storm dockets, the Office of Public Counsel, and Commission staff, to hire an outside auditor to review Hurricane Milton costs and develop a scope of audit applicable to all the IOUs. FPL is in the process of hiring an outside auditor but does not anticipate that the auditor's review of Hurricane Milton costs will be complete until early December 2025. FPL argues that completing the outside audit before filing the petition for cost recovery will reduce the scope and volume of

Date: August 22, 2025

the discovery needed. Further, if forced to file prior to September 30, there is a risk that the outside audit results will conflict with the September 30 filing causing unnecessary confusion and the need for additional discovery.

Finally, FPL has requested that its petition for variance be considered at the Commission's September 4th Agenda Conference so that it can become effective, if granted, on or before the September 30 filing deadline. FPL has stated that no anticipated party to the proceeding, and no customer will be adversely affected or prejudiced by granting its request. FPL has contacted OPC, the only current party to this docket, and is authorized to represent that OPC has no objection.

Purpose of Underlying Statutes

Sections 350.115 and 366.04(2)(a), F.S., give the Commission power to prescribe by rule uniform systems and classifications of accounts and to approve or establish adequate, fair, and reasonable rates and charges for electric utilities. The purpose of the September 30 filing date is to facilitate a timely review of storm restoration costs and afford the Commission adequate oversight on the use of Commission-approved storm reserves (Account 228.1). Often the initial filings made pursuant to Rule 25-6.0143, F.A.C., reflect estimated costs used to implement an interim cost recovery mechanism. As such, staff believes that the purpose of Sections 350.115 and 366.04(2), F.S., will be unaffected by granting the requested temporary variance or waiver.

For these reasons, the purpose of the statutes will still be achieved as required by Section 120.542, F.S., if FPL's Petition for temporary variance or waiver is granted. Further, no anticipated party to any proceedings and no customers will be prejudiced or adversely affected by granting FPL's Petition for temporary variance or waiver.

Substantial Hardship

The facts presented by FPL to demonstrate a substantial hardship focus on the volume of work FPL needs to complete before filing its petition and supporting documentation for final storm restoration cost disposition. The cost estimates for restoration related to Hurricane Milton are \$924.0 million. These costs are in addition to \$134.8 million for Hurricane Debby and \$177.0 million for Hurricane Helene. FPL needs to complete significant internal work on these hurricane costs before it can then turn to the task of an independent audit for Hurricane Helene. The audit, in turn, must be completed before FPL can then file for final disposition.

The Commission considered and granted a similar request for waiver or variance from FPL in 2021.² In that docket, the enhanced workload arose from a rate case hearing that was proceeding on a contemporaneous track as storm recovery. As noted in the order granting FPL's petition in that docket, the Commission has in the past granted petitions for variance or waiver on the basis that application of a rule's filing deadline created substantial hardship because of utility staffing limitations caused by the specific circumstances alleged in those petitions.³ This was also the

² Order No. PSC-2021-0361-PAA-EI, issued September 16, 2021, in Docket No. 20210128-EI, *In re Petition for temporary variance from or waiver of Rule 25-6.0143(1)(g), F.A.C., to file for prudence review of Florida Power & Light Company storm costs related to Hurricane Isaias and Tropical Storm Eta, and for prudence review and recovery of Gulf Power Company storm costs related to Hurricane Sally and Hurricane Zeta*.

³ Order No. PSC-2019-0067-GU, issued February 22, 2019, in Docket No. 20180230-GU, *In re: Petition for temporary waiver of Rule 25-7.045, F.A.C., by Florida Public Utilities Company*; Order No. PSC-12-0354-PAA-

Date: August 22, 2025

case in 2023, when FPL was granted a filing variance for costs associated with Hurricanes Ian and Nicole.⁴ Under the specific facts presented here, staff believes that FPL has demonstrated substantial hardship under Section 120.542, F.S.

Conclusion

For the reasons stated above, the Commission should grant FPL's Petition for a temporary variance or waiver of Rule 25-6.0143(1)(g), F.A.C., to allow FPL to file its petition for certain deferred costs no later than December 31, 2025.

GU, issued July 9, 2012, in Docket No. 20120081-GU, *In re: Petition for waiver of requirement of Rule 25-7.045(8)(a), F.A.C., to file depreciation study within five years from date of filing previous study, and for authorization to file next depreciation study by August 17, 2012, by Florida Division of Chesapeake Utilities Corporation*; Order No. PSC-2002-0242-PAA-EI, issued February 25, 2002, in Docket No. 20011611-EI, *In Re: Petition for Waiver of Depreciation Study Filing Requirement in Rule 25-6.0436(8)(a), F.A.C., by Florida Power Corporation*; Order No. PSC-01-2376-PAA-EI, issued December 10, 2001, in Docket No. 20011088-EI, *In re: Florida Power & Light Company*

⁴ Order No. PSC-2023-0298-PAA-EI, issued October 2, 2023, in Docket No. 20230017-EI, *in re: Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricanes Ian and Nicole, by Florida Power & Light Company*.

Date: August 22, 2025

Issue 2: Should this docket be closed?

Recommendation: No. Disposition of this petition for a waiver or variance serves only to extend the deadline for FPL to submit its petition and documentation supporting the review and true-up of the total actual incremental storm restoration costs related to Hurricanes Debby, Helene, and Nicole. This docket should remain open until that review is complete and the Commission has approved the final true-up. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, a consummating order should be issued and this docket should remain open.

Staff Analysis: No. Disposition of this petition for a waiver or variance serves only to extend the deadline for FPL to submit its petition and documentation supporting the review and true-up of the total actual incremental storm restoration costs related to Hurricanes Debby, Helene, and Milton. This docket should remain open until that review is complete and the Commission has approved the final true-up. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, a consummating order should be issued and this docket should remain open.