

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Duke Energy Florida, LLC,
for a limited proceeding to approve large load
tariff

Docket No. 20260064-EI

Dated: September 15, 2026

**DUKE ENERGY FLORIDA, LLC'S POST-HEARING STATEMENT OF ISSUES,
POSITIONS, AND BRIEF IN SUPPORT**

Duke Energy Florida, LLC (DEF or the Company) hereby files its Post-Hearing Brief in accordance with the Order Establishing Procedure in this docket. *See* Order No. PSC-2026-0275-PCO-EI. Pending before the Commission are DEF's proposed Large Load Customer Policy (LLCP), Large Load Customer Agreement (LLCA), and revised Contribution in Aid of Construction tariff (CIAC). The preponderance of competent, substantial evidence demonstrates that these filings comply with Section 3 of Chapter 2026-65, Laws of Florida, as codified in Section 366.043, Florida Statutes (2026). The Commission should approve DEF's proposed tariffs.

I. INTRODUCTION AND SUMMARY

In 2026, the Florida Legislature enacted section 366.043, Florida Statutes, a statute entitled "Large load tariffs for public electric utilities." That statute incorporates legislative findings that "when one class of electric service customer requires uniquely large electrical loads at a single location, it imposes a disproportionate risk on the other ratepayers of this state and makes it necessary for the commission to develop and enforce rate structures and other policies for such customers which ensure such risk is mitigated as much as possible and prevent shifting the costs of serving large load customers to the general body of ratepayers." § 366.043(1), Fla. Stat. The

central substantive requirement of the large-load-tariff statute is that public utility tariffs “must reasonably ensure that each large load customer bears its own full cost of service and that such cost is not shifted to the general body of ratepayers.” § 366.043(3)(a), Fla. Stat. “The risk of nonpayment of such costs may not be borne by the general body of ratepayers.” *Id.* To “effectuate the requirements of subsection (3), the Commission is authorized to approve public utility tariffs that include a non-exclusive list of “utility industry-accepted ratemaking and other financial tools.” § 366.043(5), Fla. Stat. No later than October 1, 2026, each public utility is required to file, for Commission approval, a tariff that complies with section 366.043. § 366.043(8), Fla. Stat.

DEF’s proposal addresses that statutory mandate through an integrated framework tailored to the limited period remaining under the 2024 Commission-approved settlement of its rate case. *See* Order No. PSC-2024-0472-AS-EI in Docket No. 20240025-EI (2024 Settlement) (establishing DEF’s current rate design components and precluding base rate increases before 2028). Through December 31, 2027, qualifying large load customers will take service under DEF’s existing GSD-1 or GSDD-1 schedules, supplemented by customer CIAC requirements, minimum billing obligations, long-term contractual commitments, early-termination protections, and financial security requirements designed to protect existing customers from the costs and risks associated with serving new large load customers. The 2024 Settlement further prevents DEF from increasing customers’ base rates during this interim period, and DEF has committed that any costs incurred to serve a large load customer that are not recovered under the applicable rates will not result in an adjustment to existing customers’ rates during the settlement term. Beginning January 1, 2028, DEF will transition qualifying customers to a Commission-approved large-load-specific rate schedule.

Section 366.043 does not prescribe a single ratemaking methodology or require that each category of cost identified in subsection (3) be directly assigned to an individual large load customer through a separate charge. Rather, it requires tariff and service provisions that reasonably ensure that large load customers bear their full cost of service and that neither those costs nor the risk of nonpayment are shifted to the general body of ratepayers. Evaluated as a whole, DEF's proposed framework satisfies that standard and should be approved.

II. STANDARD OF REVIEW/LEGAL STANDARD

DEF is required to provide "reasonably sufficient, adequate, and efficient" electric service to all customers requesting it. § 366.03, Fla. Stat. Further, those rates must be "fair and reasonable." *Id.* Section 366.05(1) gives the Commission the power to "prescribe fair and reasonable rates and charges." § 366.05(1)(a), Fla. Stat. The Commission conducted this proceeding under Florida's Administrative Procedure Act and Chapter 366, Florida Statutes. "Findings of fact shall be based upon a preponderance of the evidence . . . and shall be based exclusively on the evidence of record and on matters officially recognized." § 120.57(1)(j), Fla. Stat. The Commission's findings and conclusions must be supported by a preponderance of the competent, substantial evidence in the record. *Floridians Against Increased Rates, Inc. v. Clark*, 371 So. 3d 905, 910 (Fla. 2023).

III. STATEMENT OF ISSUES AND POSITIONS

ISSUE 1A: Does DEF's petition and associated tariffs comply with the requirements of Section 366.03, Florida Statutes?

***DEF:** Yes. Section 366.03 obligates DEF to provide service to all customers, including large load customers. It further requires that DEF's rates be "fair and reasonable." DEF's proposed tariffs are fair and reasonable because they establish rates large load customers can take service under now, while the existing settlement ensures no rate increase to existing customers. The Commission should memorialize DEF's commitment to filing a new rate schedule to take effect on January 1, 2028.

ISSUE 1B: Does DEF's petition and associated tariffs comply with the requirements of Section 366.043, Florida Statutes?

***DEF:** Yes. Section 366.043 requires DEF to file a large load tariff meeting minimum tariff and service requirements that reasonably ensure that each large load customer bears its own full cost of service and that such cost or the risk of nonpayment of such cost is not shifted to the general body of ratepayers. DEF's proposed tariffs include coordinated cost responsibility and risk mitigation mechanisms to satisfy the statute's objectives.

ISSUE 1C: Does DEF's petition and associated tariffs comply with the requirements of Section 366.05, Florida Statutes?

***DEF:** Yes. DEF's petition and associated tariffs provide fair and reasonable terms and conditions to serve large load customers while protecting existing customers. DEF's proposed tariffs are fair and reasonable because they establish rates large load customers can take service under now, while the existing settlement ensures no rate increase to existing customers.

ISSUE 1E: Is Commission approval, as-filed or with modifications, of the proposed, Large Load Customer Agreement (Tariff Sheet Nos. 7.510-7.530), the Large Load Customer Policy (Tariff Sheet Nos. 4.130-4.132), and their associated terms and conditions consistent with provisions of the 2024 Settlement Agreement approved in Order No. PSC-2024-0472-AS-EI?

***DEF:** Yes. The proposed LLCA and LLCP do not change the rates of any existing customers; and is consistent with the 2024 Settlement Agreement. The Company will not be able to defer costs incurred during the settlement freeze and if DEF does incur costs and the GSD-1 and GSDT-1 rates are not adequate to cover them during the settlement period, those costs will be borne by DEF shareholders.

ISSUE 1: Should the Commission approve, deny, or deny with leave to refile with modifications the proposed Large Load Customer Policy (Tariff Sheet Nos. 4.130-4.132) and the associated terms and conditions (e.g., minimum term, minimum monthly bill, security requirements, early termination, and special terms provision)? If denied with leave to refile, what should the modifications be?

***DEF:** The Commission should approve, without modifications, DEF's proposed LLCP. The Company's proposal ensures that large load customers bear appropriate costs in the near term through CIAC requirements, minimum bill obligations, termination provisions, and related contractual protections. These mechanisms provide meaningful

cost responsibility without requiring the Commission to adopt a rigid, customer-specific allocation model that does not reflect system realities.

ISSUE 2: Should the Commission approve, deny, or deny with leave to refile with modifications the proposed Large Load Customer Agreement (Tariff Sheet Nos. 7.510-7.530) and the associated terms and conditions (e.g., minimum demand, minimum term, minimum demand charge payments, security requirements, and early termination provision)? If denied with leave to refile, what should the modifications be?

***DEF:** The Commission should approve, without modifications, DEF's proposed LLCA. The Company's proposal ensures that large load customers bear appropriate costs in the near term through CIAC requirements, minimum bill obligations, termination provisions, and related contractual protections. These mechanisms provide meaningful cost responsibility without requiring the Commission to adopt a rigid, customer-specific allocation model that does not reflect system realities.

ISSUE 3: Should the Commission approve, deny, or deny with leave to refile with modifications the proposed CIAC tariff modifications (Tariff Sheet No. 4.030 and 4.132, paragraph 13.07)? If denied with leave to refile, what should the modifications be?

***DEF:** The Commission should approve, without modifications, DEF's proposed modifications to the CIAC tariff. Customer-funded, refundable Contributions in Aid of Construction ("CIACs") appropriately assign the cost of customer-specific interconnection facilities while recognizing that those facilities may subsequently provide value to other customers.

ISSUE 4: What are the effective dates for the proposed Large Load Customer Policy, Large Load Customer Agreement, and CIAC tariff?

***DEF:** The LLCP, LLCA, and CIAC tariffs should be effective immediately upon Commission approval in this docket.

IV. ARGUMENT

The central question before the Commission is whether DEF's proposed tariff and service requirements¹, considered together, "reasonably ensure that each large load customer bears its own

¹ The LLCP is the policy that applies to all large load customers; the LLCA is the form contract that accompanies the policy for execution by individual customers. Tr. 131.

full cost of service” and that neither those costs nor “[t]he risk of nonpayment” of those costs is shifted to the general body of ratepayers. § 366.043(3)(a), Fla. Stat. These are the mandatory requirements that a public utility’s minimum tariff and service requirements for large load customers “must reasonably ensure” to comply with section 366.043. *Id.*

The Legislature specified the result that a compliant large-load tariff must achieve, but it did not prescribe a single method for achieving it. Subsection (5) provides that, “[t]o effectuate the requirements of subsection (3),” the Commission “may” approve tariffs employing utility industry-accepted ratemaking and other financial tools. § 366.043(5), Fla. Stat. The permissive language of subsection (5) confirms that the statute does not mandate direct assignment of every incremental generation, transmission, infrastructure, or operating cost identified in paragraph (3)(a). Similarly, section 366.043 does not require that a utility file a rate schedule specific to large load customers to comply with the statute. Indeed, the words “rate schedule” do not appear in the statute. The Legislature knew how to require a separate rate schedule, rate class, or specific ratemaking mechanism if it intended to do so, but it did not. Instead, the Commission must determine whether the tariff framework, as a whole, reasonably protects the general body of ratepayers from those costs and the associated risk of nonpayment.

DEF’s proposal satisfies that standard through complementary protections. During the remainder of the 2024 Settlement’s term (through December 31, 2027), qualifying customers will take service under existing embedded-cost rates while also being subject to enhanced CIAC requirements, minimum monthly bills, long-term contractual obligations, early-termination payments, and financial security. The Settlement prevents a base-rate increase to existing customers before January 1, 2028, and DEF has committed not to seek an adjustment during that period based on unrecovered costs of serving a large load customer. A new large-load-specific rate

schedule will then take effect beginning January 1, 2028. The Commission should evaluate those protections *collectively* and decline the opponents' invitation to isolate each rate component and ask whether it independently recovers every possible cost of serving a hypothetical large-load customer.

A. DEF's interim framework through 2027 reasonably protects the general body of ratepayers.

DEF's proposal must be evaluated in the context in which it will operate. The 2024 Settlement fixes DEF's existing base rates through December 31, 2027, while section 366.043 requires DEF to have a compliant large-load tariff on file by October 1, 2026. DEF has therefore proposed an interim framework under which qualifying large load customers will take service under the existing GSD-1 or GSDT-1 rate schedule through the end of the Settlement term, subject to the additional cost-responsibility and financial-risk protections contained in the LLCP and LLCA. DEF will then file a large-load-specific rate schedule to take effect January 1, 2028. LLCP § 13.08; Tr. 163 (explaining placement on DEF's existing commercial tariffs, General Service – Demand (GSD-1) or General Service – Demand Optional Time of Use (GSDT-1)).

That interim approach complies with section 366.043. The statute requires minimum tariff and service requirements that “reasonably ensure” each large load customer bears its full cost of service and that neither those costs nor the risk of nonpayment is shifted to the general body of ratepayers. § 366.043(3)(a), Fla. Stat. It does not require that a single tariff, viewed in isolation, accomplish each of those objectives. DEF's existing rates instead operate as one component of a broader framework that also includes enhanced minimum-billing obligations, customer-funded CIAC requirements, a 20-year minimum contract term, early-termination payments, advance notice of termination, and financial security. LLCP; Tr. 51-55, 120, 185. Those protections must be considered together in determining whether the proposed tariff reasonably protects the general

body of ratepayers.

1. *The use of existing GSD-1 and GSDT-1 rates during the Settlement period does not render DEF's proposal noncompliant.*

Section 13.08 of the LLCP provides that, until DEF presents and the Commission approves a new large-load rate schedule, a qualifying customer will take service under DEF's existing GSD-1 or GSDT-1 schedule and will transition to the new schedule once approved. LLCP § 13.08; Tr. 163. Contrary to the contentions of OPC and Florida Rising, nothing in section 366.043 requires DEF to establish a new customer-specific rate schedule before its existing base-rate settlement expires. Rather, subsection (8) requires each utility to file "a tariff that complies with this section," and subsection (3) refers more broadly to "minimum tariff and service requirements for large load customers." § 366.043(3), (8), Fla. Stat.

The Commission's rules likewise do not equate a "tariff" exclusively with a rate schedule. Rule 25-9.002(8), Florida Administrative Code, defines a tariff as the "assembled volume containing the 'rules,' 'regulations,' 'rate schedules,' 'standard forms,' 'contracts,' and other material required by these regulations as filed with the Commission." *See also Ramos v. Fla. Power & Light Co.*, 21 So. 3d 91, 93 (Fla. 3d DCA 2009) ("Public utilities promulgate a set of rates, rules, and regulations collectively referred to as a 'tariff,' subject to review and approval by the PSC."). Consistent with the rule's definition, the LLCP establishes the generally applicable requirements governing large load service, and the LLCA establishes the standardized contractual terms applicable to an individual qualifying customer. Tr. 57-58, 131, 149. As DEF witness Chatelain testified, "the LLCP and the LLCA are tariffs on their own." Tr. 149; *see also* Tr. 57-58 ("The LLCA specifies certain provisions of electric service, including load characteristics, customer-specific terms, applicable construction cost recovery terms, and other service details, including definition of operating procedures based on the Company's proposed LLCP.").

The fact that section 13.08 incorporates an existing rate schedule during the limited settlement period therefore does not prevent the LLCP and LLCA from constituting tariff provisions subject to Commission approval. *See* Tr. 149 (Chatelain confirming that “there is a rate schedule that [qualifying large load customers] are eligible for on [DEF’s] current system”). Even so, the Commission has previously approved tariffs without a specific rate. *See* Order No. PSC-2025-0292-PAA-EG, issued July 29, 2025, in Docket No. 20250048-EF, *In re: Petition for approval of proposed demand-side management plan, by Florida Power & Light Company*; Order No. PSC-2025-0393-TRF-GU, issued October 22, 2025, in Docket No. 20250057-GU, *In re: Petition for approval of tariff modification for equipment financing, by Florida Public Utilities Company*. In sum, the Commission’s own definition in Rule 25-9.002(8) confirms that DEF’s proposal is a “tariff” properly considered for approval under section 366.043(8).

Nor does the record establish that GSD-1 and GSDT-1 are inherently unsuitable merely because a customer exceeds 50MW. DEF witness Wishart explained that GSD-1 and GSDT-1 rates are based on traditional embedded cost-of-service methodology allocating costs among customer classes without distinguishing between “small” or “large” customers but in proportion to the extent the customer uses the utility system. Tr. 196-98. Wishart also noted that GSD-1 and GSDT-1 rate schedules “include substantial non-fuel energy charges that collect revenues that cover some fixed system costs” and that DEF’s proposal includes a minimum billing energy volume of no less than 60% to ensure DEF collects “a minimum amount of base rate revenues necessary to cover the cost of service to the new customer.” Tr. 186.; *see also* Tr. 52-53 (addressing minimum billing provisions). As Wishart testified, “there is nothing inherent in the existing GSD-1 or GSDT-1 rate designs that makes them inappropriate simply because a customer’s demand exceeds 50 MW.” Tr. 197.

The relevant question is consequently not whether GSD-1 or GSDDT-1 independently and expressly identifies every incremental cost listed in section 366.043(3)(a). It is whether use of those schedules, together with the remaining protections in the LLCP and LLCA and the circumstances of the settlement period, reasonably ensures that each large load customer bears its own full cost of service and avoid cost-shifting to the general body of ratepayers. The record demonstrates that DEF's proposal satisfies the central statutory requirement of section 366.043(3).

2. *The Settlement restrictions and the timing of potential large-load development materially limit ratepayer exposure through 2027.*

The 2024 Settlement provides that DEF may not petition to change its general base rates, charges, or credits for retail electric service with an effective date earlier than January 1, 2028.² Order No. PSC-2024-0472-AS-EI. This base rate freeze provision forecloses the possibility that DEF might seek base rate relief as to any costs incurred to serve a new large load customer between now and the end of 2027. Accordingly, this limited proceeding neither changes existing customers' rates nor authorizes a new charge to existing customers. Tr. 72, 149.

More importantly, DEF witness Chatelain confirmed that if costs incurred to serve a large load customer are not recovered through GSD-1 and GSDDT-1, the costs will be borne by DEF shareholders during that period. Tr. 115, 149, 232. Chatelain confirmed that even if those costs caused DEF to fall below its authorized ROE band, DEF would not seek an adjustment to existing rates during the Settlement term. Tr. 72, 149. Thus, any insufficiency in the existing rate schedules during the limited interim period does not itself establish cost-shifting to the general body of ratepayers, and nothing approved in this proceeding would authorize recovery of a shortfall from

² DEF acknowledges that the 2024 Settlement Agreement would allow DEF to change its rates in response to section 366.043. However, for the reasons explained herein, DEF does not need to avail itself of this provision because it does not need to change rates to comply with the law.

the general body of ratepayers during the Settlement period.

The practical likelihood of substantial new system investment before 2028 further reduces the risk addressed by the statute during this interim period. DEF witness Borsch confirmed that DEF does not have any committed large-load data center customers or projects and nothing in the load forecast suggests one is imminent. Tr. 369, 402. As Borsch explained, the “practical realities of siting, interconnection studies, and infrastructure development all point to a longer timeline for large-scale builds.” Tr. 402. Although serving a new 55 MW customer before the Settlement expires may be “technically possible,” Borsch testified that servicing the 1 GW customer used in Florida Rising’s hypothetical would take 6-8 years, meaning that no significant costs would be incurred before the end of 2027. Tr. 402-03.

The timing evidence is relevant because Florida Rising’s criticisms depend heavily on a hypothetical customer and associated system investment that do not reflect the period during which the existing GSD-1 and GSDT-1 rates would apply. DEF’s proposal does not contemplate maintaining those schedules for a large-load customer throughout a 20-year contract. They are an interim measure through 2027. Once the Settlement expires, qualifying customers will be subject to a new large-load rate schedule approved by the Commission. LLCP § 13.08.

The Commission therefore need not determine in this proceeding whether the existing GSD schedules would appropriately recover the costs of serving a hypothetical 1 GW customer over decades. That is not the proposal before the Commission. DEF witness Wishart explained even if a one-gigawatt customer were to approach DEF requiring new resources to serve that large load customer, the Commission could address costs and cost allocation in the next rate case proceeding given that “it only becomes relevant to other customer classes once rates are reset and costs are allocated” Tr. 232. Because of the 2024 Settlement, DEF is “in between rate cases, [and] those

[incremental] costs are borne by the [C]ompany and its shareholders.” Tr. 232; Tr. 115 (DEF has “made the commitment to cover those costs that are unrecovered by GSD and GSDT-1, the shareholders [not the general body of ratepayers] will bear that risk. So customers are fully protected in the settlement period.”).

The interim framework also does not leave customer-specific costs unaddressed. Tr. 105. DEF’s modified CIAC provisions require the large load applicant to advance 100 percent of the estimated costs to extend service, subject to the tariff’s refund provisions. LLCP § 13.07; Tr. 50-51, 351. The LLCP and LLCA additionally impose minimum billing obligations, long-term contractual obligations, termination payments, and security requirements aimed at the risk of nonpayment and stranded investment. Tr. 51-55, 185-87. As DEF’s witnesses explained, these provisions operate as a “layered framework” rather than as isolated recovery mechanisms. Tr. 76, 120.

Accordingly, the fact that GSD-1 and GSDT-1 do not separately identify each category of incremental cost does not establish that existing customers will bear those costs during the Settlement period. The Commission should instead evaluate the rates together with DEF’s CIAC provisions, minimum bills, contractual protections, financial security, the Settlement’s rate restrictions, DEF’s shareholder-risk commitment, and the limited period in which the existing schedules would apply.

3. *The existing GSD class’s relationship to parity does not establish unlawful cost shifting under section 366.043.*

Florida Rising separately argues that use of GSD-1 and GSDT-1 cannot comply with section 366.043 because the GSD class is presently below parity. That argument conflates an existing class revenue allocation issue with the limited statutory question presented here.

To be clear, parity and cost shifting are not synonymous. A finding that a customer class

is below parity does not establish that serving a large load customer under that class will shift costs to other customers. Section 366.043 does not require parity; it requires reasonable assurance that large load customers bear the costs of serving their load. The relevant question, therefore, is not whether the GSD class is presently above or below parity, but whether DEF's proposed framework reasonably prevents cost shifting. The record demonstrates that it does.

The Commission approved the GSD-1 and GSDT-1 rates as part of the 2024 Settlement after considering the allocation of revenues across customer classes. Order No. PSC-2024-0472-AS-EI at 14, 26-28. Although the Commission recognized that certain rate classes were below parity, the Settlement sought “to move residential customers closer to parity with non-residential classes” and “to limit the increase to the rate classes that are below parity to no more than 1.5 times the system average increase percentage.” *Id.* at 14. Specific to parity, the Commission noted the testimony of Witness Olivier who testified that “[f]or decades prior to this settlement, adjustments to base rates have been on a levelized basis, so this settlement is the first in a very long time to move customers closer to rate parity.” *Id.* Ultimately, the Commission approved the rates set forth in the 2024 Settlement, including the GSD-1 and GSDT-1 rates, as fair, just, and reasonable and as part of a settlement determined to be in the public interest.³ *Id.* at 26-28.

Section 366.043 does not require the Commission to reopen that settled revenue allocation merely because a new large load customer might hypothetically (and temporarily) take service under one of those schedules. Nor does the fact that a class is below parity establish that a new customer taking service within that class necessarily shifts the incremental cost of serving that customer to other ratepayers. Here, the existing rate schedules are supplemented by minimum

³ OPC signed and supported the 2024 Settlement Agreement as being in the public interest. *See* Order No. PSC-2024-0472-AS-EI at 4.

billing requirements and the other protections of the LLCP and LLCA, and DEF has committed that unrecovered costs during the Settlement term will be borne by the Company and its shareholders rather than recovered through an adjustment to existing customers' rates during that period. Tr. 72, 115, 149, 232.

For those reasons, Florida Rising's parity analysis cannot be considered in isolation. The statutory inquiry concerns whether DEF's proposed large-load framework, viewed as a whole, reasonably protects the general body of ratepayers from the costs and risks associated with serving a large load customer. The preponderance of the record evidence demonstrates that DEF's interim framework does so.

B. Section 366.043 permits embedded-cost ratemaking and does not require direct assignment of every incremental cost.

Florida Rising and OPC contend that DEF's proposal cannot comply with section 366.043 unless the costs identified in subsection (3)(a), including incremental generation and transmission costs, are specifically identified and directly assigned to the large load customer. Tr. 305-07, 365-70. The statute does not impose that requirement.

Section 366.043(3)(a) establishes the result that a large-load tariff must reasonably achieve: each large load customer must bear its own full cost of service, those costs may not be shifted to the general body of ratepayers, and the general body of ratepayers may not bear the risk of nonpayment. In defining "cost of service," the Legislature identified, among other things, connection costs, incremental transmission and generation costs, other infrastructure costs, and operations and maintenance expenses. § 366.043(3)(a), Fla. Stat. But subsection (3) does not prescribe the ratemaking or accounting method by which those costs must be recovered.

Instead, subsection (5) expressly gives the Commission discretion over the mechanisms used to effectuate subsection (3). It provides that the Commission "may approve public utility

tariffs that include utility industry-accepted ratemaking and other financial tools” and then identifies a series of potential ratemaking and contractual mechanisms. § 366.043(5), Fla. Stat. The Legislature’s use of “may,” rather than “must” or “shall,” is significant. *See, e.g., FGAP Investment Corp. v. Al Body & Glass of Coral Springs, LLC*, 393 So. 3d 728, 730 (Fla. 4th DCA 2024) (“It is well-settled that, in statutory language, the word ‘may’ indicates a permissive term, whereas ‘shall’ indicates a mandatory term.”); *Allstate Ins. Co. v. Revival Chiropractic, LLC*, 385 So. 3d 107, 115 (Fla. 2024) (“If the legislature wishes to mandate something, it is perfectly capable of saying so. Indeed, few words are more common in the language of legislation than ‘shall’ and ‘must.’ ”). The legislative history cited in the record likewise describes the ratemaking and financial tools in subsection (5) as optional rather than Commission-mandated elements of every large-load tariff. *See* House Message Summary, provided on March 11, 2026, describing the approved House Amendment – 383957, which specifically notes that the final revisions to SB 484 make “the rate making and other financial tools to effectuate large load tariffs to be optional and does not provide or direct the PSC to use these in creating minimum standards.”

Accordingly, the enumeration of incremental costs in subsection (3)(a) identifies costs that must be accounted for in determining whether a tariff reasonably protects the general body of ratepayers. It does not require that each cost be separately calculated and directly charged to an individual large load customer through a dedicated cost-tracking mechanism. If the Legislature had intended to require direct assignment of each enumerated cost, it could have said so. Instead, it authorized the Commission to evaluate utility-industry-accepted ratemaking and financial tools in determining whether the statutory standard is satisfied.

1. *Embedded-cost ratemaking is an industry-accepted methodology that the Commission may consider as part of DEF’s overall framework.*

DEF’s use of embedded-cost rates during the Settlement period is consistent with

traditional utility ratemaking practice. DEF witness Wishart explained that under an average embedded cost-of-service methodology, utility costs are functionalized, classified, and allocated among customer classes using cost-causation drivers such as peak demand, annual energy use, and number of customers. Tr. 174-75. The resulting class cost-of-service study forms the basis for rates designed to recover the embedded cost responsibility of each customer class. *Id.*

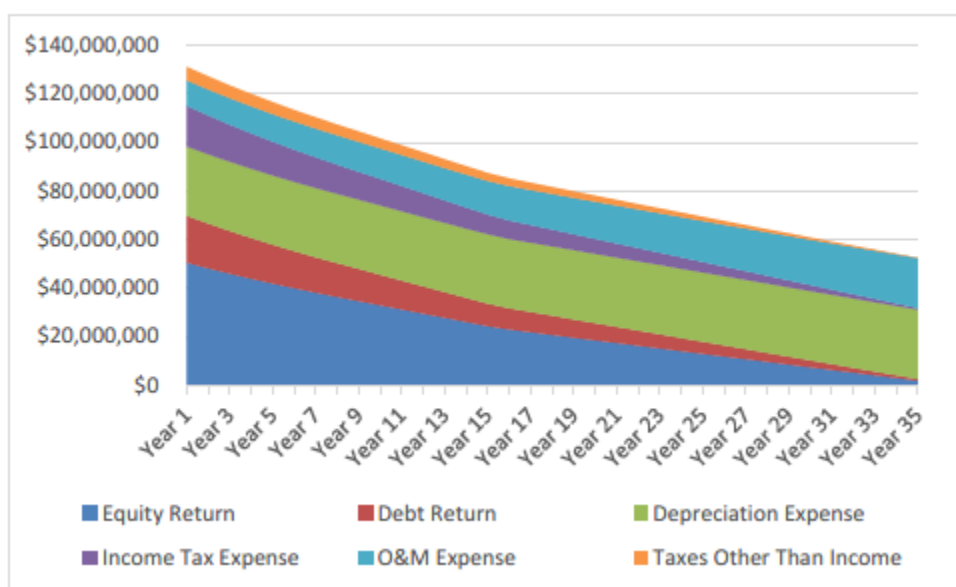
Wishart further testified that average embedded cost is the predominant methodology used in state-regulated electric utility ratemaking (underpinning “the vast majority of state-commission-approved tariffs”) and that large load tariffs in other jurisdictions (including Missouri, Ohio, and Virginia) also rely on embedded-cost approaches. Tr. 175-76; *see also* Tr. 246 (average embedded cost used in “99.9 percent” of the studies Wishart reviewed). Wishart contrasted that practice with rate schedules based solely on incremental cost of service, which is “uncommon.” Tr. 177-79. Although some recently adopted large-load arrangements employ direct incremental-generation charges, that does not establish that direct incremental pricing is required by section 366.043 or represents the only reasonable, industry-accepted practice. Tr. 178, 218-20.

Embedded cost ratemaking also reflects how DEF plans and operates its generation and transmission system. As explained by DEF witness Borsch, “DEF’s generation and transmission assets are planned for, and built to, serve, and benefit the system as a whole” rather than a single customer in isolation. Tr. 403. Borsch noted that resource planning remains “dynamic” over time: if a large-load customer departs before the expiration of its 20-year contract term, DEF may be able to serve another customer, modify construction or system retirement timing, revise its resource plan, or otherwise redeploy system assets. Tr. 404. Ultimately, DEF witness Borsch explained that it is “arguably even more speculative to assume that generation and transmission resources serving a large load customer will not be able to be beneficially used to serve customers

than to assume that they would.” Tr. 404. That evidence supports DEF’s position that the cost of a shared generation or transmission resource cannot necessarily be equated with the cost responsibility of the individual customer whose load happened to contribute to the need for the resource.

The characteristics of large load customers may also affect system economics over the life of the customer relationship. Wishart testified that new data center customers typically have “high load factors and predictable usage patterns” that “make them highly desirable [customers] from a system planning and revenue stability standpoint.” Tr. 166. The incremental revenues generated from serving large load customers “can help cover fixed system costs, including capital investments, maintenance, and property taxes” to “reduce upward pressure on rates for other customers.” Tr. 167. Wishart also presented an illustrative analysis in which revenues produced under DEF’s existing embedded-cost GSD-1 tariff for a representative 100 MW customer exceeded the illustrative cost of serving that customer over the contract term. Tr. 198-201.

Figure SWW – 1 – 35 Year Revenue Requirements



Tr. 200. DEF does not claim that embedded rates will recover every possible incremental cost in

every circumstance, nor must DEF prove that proposition in this limited proceeding. But Wishart's illustrative analysis does rebut the premise that an embedded-cost rate necessarily fails to reflect the cost responsibility associated with a new large-load customer.

Wishart further explained that while charging large load customers based on incremental costs may appear reasonable, "a customer paying embedded cost-based rates over a long-term contract will generally contribute more revenue over time than would be collected by continuing to recover only the revenue requirement associated with the original incremental facilities constructed to serve that customer." Tr. 201. Wishart testified that the appropriateness of using the embedded cost methodology to serve large load customers "should be evaluated over the expected life of the customer relationship rather than based solely on the facilities initially constructed when service begins." Tr. 201. This is especially true given that "utility assets remain in service for decades, and the costs associated with those assets change significantly over time." Tr. 201.

Finally, DEF witness Wishart explained that charging rates based on the incremental cost of service "means setting prices that reflect only the additional costs a utility will incur to serve the new load—not the embedded, historic investments in its system" and then allocating those incremental costs directly to the customer. Tr. 177. While this methodology promotes efficient expansion, the pricing structure is inherently unstable because incremental costs fluctuate. Tr. 177. Wishart confirmed "it is uncommon for utilities to base rate schedule charges on incremental costs." Tr. 178.

For those reasons, the Commission may reasonably consider embedded-cost ratemaking as one component of DEF's larger cost-recovery and risk-mitigation framework.

2. *Direct assignment of shared generation and transmission costs is a policy choice, not a statutory mandate.*

Florida Rising and OPC would go further and require DEF to identify the facilities that

would not have been constructed “but for” a particular large load customer and directly assign the resulting incremental costs to that customer. Tr. 256, 305-07, 365-70. Section 366.043 does not require that approach.

As DEF witness Chatelain explained, a strict “but-for” methodology assumes that new generation can be singularly identified with, dedicated to, and recovered from one large load customer. Tr. 78. DEF’s resource-planning process does not operate that way. Generation resources “are developed through an integrated resource planning process to meet system-wide demand, maintain reliability reserves, and optimize portfolios over time, not to serve a single customer in isolation.” *Id.* Directly assigning the entire cost of a shared system resource to one customer could therefore overstate that customer’s cost responsibility.

Wishart similarly testified that directly assigning shared system costs under a broad “but-for” methodology would represent a significant departure from traditional utility ratemaking. Tr. 205-07. In his view, it would be inconsistent with traditional cost-causation principles to assign “the entire cost of a shared transmission facility to the customer whose request happens to trigger the upgrade, while ignoring the many other system conditions that also contributed to the need for the investment.” Tr. 215.

That does not mean that DEF’s proposal ignores customer-specific incremental costs. As discussed below, DEF’s modified line-extension and CIAC provisions require large load applicants to advance the estimated costs of extending service and thereby directly address facilities attributable to connecting the customer. Tr. 50-51, 177, 206. The LLCP and LLCA then add minimum bills, long-term contractual obligations, termination protections, and financial security to address the financial risks associated with serving the new load. Tr. 51-55, 76, 185-87, 220. The question under section 366.043 is whether those mechanisms, considered together with

the applicable rate design, reasonably ensure that a large load customer bears its full cost of service and that the general body of ratepayers is protected. The statute does not require DEF to adopt OPC's or Florida Rising's preferred cost-allocation methodology.

Section 366.043(5) deliberately leaves room for the Commission to exercise judgment among industry-accepted ratemaking and financial tools. DEF's embedded-cost approach, coupled with direct recovery of customer-specific extension costs and the other protections contained in the LLCP and LLCA, falls within that statutory discretion. The Commission should therefore reject the contention that the statute requires direct assignment of every incremental generation or transmission cost as a condition of tariff approval.

C. The LLCP and LLCA provide layered protection against nonpayment and stranded-cost risk.

Section 366.043 requires that the general body of ratepayers not bear the risk that a large load customer will fail to pay the costs associated with serving its load. DEF addresses that risk through a series of complementary contractual and financial protections rather than relying on any single mechanism. The proposed framework includes a 20-year minimum contract term; minimum monthly billing based on contract demand and minimum energy usage; advance CIAC payments; two years' notice before termination; early-termination payments; and financial security supporting the customer's termination obligations. Tr. 51-55, 185-87. The protections in DEF's proposal "have kind of become the standard risk mitigation tools used by utilities . . . and are largely aimed at mitigating the risk of stranded assets." Tr. 246.

These provisions should be evaluated together. A minimum bill addresses the risk that a customer reserves substantial capacity but ultimately takes less load than projected. Tr. 52-53. The long-term contract provides a sustained revenue commitment. CIAC requires the customer to fund qualifying extension costs in advance. Termination provisions address the risk that a customer

departs before DEF has recovered or mitigated costs associated with serving it. Tr. 53-55. Financial security, in turn, reduces the risk that the customer will be unable to satisfy those termination obligations. Tr. 55. DEF's witnesses explained that these protections operate as a layered framework rather than as independent mechanisms that must each recover every potential cost standing alone. Tr. 76.

1. Minimum billing requirements provide continuing cost responsibility and discourage overstated load commitments.

The LLCP requires a Minimum Demand equal to 75 to 85 percent of the customer's contracted capacity and a Minimum Billing Energy Volume based on a minimum load factor assumption of at least 60 percent. Tr. 52-53. Those requirements exceed the minimum bill provisions otherwise applicable under DEF's existing schedules and establish a baseline level of revenue even if the customer's actual demand or energy usage falls below its projections. They also create an incentive for customers to provide realistic load forecasts rather than reserve more capacity than they are likely to use. Tr. 52-53.

The minimum bill is not intended to function as a stand-alone guarantee against every conceivable stranded cost. It is one component of a broader framework that includes CIAC, termination payments, and financial security. That statutory question is therefore not whether the minimum bill alone would recover every cost associated with a hypothetical large load customer, but whether the combined protections reasonably address the costs and risks created by serving that customer.

2. The termination provisions address both pre-ramp and post-ramp customer departure.

The LLCA provides substantial protection if a large load customer terminates service before the end of its 20-year minimum contract term. The customer must provide two years'

advance written notice and may owe additional minimum monthly bills if service terminates before that notice period expires. Tr. 54. After the customer reaches full load, the termination payment includes three years of minimum monthly bills plus the net book value of facilities subject to the CIAC provisions, reduced by any applicable unrefunded CIAC amount. Tr. 54, 187.

The proposal provides even broader protection if the customer terminates before reaching full load. In that circumstance, DEF's testimony establishes that the customer is responsible for costs already incurred or committed to serve the project, including applicable incremental generation and transmission costs. Tr. 102-05, 112-13. That distinction is important because the period before full ramp is when DEF may have made commitments for facilities or resources in anticipation of a load that has not yet materialized.

The two-year notice period also gives DEF time to mitigate the consequences of an early departure. The record establishes that DEF may be able to revise its resource plan, alter construction or retirement timing, or otherwise redeploy assets in response to changing system conditions. Tr. 404. The statute requires reasonable protection from stranded-cost risk; it does not require the Commission to assume that every resource associated with a departing customer instantly becomes permanently stranded.

3. *DEF's security provisions reasonably address the risk of nonpayment while preserving customer-specific flexibility.*

Large load customers also must provide financial security tied to their potential termination obligation. The required percentage varies based on the amount of the termination payment and the customer's credit profile, and a customer with a termination obligation exceeding \$100 million is subject to a security percentage of at least 10 percent. Tr. 55, 187, 223.

That variable approach is reasonable because financial risk is not identical for every customer. The amount of exposure, customer creditworthiness, payments already made, and the

interaction of the other tariff protections may differ materially from project to project. Tr. 223. DEF's witnesses explained that a fixed collateral requirement would disregard these meaningful differences in financial risk. Tr. 76, 223.

4. *OPC's proposed termination and collateral requirements are not necessary to satisfy section 366.043.*

OPC proposes materially different protections, including a termination obligation based on either minimum bills over the remaining contract term or the remaining undepreciated value of directly assigned generation and transmission facilities, as well as collateral equal to 24 months of minimum bills based on post-ramp demand. Tr. 308-13. Florida Rising likewise challenges DEF's termination-payment and security provisions. Tr. 378-80.

Section 366.043 does not support the adoption of these proposed modifications, which rely on incorrect assumptions and misunderstand how DEF plans for new generation and transmission assets resulting in an incorrect conclusion as to what would occur if a large load customer terminated its LLCA prior to the full 20-year term. Tr. 401. Specific to early termination and the associated risks for ratepayers, DEF witness Wishart explained that DEF's "proposed early termination provisions provide a reasonable balance between protecting existing customers and recognizing that the Company may mitigate or avoid many of the costs associated with an early customer departure." Tr. 221. DEF witness Chatelain noted that the OPC proposal incorrectly assumes all remaining costs should be recovered from terminated customers without adequate considerations for revenues collected or ongoing system value. Tr. 73. In response to the allegation that the proposed termination provision is "too low," DEF witness Chatelain points to the opposing witnesses' incorrect assumption that "the actual costs incurred to provide service would exclude generation and certain non-CIAC transmission related costs" but these costs would be included in the actual costs needed to serve the customer. Tr. 73.

The three-year minimum bill component of DEF's termination provision is not outside industry practice. DEF witness Wishart points to an AEP Ohio's termination provision that similarly requires an early termination payment equal to three years of minimum bills and argues OPC's proposal incorrectly assumes a loss of revenue associated with the contract term while the Company continues to incur all associated costs with that contract. Tr. 222. That example supports the reasonableness of DEF's proposal and undercuts the suggestion that the provision is facially inadequate.

5. *The 1 GW hypothetical does not demonstrate that DEF's proposed protections are inadequate.*

Florida Rising relies substantially on a hypothetical 1 GW customer to argue that DEF's minimum-bill, termination, and security provisions could be insufficient relative to the magnitude of potential generation and transmission investment. Tr. 368-72, 409-18. That hypothetical does not establish that DEF's actual proposal fails the statutory standard.

First, the calculations depend materially on assumptions concerning customer size, load factor, and the applicable rate. The record demonstrates that changing the assumed minimum bill load factor materially changes the resulting minimum bill and termination amounts. Tr. 124-29.

Second, the hypothetical assumes continued application of DEF's present GSD rates over a much longer period than DEF proposes. Under section 13.08 of the LLCP, those schedules apply only through the Settlement period (through December 31, 2027); qualifying customers will thereafter transition to a new Commission-approved large-load-specific rate. The financial protections applicable over the life of a 20-year customer relationship therefore cannot reasonably be evaluated by assuming that the present GSD schedules remain unchanged throughout that relationship.

Third, the record does not support treating a 1 GW customer as a realistic measure of DEF's

exposure during the interim period that is the subject of this proceeding. Major generation and transmission additions associated with a load of that scale would not become used and useful before 2028, and such a customer could not begin service during the remainder of the Settlement period. Tr. 247-50, 402-03. The hypothetical may illustrate the importance of designing the post-2027 large-load rate carefully, but it does not demonstrate that the interim LLCP and LLCA fail to reasonably protect the general body of ratepayers.

6. *DEF's confidential cost estimates also do not demonstrate that DEF's protection are inadequate.*

Florida Rising contends the minimum monthly bill, and early termination provisions are insufficient to protect customers from bearing the burdens associated with potential stranded costs or underutilized assets because these provisions, even taken together, are insufficient to cover the investments DEF needs to undertake to serve large load customers, particularly those of significant size. At the hearing, Florida Rising walked DEF's witnesses through a series of questions about the calculation of minimum bills and termination fees using the GSDDT-1 rates (Tr. 126-129) and various cost estimates to serve potential data center customers (Tr. 409-418). It is likely that Florida Rising, in their brief, will compare these various numbers in an attempt to undermine the sufficiency of DEF's termination payment obligation and/or the size of the minimum bill. These arguments are misplaced.

First, the hypothetical termination payment and minimum bill calculations set forth in Ex. F4-63 utilize the existing GSDDT rates for the full term (despite that DEF's proposal limits their application through 2027) and do not reflect any future changes in those rates. Tr. 127. As explained above, nowhere has DEF claimed to keep large load customers on existing GSDDT rates forever; rather, the filing explicitly states that a new large load rate, which properly includes future costs to serve such large load customers, will be designed and presented in a future proceeding.

Accordingly, little weight should be given to the comparisons done of the financial risks for early termination utilizing these metrics (Tr. 126-129) because the comparisons cannot account for the new rate schedule that would be imposed following expiration of the 2024 Settlement. Accordingly, any comparison of minimum bills and termination payments based on current rates to cost estimates to serve large load customers is wholly insufficient and inappropriate.

Second, the cost estimates to serve potential projects are estimates developed as of a particular point in time. DEF is not proposing to recover any costs from customers associated with serving such customers. Tr. 115. Indeed, DEF does not have an executed LLCA with any such customer and it does not expect to have one in 2026. Tr. 402, 411. Further, during the settlement period (2026 and 2027), Ex. 64 shows that DEF does not expect to incur any costs to serve these potential large load customers.

Indeed, the hypothetical nature using current rates to compare minimum bills resulting from early termination is highlighted in DEF's revenue scenarios where the assumed minimum-bill load factor (e.g., 80%) materially affects the resulting minimum bill amounts; lowering the assumed load factor would change the minimum bill calculation outcome, and large-customer size scenarios produce very large 20-year minimum bill totals and related termination/security figures. Tr. 125. This exercise focusing on the termination provisions, like the 1 GW hypothetical above, may illustrate the importance of designing the post-2027 large-load rate carefully, but it does not demonstrate that the interim LLCP and LLCA fail to reasonably protect the general body of ratepayers.

DEF maintains the minimum bill should be viewed as one element among CIAC, termination, and security provisions, supporting meaningful recovery over a 20-year term pending a future large-load specific rate, rather than as a standalone full-cost solution in this limited

proceeding. Tr. 71. Taken together, DEF's minimum bills, advance CIAC requirements, long-term contract obligations, termination protections, advance-notice provisions, and financial-security requirements provide meaningful and mutually reinforcing protection against customer default and stranded-cost risk. Section 366.043 does not require any one of those provisions to eliminate every conceivable risk standing alone. It requires reasonable protection for the general body of ratepayers, and the preponderance of the record evidence demonstrates that DEF's layered framework satisfies the statutory standard.

D. DEF's modified CIAC provisions appropriately assign customer-specific extension costs.

DEF's proposed CIAC modifications provide an additional layer of protection against the risk that existing customers will bear costs incurred to accommodate a large load project that does not materialize as forecast. Under section 13.07 of the LLCP, a large load customer must make the payments otherwise required under Commission Rule 25-6.064 and DEF's existing tariff and, in addition, advance 100 percent of the estimated costs to extend service. Tr. 50-51.

The advance-payment requirement materially reduces the risk associated with constructing facilities in anticipation of a large new load. Rather than requiring DEF to finance the estimated extension costs while waiting to determine whether the customer ultimately takes service at the projected level, the customer supplies those funds in advance.

The customer may thereafter receive refunds through monthly bill credits based on actual base-energy and base-demand revenues. Tr. 51. The amount eligible for refund is limited to the advanced extension costs less the otherwise applicable CIAC amount, and the refund period ends after no more than five years. *Id.* Any eligible amount remaining at the end of that period becomes nonrefundable. *Id.* Thus, the refund mechanism is tied to the customer actually taking service and producing the revenues contemplated by the tariff rather than providing an unconditional return of

the customer's advance.

This approach is consistent with the purpose of DEF's existing line-extension policy while adding protections tailored to the magnitude and uncertainty associated with large loads. Witness Wishart explained that any qualifying CIAC refunds are based on the embedded rates paid by customers taking service under the applicable Company approved tariff. Tr. 197. A large load customer receiving such refunds therefore also pays rates designed to cover the costs that have already been paid for upfront. *Id.*

1. *Section 366.043 does not require DEF to expand CIAC to encompass every shared-system cost allegedly caused by a large-load customer.*

OPC contends that DEF's CIAC provisions are too narrow and should be expanded under a "but for" approach to include additional incremental transmission and network-upgrade costs. Tr. 256. That proposal extends CIAC beyond its traditional function of assigning customer-specific extension costs and effectively converts it into a mechanism for directly allocating broader system investment.

Section 366.043 does not require that result. As discussed above, subsection (3)(a) identifies incremental transmission, generation, infrastructure, and other costs as elements of the large load customer's cost of service, but it does not direct that every such cost be recovered through CIAC or another direct-assignment mechanism. The Commission instead may evaluate the combination of ratemaking and financial tools employed by the utility to determine whether the tariff reasonably prevents cost and risk shifting to the general body of ratepayers.

DEF's proposal draws a reasonable distinction between facilities appropriately attributable to extending service to a particular customer and resources that form part of the integrated utility system. Witness Wishart testified that DEF's modified extension policy requires advance payment of 100 percent of dedicated transmission facilities. Tr. 206. At the same time, DEF does not

propose to assign the entire cost of a shared transmission facility to the customer whose request happens to contribute to or trigger the need for a system upgrade. Tr. 214-215.

That distinction is consistent with the record evidence concerning system planning. Generation and integrated transmission resources may be driven by multiple system conditions, serve multiple customers, and provide value to the system over time. Tr. 78-79, 215. Assigning the entire cost of such a resource to one customer merely because that customer's request is one factor contributing to the investment could therefore overstate the customer's actual cost responsibility. *Id.*

OPC's broad "but for" proposal is therefore not compelled by section 366.043. Customer-specific extension costs are directly addressed by DEF's modified CIAC policy, while the costs and risks associated with shared resources are addressed through the broader combination of applicable rates, minimum bills, long-term contractual obligations, termination protections, financial security, and future cost allocation through the Commission-approved large-load rate.

2. *FERC Order No. 2003 does not require a different result.*

To the extent a broader "but for" approach is supported by reference to FERC Order No. 2003, that precedent does not establish a requirement applicable to DEF's proposed tariff. DEF Witness Wishart explained that Order No. 2003 concerns "wholesale generator interconnections under the Federal Power Act, not retail electric service" (rather than retail service) and does not adopt the broad direct-assignment approach advocated here for shared network facilities. Tr. 204-05.

Wishart further testified that a broad "but for" methodology is not the traditional cost allocation method for retail electric service, as rates are traditionally based on an embedded cost-of-service methodology. Tr. 205. In particular, Wishart stated that "it is neither equitable nor

consistent with traditional cost-causation principles to assign the entire cost of a shared transmission facility to the customer whose request happens to trigger the upgrade, while ignoring the many other system conditions that also contributed to need for the investment.” Tr. 215. A

DEF’s proposal instead directly assigns the cost of dedicated facilities through its modified extension policy while retaining traditional cost-allocation principles for shared system resources. Tr. 206. Nothing in section 366.043 or the record concerning FERC Order No. 2003 requires the Commission to replace that distinction with OPC’s broader “but for” methodology.

Accordingly, DEF’s modified CIAC provisions provide meaningful protection against customer-specific construction risk and appropriately operate as one component of the overall framework required by section 366.043. The Commission should approve the proposed CIAC tariff modifications without further expansion.

E. DEF’s proposed application of the LLCP and LLCA is reasonable in light of the risks the tariffs are designed to address.

Section 366.043(2)(d) defines a “large load customer” as a customer with an anticipated monthly peak load of 50 MW or more at a single location, measured as the highest average load over a 15-minute interval. The statute further provides that loads may not be aggregated across multiple locations owned by the same customer, while customers or entities operating under co-location or similar arrangements at a single qualifying location are included within the definition. § 366.043(2)(d), Fla. Stat.

DEF’s proposed LLCP applies to qualifying load that is reasonably expected to reach 50 MW or more and requires firm, rather than interruptible or curtailable, service. LLCA, ¶4; Tr. 144. The record supports that distinction because the financial and planning risks addressed by DEF’s proposal differ materially depending on the type of service the customer requests.

1. Firm and interruptible loads present materially different planning and

investment risks.

Section 366.043 does not prohibit utilities from interrupting or curtailing large-load service when necessary to protect grid stability, reduce the likelihood or breadth of outages, or ensure public safety during an emergency or other exceptional circumstance. § 366.043(6), Fla. Stat. DEF incorporates that statutory protection in paragraph 4 of the LLCA.

That provision should not, however, be read as establishing that every customer meeting the numerical threshold necessarily presents the same cost and planning characteristics. The record demonstrates that DEF plans differently for firm and non-firm load. Witness Chatelain testified that DEF “treat[s] the investment of assets differently for a non-firm customer than a firm customer.” Tr. 143. Customers accepting interruptible or curtailable service may reduce the amount or timing of infrastructure DEF must construct to serve them, whereas firm load requires DEF to plan the system to meet the customer’s expected demand subject only to the limited curtailment rights preserved by law and tariff. Ex. 22, E43-44.

That distinction is directly related to the purpose of the LLCP and LLCA. The principal protections in those tariffs (*i.e.*, long-term commitments, CIAC requirements, minimum bills, termination obligations, and financial security) are designed to address the investment and stranded-cost risks created when DEF plans substantial system resources around a large, sustained load obligation. Where the nature of the service materially reduces those costs, the same tariff protections may not be necessary in the same form.

DEF therefore does not rely on the proposition that section 366.043 expressly excludes interruptible or curtailable customers from the statutory definition of a large load customer. Rather, the record supports the Commission’s consideration of the materially different planning and cost consequences associated with firm and non-firm service when determining the appropriate scope

and application of DEF's proposed LLCP and LLCA.

2. *Grandfathering existing service avoids disrupting arrangements that predate the new large-load framework.*

DEF's proposal also does not require customers already taking service on DEF's system as of December 31, 2025, to execute the LLCA or become subject to the new LLCP solely because their existing load satisfies the numerical threshold in section 366.043. Ex. 19, E22. That prospective treatment is reasonable in light of the purpose of the new tariff framework. The LLCP and LLCA are principally designed to address the incremental planning, investment, and nonpayment risks associated with committing resources to serve new large loads. Existing customers are already taking service under Commission-approved rates and existing contractual arrangements, and the system has been planned and operated with those existing loads in place.

Imposing the new LLCP and LLCA retroactively on existing service could disturb existing contractual expectations, alter the terms under which those customers currently take service, and impose protections designed for prospective large-load commitments on investments and service arrangements that have already been made in a manner inconsistent with the purpose of the new large-load statute. Tr. 84, 321-22. A customer's existing service does not present the same prospective commitment risk that the LLCP and LLCA are designed to address. The Commission may reasonably preserve existing service arrangements during this interim period while applying the new large-load protections prospectively to the category of service for which those protections were developed.

The prospective application is consistent with the overall structure of DEF's proposal. The LLCP and LLCA are intended to ensure that new large-load commitments do not impose inappropriate costs or financial risks on existing customers. Applying those protections to prospective firm large-load service, while avoiding unnecessary disruption of existing service

arrangements, reasonably advances that purpose.

F. The LLCP permits only limited negotiation of non-material contract terms.

Section 13.06 of the LLCP permits DEF to negotiate non-material terms of the LLCA only if those changes do not reduce the customer protections contained in the approved tariff. If an executed LLCA differs materially from the approved form, DEF must submit the agreement to the Commission for approval. LLCP, Tr. 58.

That structure is consistent with the Commission's statutory authority over utility tariffs and service terms. Section 366.03 requires utilities to provide service on terms required by the Commission, and section 366.05(1)(e) requires Commission approval for tariff changes that materially alter the meaning or operation of an approved tariff. DEF's proposal preserves that oversight by limiting negotiated flexibility to matters that do not alter the tariff's substantive provisions.

DEF witness Chatelain testified that the provision is intended to permit limited changes to matters such as notice procedures and the period for good-faith negotiations. Tr. 75-76, 132-33. He further testified that negotiated changes cannot alter the LLCP itself and cannot reduce the substantive protections governing cost responsibility, rates, or other material customer obligations. Tr. 132-34.

To the extent a negotiated interconnection term results in additional customer-specific cost, that cost remains subject to the applicable CIAC requirements. Tr. 134. Thus, the flexibility afforded by section 13.06 does not create a mechanism for DEF to avoid Commission review of material changes or to negotiate away the protections that support compliance with section 366.043.

The Commission should therefore approve section 13.06 as a limited administrative

flexibility provision that preserves, rather than undermines, Commission oversight and the substantive protections of the LLCP and LLCA.

CONCLUSION

Section 366.043 requires reasonable protection of the general body of ratepayers from the costs and financial risks associated with serving large-load customers. It does not prescribe a single rate design or require direct assignment of every incremental cost through a customer-specific charge. The record demonstrates that DEF's proposal satisfies that standard through an integrated framework of applicable cost-of-service rates, advance CIAC funding, minimum billing requirements, long-term contractual commitments, early-termination protections, and financial security.

That framework is particularly appropriate during the limited period remaining under the 2024 Settlement. Existing customers' base rates cannot be increased before January 1, 2028. DEF has committed that unrecovered costs during the Settlement period will not result in an adjustment to those customers' rates during that period. And the record demonstrates that the large-scale system investment contemplated by the opposing parties' principal hypotheticals would be "impossible" to place in service before the Settlement expires. Beginning January 1, 2028, qualifying customers will transition to a Commission-approved large-load-specific rate schedule.

The preponderance of the competent, substantial evidence therefore demonstrates that DEF's proposed LLCP, LLCA, and CIAC tariff modifications reasonably ensure that each large load customer bears its own full cost of service and that neither those costs nor the risk of nonpayment of those costs is shifted to the general body of ratepayers. DEF's proposal complies with sections 366.03, 366.043, and 366.05, Florida Statutes, and is consistent with the 2024 Settlement. The Commission should approve the proposed tariffs without modification, make them

effective upon approval in this docket, and memorialize DEF's commitment to file a large-load-specific rate schedule to take effect January 1, 2028.

Respectfully submitted this 15th day of September, 2026.

/s/ Dianne M. Triplett

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CERTIFICATE OF SERVICE

Docket No. 20260064-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via email this 15th day of September, 2026 to all parties of record as indicated below.

/s/ Dianne M. Triplett

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