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December 7, 2021

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Item 1

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: November 23, 2021

TO: Office of Commission Clerk (Teitzman)

FROM: Office of Industry Development and Market Analysis (Williams) ^{CH}
Office of the General Counsel (Jones) ^{TL}

RE: Application for Certificate of Authority to Provide Telecommunications Service

AGENDA: 12/7/2021 - Consent Agenda - Proposed Agency Action - Interested Persons May Participate

SPECIAL INSTRUCTIONS: None

Please place the following Application for Certificate of Authority to Provide Telecommunications Service on the consent agenda for approval.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>CERT. NO.</u>
20210173-TX	Hargray of Tallahassee LLC	8967

The Commission is vested with jurisdiction in this matter pursuant to Section 364.335, Florida Statutes. Pursuant to Section 364.336, Florida Statutes, certificate holders must pay a minimum annual Regulatory Assessment Fee if the certificate is active during any portion of the calendar year. A Regulatory Assessment Fee Return Notice will be mailed each December to the entity listed above for payment by January 30.

Item 2

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: November 23, 2021

TO: Office of Commission Clerk (Teitzman)

FROM: Office of Industry Development and Market Analysis (Yglesias de Ayala, ^{CH}
Fogleman, Wendel)
Office of the General Counsel (Weisenfeld) ^{TL}

RE: Docket No. 20210163-TP – Request for relinquishment of eligible telecommunications carrier (ETC) designation in Florida, by BellSouth Telecommunications, LLC d/b/a AT&T Florida.

AGENDA: 12/07/21 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Passidomo

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On October 12, 2021, BellSouth Telecommunications, LLC d/b/a AT&T Florida (AT&T Florida or Company) filed a petition with the Florida Public Service Commission (Commission) for relinquishment of its Eligible Telecommunications Carrier (ETC) designation for its service areas in Florida, effective February 15, 2022. AT&T Florida is an incumbent local exchange carrier (ILEC) in Florida. On October 14, 1997, the Commission designated AT&T Florida as an ETC in its ILEC service territory pursuant to 47 U.S.C. 214 (e)(2) and Section 364.10(2), Florida Statutes (F.S.) (1997).¹ An ETC designation is a requirement for telecommunications carriers to

¹ Order No. PSC-97-1262-FOF-TP issued October 14, 1997, in Docket No. 970644-TP, *In re: Establishment of eligible telecommunications carriers pursuant to Section 214(e) of the Telecommunications Act of 1996*, and Docket

receive funding support from the federal Universal Service Fund for the Lifeline and High-Cost programs. The Lifeline program enables low-income households to obtain and maintain basic telephone and broadband services by offering qualifying households a discount on monthly bills. The High-Cost program helps carriers provide voice and broadband service in remote and underserved communities.

In 2014, the Federal Communications Commission (FCC) restructured the High-Cost program and launched the Connect America Fund Phase II auction (CAF II), which provided funding by census blocks rather than larger areas such as wire centers.² The FCC implemented this change to ensure that high-cost support reaches its targeted areas and is not used to support broadband in areas where the subsidy is not needed. AT&T Florida accepted CAF II support and was required to retain ETC designation in the CAF II census blocks for the duration of the funding term and to offer Lifeline discounts to eligible customers who reside in those census blocks.

On July 24, 2017, the Commission granted AT&T Florida's petition for partial relinquishment of its ETC designation for the census blocks in its service area where it did not participate in the CAF II program.³ AT&T Florida will not receive CAF II support in its remaining Florida ETC service territory after December 31, 2021. In 2020, the FCC replaced the model-based CAF II support program with the Rural Digital Opportunity Fund (RDOF).⁴ AT&T Florida did not participate in the RDOF auction and, therefore, will no longer receive any federal High-Cost universal service support in Florida after December 31, 2021.

AT&T Florida states that the Commission's approval of its petition will not affect the availability of AT&T Florida's legacy voice services in Florida. The Company will continue to offer and provide legacy voice services, complying with federal and state law, and any applicable service obligations across its entire service territory, including the relinquishment area.

As of June 2021, AT&T Florida had 65 Lifeline customers in Florida. AT&T Florida will no longer receive federal High-Cost universal service support in Florida. In addition, AT&T Florida accepted forbearance from the FCC of its obligation to offer a Lifeline discount on broadband Internet access service after December 31, 2021.⁵ While this forbearance is not directly related to the current AT&T Florida relinquishment petition, it does further shrink the market it serves through the federal Lifeline program. To complete its withdrawal from the Lifeline market, AT&T Florida is requesting relinquishment of its ETC designation in Florida.

No. 970744-TP, *In Re: Implementation of changes in the Federal Lifeline Assistance Plan currently provided by telecommunications carriers of last resort*.

² FCC 14-190, WC Docket No. 10-90, Connect America Fund, Report and Order, released December 18, 2014, https://apps.fcc.gov/edocs_public/attachmatch/FCC-14-190A1_Rcd.pdf

³ Order No. PSC-2017-0290-PAA-TP issued July 24, 2017, in Docket No. 170082-TP, *In re: Request for relinquishment of partial eligible telecommunications carrier status, by BellSouth Telecommunications, LLC d/b/a AT&T Florida*.

⁴ FCC 20-5, WC Docket No. 10-90, Rural Digital Opportunity Fund, Report and Order, released February 7, 2020, <https://docs.fcc.gov/public/attachments/FCC-20-5A1.pdf>

⁵ AT&T Notice for Forbearance from Lifeline BIAS Requirements, *In the Matter of Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, filed July 29, 2021 (filing effective January 1, 2022).

Docket No. 20210163-TP
Date: November 23, 2021

The Commission is vested with jurisdiction in this matter, pursuant to Section 364.10, F.S., 47 U.S.C. §214(e)(4), and 47 C.F.R. §54.205.

Discussion of Issues

Issue 1: Should the Commission approve AT&T Florida's request for relinquishment of its ETC designation?

Recommendation: Yes. The Commission should approve AT&T Florida's request to relinquish its ETC designation. (Yglesias de Ayala, Fogleman, Wendel, Weisenfeld)

Staff Analysis: An ETC may relinquish its ETC designation pursuant to 47 C.F.R. §54.205(a), which provides that:

A state commission shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier. An eligible telecommunications carrier that seeks to relinquish its eligible telecommunications carrier designation for an area served by more than one eligible telecommunications carrier shall give advance notice to the state commission of such relinquishment.

In approving a relinquishment, state commissions must require the remaining ETCs to ensure that existing customers will continue to be served. 47 C.F.R. §54.205(b), provides that:

Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the state commission shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier. The state commission shall establish a time, not to exceed one year after the state commission approves such relinquishment under this section, within which such purchase or construction shall be completed.

AT&T Florida identified in its petition all of the designated ETCs currently serving its service territory by wire center. Staff sent a data request to each ETC in AT&T Florida's service area to verify the ETC designation of the company and to confirm it is providing service in the wire centers identified by AT&T Florida. Staff compared the responses to ensure that customers in the relinquished area would continue to have Lifeline service available. While staff's review concluded some discrepancies in the number of ETCs offering service in each wire center, customers in the area AT&T Florida seeks to relinquish ETC designation will continue to have Lifeline service available from one or more ETCs (Attachment A).⁶

In its petition, AT&T Florida has asserted that its Lifeline customers will receive ample notice of the need to select another ETC to continue receiving a Lifeline discount. The customers will

⁶ Staff disagrees with the number of ETCs identified by AT&T Florida offering service in many wire centers. Specifically, staff understands that the following ETCs will continue to offer Lifeline in AT&T Florida's territory in whole or in part: Assurance Wireless (T-Mobile), WOW! (Knology of Florida, LLC), SafeLink Wireless (TracFone Wireless, Inc.), Phone Club, and T-Mobile.

receive this notice, at least 60 days prior to the relinquishment date, explaining that AT&T Florida will no longer offer a Lifeline discount, and if the customer does not choose another Lifeline provider they will be charged standard prices (including applicable surcharges, fees, and taxes) for their existing AT&T Florida services.

AT&T Florida will also send a second notice and a bill message at least 15 days prior to the relinquishment date. All notices will provide each customer instructions about communicating with the remaining ETCs in the area to discuss Lifeline benefits offered by those ETCs. The notices will also provide information on how to contact the Universal Service Administrative Company for a list of other ETCs in the state. In addition, AT&T Florida will stop enrolling customers in the Lifeline program on December 1, 2021, or within five (5) days after the Commission's Order is final, whichever is later.

After reviewing AT&T Florida's petition and the responses to the ETC data requests, staff has verified there will be one or more ETCs remaining in AT&T Florida's service area. Therefore, Lifeline service will continue to be available to customers residing within the relinquishment area if AT&T Florida's petition is granted. Staff believes AT&T Florida has met the 47 C.F.R. §54.205 requirements to relinquish its ETC designation in its service area. Therefore, staff recommends that the Commission approve AT&T Florida's petition for relinquishment of its ETC designation.

Issue 2: Should this docket be closed?

Recommendation: Yes. 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, this docket should be closed upon the issuance of a consummating order. (Weisenfeld)

Staff Analysis: At the conclusion of the protest period, if no protest is filed this docket should be closed upon the issuance of a consummating order.

CETCs Designated in AT&T Florida's Service Area (ILEC Wire Centers)

ID Code	CETC Name
1	Access Wireless (i-wireless, LLC)
2	Assurance Wireless (T-Mobile)
3	WOW! (Knology of Florida, LLC)
4	Phone Club Corporation
5	SafeLink Wireless (TracFone Wireless, Inc.)
6	T-Mobile

Wire Center	Exchange	ETCs identified by AT&T Florida *	ETCs verified by Commission's staff *
ARCHFLMA	ARCHER	1,2,4,5,6	2,4,5,6
BCRTFLBT	BOCA RATON	1,2,4,5,6	2,5,6
BCRTFLMA	BOCA RATON	1,2,4,5,6	2,4,5,6
BCRTFLSA	BOCA RATON	1,2,4,5,6	2,4,5,6
BGPIFLMA	KEYS	1,2,4,5,6	2,5,6
BKVLFLJF	BROOKSVILLE	1,2,4,5,6	2,4,5,6
BLDWFLMA	BALDWIN	1,2,4,5,6	2,4,5,6
BLGLFLMA	BELLE GLADE	1,2,4,5,6	2,4,5,6
BNNLFLMA	BUNNELL	1,2,4,5,6	2,4,5,6
BRSNFLMA	BRONSON	1,2,4,5,6	2,4,5,6
BYBHFLMA	BOYNTON BEACH	1,2,4,5,6	2,5,6
CCBHFLMA	COCOA BEACH	1,2,4,5,6	2,5,6
CDKYFLMA	CEDAR KEY	1,2,4,5,6	2,4,5,6
CFLDFLMA	CHIEFLAND	1,2,4,5,6	2,4,5,6
CHPLFLJA	CHIPLEY	1,2,4,5,6	2,4,5,6
CNTMFLLE	CANTONMENT	1,2,4,5,6	2,4,5,6
COCOFLMA	COCOA	1,2,4,5,6	2,4,5,6
COCOFLME	COCOA	1,2,4,5,6	2,4,5,6
CSCYFLBA	CROSS CITY	1,2,4,5,6	2,4,5,6
DBRYFLMA	DEBARY	1,2,4,5,6	2,4,5,6
DELDFLMA	DELAND	1,2,4,5,6	2,5,6
DLBHFLKP	DELRAY BEACH	1,2,4,5,6	2,5,6
DLSPFLMA	DE LEON SPRINGS	1,2,4,5,6	2,4,5,6
DNLNFLWM	DUNNELLON	1,2,4,5,6	2,4,5,6

* The numbers in this column correspond to the ETCs identified on the first page of this attachment.

CETCs Designated in AT&T Florida's Service Area (ILEC Wire Centers)

Wire Center	Exchange	ETCs identified by AT&T Florida *	ETCs verified by Commission's staff *
DRBHFLMA	DEERFIELD BEACH	1,2,4,5,6	2,5,6
DYBHFLMA	DAYTONA BEACH	1,2,4,5,6	2,5,6
DYBHFLOB	DAYTONA BEACH	1,2,4,5,6	2,4,5,6
DYBHFLOS	DAYTONA BEACH	1,2,4,5,6	2,4,5,6
DYBHFLPO	DAYTONA BEACH	1,2,4,5,6	2,4,5,6
EGLFLIH	EAU GALLIE	1,2,4,5,6	2,4,5,6
EORNFLMA	EAST ORANGE	1,2,4,5,6	2,4,5,6
FMTNALMT	CENTURY	1,2,4,5,6	2,4,5,6
FRBHFLFP	FERNANDINA BEACH	1,2,4,5,6	2,4,5,6
FTGRFLMA	JACKSONVILLE	1,2,4,5,6	2,5,6
FTLDFLCY	FORT LAUDERDALE	1,2,4,5,6	2,5,6
FTLDLJA	FORT LAUDERDALE	1,2,4,5,6	2,4,5,6
FTLDFLMR	FORT LAUDERDALE	1,2,4,5,6	2,4,5,6
FTLDFLOA	FORT LAUDERDALE	1,2,4,5,6	2,4,5,6
FTLDFLPL	FORT LAUDERDALE	1,2,4,5,6	2,4,5,6
FTLDFLSG	FORT LAUDERDALE	1,2,4,5,6	2,4,5,6
FTLDFLSU	FORT LAUDERDALE	1,2,4,5,6	2,4,5,6
FTLDFLWN	FORT LAUDERDALE	1,2,4,5,6	2,4,5,6
FTPRFLMA	FORT PIERCE	1,2,4,5,6	2,5,6
GCSPFLCN	GREEN COVE SPRINGS	1,2,4,5,6	2,4,5,6
GCVLFLMA	GRACEVILLE	1,2,4,5,6	2,4,5,6
GENVFLMA	GENEVA	1,2,4,5,6	2,4,5,6
GLBRFLMC	GULF BREEZE	1,2,4,5,6	2,4,5,6
GSVLFLMA	GAINESVILLE	1,2,4,5,6	2,5,6
HAVNFLMA	HAVANA	1,2,4,5,6	2,4,5,6
HBSDFLMA	HOBE SOUND	1,2,4,5,6	2,4,5,6
HLNVFLMA	HOLLEY-NAVARRE	1,2,4,5,6	2,4,5,6
HLWDFLMA	HOLLYWOOD	1,2,4,5,6	2,4,5,6
HLWDFLPE	FORT LAUDERDALE	1,2,4,5,6	2,4,5,6
HLWDFLWH	HOLLYWOOD	1,2,4,5,6	2,4,5,6
HMSTFLEA	HOMESTEAD	1,2,4,5,6	2,5,6
HMSTFLHM	HOMESTEAD	1,2,4,5,6	2,4,5,6
HMSTFLNA	HOMESTEAD	1,2,4,5,6	2,4,5,6
HMSTFLNA	JENSEN BEACH	1,2,4,5,6	2,4,5,6

* The numbers in this column correspond to the ETCs identified on the first page of this attachment.

CETCs Designated in AT&T Florida's Service Area (ILEC Wire Centers)

Wire Center	Exchange	ETCs identified by AT&T Florida *	ETCs verified by Commission's staff *
HTISFLMA	PORT ST LUCIE	1,2,4,5,6	2,5,6
HWTHFLMA	HAWTHORNE	1,2,4,5,6	2,4,5,6
ISLMFLMA	KEYS	1,2,4,5,6	2,4,5,6
JAYFLMA	JAY	1,2,4,5,6	4,5
JCBHFLMA	JACKSONVILLE BEACH	1,2,4,5,6	2,4,5,6
JCBHFLSP	JACKSONVILLE	1,2,4,5,6	2,4,5,6
JCVLFLAR	JACKSONVILLE	1,2,4,5,6	2,4,5,6
JCVLFLBW	JACKSONVILLE	1,2,4,5,6	2,4,5,6
JCVLFLCL	JACKSONVILLE	1,2,4,5,6	2,4,5,6
JCVLFLFC	JACKSONVILLE	1,2,4,5,6	2,4,5,6
JCVLFLIA	JACKSONVILLE	1,2,4,5,6	2,4,5,6
JCVLFLJT	JACKSONVILLE	1,2,4,5,6	2,4,5,6
JCVLFLLF	JACKSONVILLE	1,2,4,5,6	2,4,5,6
JCVLFLNO	JACKSONVILLE	1,2,4,5,6	2,4,5,6
JCVLFLOW	JACKSONVILLE	1,2,4,5,6	2,4,5,6
JCVLFLRV	JACKSONVILLE	1,2,4,5,6	2,4,5,6
JCVLFLSJ	JACKSONVILLE	1,2,4,5,6	2,4,5,6
JCVLFLSM	JACKSONVILLE	1,2,4,5,6	2,4,5,6
JCVLFLWC	JACKSONVILLE	1,2,4,5,6	2,4,5,6
JPTRFLMA	JUPITER	1,2,4,5,6	2,4,5,6
KYHGFLMA	KEYSTONE HEIGHTS	1,2,4,5,6	2,4,5,6
KYLRFLLS	KEYS	1,2,4,5,6	2,4,5,6
KYLRFLMA	KEYS	1,2,4,5,6	2,4,5,6
KYWSFLMA	KEYS	1,2,4,5,6	2,4,5,6
LKCYFLMA	LAKE CITY	1,2,4,5,6	2,4,5,6
LYHNFLOH	LYNN HAVEN	1,2,3,4,5,6	2,3,4,5,6
MCNPFLMA	MICANOPY	1,2,4,5,6	2,4,5,6
MDBGFLPM	MIDDLEBURG	1,2,4,5,6	2,4,5,6
MIAMFLAE	MIAMI	1,2,4,5,6	2,5,6
MIAMFLAL	MIAMI	1,2,4,5,6	2,4,5,6
MIAMFLAP	MIAMI	1,2,4,5,6	4,5,6
MIAMFLBA	MIAMI	1,2,4,5,6	2,4,5,6
MIAMFLBR	MIAMI	1,2,4,5,6	2,4,5,6
MIAMFLCA	MIAMI	1,2,4,5,6	2,5,6

* The numbers in this column correspond to the ETCs identified on the first page of this attachment.

CETCs Designated in AT&T Florida's Service Area (ILEC Wire Centers)

Wire Center	Exchange	ETCs identified by AT&T Florida *	ETCs verified by Commission's staff *
MIAMFLFL	MIAMI	1,2,4,5,6	2,4,5,6
MIAMFLGR	MIAMI	1,2,4,5,6	2,4,5,6
MIAMFLHL	MIAMI	1,2,4,5,6	2,4,5,6
MIAMFLIC	MIAMI	1,2,4,5,6	2,4,5,6
MIAMFLKE	MIAMI	1,2,4,5,6	2,4,5,6
MIAMFLME	MIAMI	1,2,4,5,6	2,4,5,6
MIAMFLNM	MIAMI	1,2,4,5,6	2,4,5,6
MIAMFLNS	MIAMI	1,2,4,5,6	2,4,5,6
MIAMFLOL	MIAMI	1,2,4,5,6	4,5,6
MIAMFLPB	MIAMI	1,2,4,5,6	2,4,5,6
MIAMFLPL	MIAMI	1,2,4,5,6	2,4,5,6
MIAMFLRR	MIAMI	1,2,4,5,6	2,4,5,6
MIAMFLSH	MIAMI	1,2,4,5,6	2,4,5,6
MIAMFLSO	MIAMI	1,2,4,5,6	2,5,6
MIAMFLWD	MIAMI	1,2,4,5,6	2,4,5,6
MIAMFLWM	MIAMI	1,2,4,5,6	2,4,5,6
MICCFLBB	SEBASTIAN	1,2,4,5,6	2,4,5,6
MLBRFLMA	MELBOURNE	1,2,4,5,6	2,4,5,6
MLTNFLRA	MILTON	1,2,4,5,6	2,4,5,6
MNDRFLAV	JACKSONVILLE	1,2,4,5,6	2,4,5,6
MNDRFLLO	JACKSONVILLE	1,2,4,5,6	2,4,5,6
MNDRFLLW	ST. JOHNS	1,2,4,5,6	2,4,5,6
MNSNFLMA	MUNSON	1,2,4,5,6	4,5
MRTHFLVE	KEYS	1,2,4,5,6	2,4,5,6
MXVLFLMA	MAXVILLE	1,2,4,5,6	2,4,5,6
NDADFLAC	NORTH DADE	1,2,4,5,6	2,5,6
NDADFLBR	NORTH DADE	1,2,4,5,6	2,4,5,6
NDADFLGG	NORTH DADE	1,2,4,5,6	2,4,5,6
NDADFLLOL	NORTH DADE	1,2,4,5,6	2,4,5,6
NKLRFLMA	KEYS	1,2,4,5,6	2,4,5,6
NSBHFLMA	NEW SMYRNA BEACH	1,2,4,5,6	2,4,5,6
NWBYFLMA	NEWBERRY	1,2,4,5,6	2,4,5,6
OKHLFLMA	OAKHILL	1,2,4,5,6	2,4,5,6
OLTWFLLN	OLDTOWN	1,2,4,5,6	2,4,5,6

* The numbers in this column correspond to the ETCs identified on the first page of this attachment.

CETCs Designated in AT&T Florida's Service Area (ILEC Wire Centers)

Wire Center	Exchange	ETCs identified by AT&T Florida *	ETCs verified by Commission's staff *
ORLDFLAP	ORLANDO	1,2,4,5,6	2,4,5,6
ORLDFLPC	ORLANDO	1,2,4,5,6	2,5,6
ORPKFLMA	ORANGE PARK	1,2,4,5,6	2,4,5,6
ORPKFLRW	ORANGE PARK	1,2,4,5,6	2,4,5,6
OVIDFLCA	OVIDO	1,2,4,5,6	2,4,5,6
PACEFLPV	PACE	1,2,4,5,6	2,4,5,6
PAHKFLMA	PAHOKEE	1,2,4,5,6	2,4,5,6
PCBHFLNT	PANAMA CITY BEACH	1,2,3,4,5,6	2,3,4,5,6
PLCSFLMA	PALM COAST	1,2,4,5,6	2,5,6
PLTKFLMA	PALATKA	1,2,4,5,6	2,4,5,6
PMBHFLCS	CORAL SPRINGS	1,2,4,5,6	2,4,5,6
PMBHFLFE	POMPANO BEACH	1,2,4,5,6	2,4,5,6
PMBHFLMA	POMPANO BEACH	1,2,4,5,6	2,4,5,6
PMBHFLTA	POMPANO BEACH	1,2,4,5,6	2,4,5,6
PMPKFLMA	POMONA PARK	1,2,4,5,6	2,4,5,6
PNCYFLCA	PANAMA CITY	1,2,3,4,5,6	2,3,4,5,6
PNCYFLMA	PANAMA CITY	1,2,3,4,5,6	2,3,4,5,6
PNSCFLBL	PENSACOLA	1,2,4,5,6	2,4,5,6
PNSCFLFP	PENSACOLA	1,2,4,5,6	2,4,5,6
PNSCFLPB	PENSACOLA	1,2,4,5,6	2,4,5,6
PNSCFLWA	PENSACOLA	1,2,4,5,6	2,4,5,6
PNVDFLMA	PONTE VEDRA BEACH	1,2,4,5,6	2,4,5,6
PRRNFLMA	PERRINE	1,2,4,5,6	2,4,5,6
PRSNFLFD	PIERSON	1,2,4,5,6	2,4,5,6
PTSLFLMA	PORT ST. LUCIE	1,2,4,5,6	2,4,5,6
PTSLFLSO	PORT ST. LUCIE	1,2,4,5,6	2,4,5,6
SBSTFLFE	SEBASTIAN	1,2,4,5,6	2,4,5,6
SBSTFLMA	SEBASTIAN	1,2,4,5,6	2,4,5,6
SGKYFLMA	KEYS	1,2,4,5,6	4,5
SNFRFLMA	SANFORD	1,2,4,5,6	2,4,5,6
STAGFLBS	ST.JOHNS	1,2,4,5,6	2,4,5,6
STAGFLMA	ST.JOHNS	1,2,4,5,6	2,4,5,6
STAGFLSH	ST.JOHNS	1,2,4,5,6	2,4,5,6
STAGFLWG	ST.JOHNS	1,2,4,5,6	2,4,5,6

* The numbers in this column correspond to the ETCs identified on the first page of this attachment.

CETCs Designated in AT&T Florida's Service Area (ILEC Wire Centers)

Wire Center	Exchange	ETCs identified by AT&T Florida *	ETCs verified by Commission's staff *
STRNFLMA	STUART	1,2,4,5,6	2,4,5,6
SYHSFLCC	SUNNY HILLS	1,2,4,5,6	4,5
TRENFLMA	TRENTON	1,2,4,5,6	2,4,5,6
TTVLFLMA	TITUSVILLE	1,2,4,5,6	2,4,5,6
VERNFLMA	VERNON	1,2,4,5,6	4,5
VRBHFLBE	VERO BEACH	1,2,4,5,6	2,5,6
VRBHFLMA	VERO BEACH	1,2,4,5,6	2,4,5,6
WELKFLMA	WELAKA	1,2,4,5,6	2,4,5,6
WPBHFLAN	WEST PALM BEACH	1,2,4,5,6	2,4,5,6
WPBHFLGA	WEST PALM BEACH	1,2,4,5,6	2,4,5,6
WPBHFLGR	WEST PALM BEACH	1,2,4,5,6	2,4,5,6
WPBHFLHH	WEST PALM BEACH	1,2,4,5,6	2,4,5,6
WPBHFLLE	WEST PALM BEACH	1,2,4,5,6	2,5,6
WPBHFLRB	WEST PALM BEACH	1,2,4,5,6	2,4,5,6
WPBHFLRP	WEST PALM BEACH	1,2,4,5,6	2,4,5,6
WWSPFLHI	WEEKIWACHEE SPRINGS	1,2,4,5,6	2,4,5,6
YNFNFLMA	YOUNGSTOWN-FOUNTAIN	1,2,4,5,6	4,5
YNTWFLMA	YANKEETOWN	1,2,4,5,6	2,4,5,6
YULEFLMA	YULEE	1,2,4,5,6	4,5

* The numbers in this column correspond to the ETCs identified on the first page of this attachment.

Item 3

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: November 23, 2021

TO: Office of Commission Clerk (Teitzman)

FROM: Office of Industry Development and Market Analysis (Deas, Fogleman) ^{CH}
Office of the General Counsel (Imig) ^{TJT}

RE: Docket No. 20210168-TP – Petition of North American Numbering Plan Administrator on behalf of the Florida telecommunications industry, for approval of consensus decision to recommend to the Commission an all-services overlay as the form of relief for the 561 numbering plan area.

AGENDA: 12/07/21 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Passidomo

CRITICAL DATES: The estimated exhaust date for the 561 area code is the third quarter of 2023

SPECIAL INSTRUCTIONS: None

Case Background

On October 28, 2019, the North American Numbering Plan Administrator (NANPA), on behalf of Florida's telecommunications industry (Industry), filed a petition with the Florida Public Service Commission (Commission) for approval of its area code relief plan for the 561 Numbering Plan Area (NPA). The Industry reached a consensus decision to recommend an all-services distributed overlay as the form of relief for the 561 NPA. NANPA projects that the supply of central office codes in the 561 NPA will exhaust during the third quarter of 2023. Consequently, NANPA is also requesting that the Commission approve the recommended 9-month implementation schedule.

NANPA is the neutral third-party administrator of the North American Numbering Plan, which is the area code system shared by the United States, Canada, Bermuda, and 17 Caribbean countries. NANPA's responsibilities include assigning area codes and prefixes, and tracking numbering usage to ensure effective and efficient utilization. NANPA is also responsible for forecasting the exhaust of geographic area codes and area code relief planning. NANPA publishes its forecasted exhaust of all area codes on a semi-annual basis. This forecast is used to determine when to start the area code relief process. The area served by NANPA is divided into NPAs, which are each identified by a three-digit NPA code, commonly called an area code.

The 561 area code was introduced in 1996 when the 407 area code needed relief due to substantial growth in demand for telephone numbers. Since its creation the 561 area code was split once in 2002 to create the 772 area code which serves the Treasure Coast of Florida. Currently, the 561 area code serves Palm Beach, Boca Raton, Wellington, Boynton Beach, Jupiter, Delray Beach, Belle Glade and other smaller communities.

On July 16, 2020, the FCC adopted an Order approving the designation of 988 as the 3-digit abbreviated dialing code for the National Suicide Prevention Lifeline. The Order requires all telecommunications carriers, interconnected Voice over Internet Protocol (VoIP) providers, and one-way VoIP providers (covered providers) to make any network changes necessary to ensure that users can dial 988 to reach the existing National Suicide Prevention Lifeline by July 16, 2022.¹ This requires all covered providers to implement mandatory 10-digit dialing in NPAs that have assigned 988 as an NXX, which is the first 3-digits of a 7-digit number. Dialing the area code first will prevent calls to numbers with the 988 NXX from being mistakenly directed to the Suicide Prevention Lifeline. Several Florida NPA's, including 561, were identified as needing to transition to 10-digit dialing.

In April 2021, NANPA forecasted that the 561 area code would exhaust during the third quarter of 2024. However, due to an increase in requests for numbering resources in the 561 area code, on September 23, 2021, NANPA revised its forecast to reflect a new exhaust date of third quarter 2023. NANPA convened an industry meeting on October 12, 2021, to review and approve the draft area code relief filing. On October 22, 2021, NANPA filed a petition with the Commission on behalf of the Industry requesting approval of an all services distributed overlay for the 561 area code (see map Attachment A). The Commission has jurisdiction to address this issue pursuant to Section 364.16(7) and 120.80(13)(d), Florida Statutes, and 47 Code of Federal Regulations (C.F.R.) § 52.19.

¹ <https://docs.fcc.gov/public/attachments/FCC-20-100A1.pdf>.

Discussion of Issues

Issue 1: Should the Commission approve the Industry's consensus recommendation of an all-services distributed overlay as the area code relief plan for the 561 area code?

Recommendation: Yes, the Commission should approve the Industry's consensus recommendation of an all-services distributed overlay as the area code relief plan for the 561 area code. (Deas, Fogleman, Imig)

Staff Analysis: Area code relief responsibilities have been delegated to the states by the Federal Communication Commission (FCC) pursuant to 47 C.F.R. § 52.19. In Florida, the Commission is responsible for determining the appropriate form of area code relief when telephone numbers exhaust within an area code. There are a number of methods available to address area code exhaust issues; however, the two most commonly used methods are a geographic split or an overlay.

Geographic Split

The geographic split method divides the exhausting NPA into two, leaving the existing area code to serve one NPA and assigning a new area code to serve the other NPA. This method generally acknowledges jurisdictional or natural boundaries, but for technical reasons and number optimization considerations, the actual boundaries must conform to existing rate center boundaries. Under this method, customers on both sides of the split would retain seven digit dialing; however, it would require one half of the customers to change their area code. The last split implemented in Florida was 19 years ago. Industry guidelines specify that in the case of a geographic split, the difference in area code life expectancies between the split areas should be 10 years or less.²

Overlay

The overlay method adds a new area code to the same geographic area served by the area code requiring relief. This results in the assignment of more than one area code to the same NPA. Current customers keep their existing area code and number; however, new customers or customers adding additional lines would receive the new area code. Once an overlay is implemented, the FCC requires 10-digit dialing for all local calls within the NPA. There are four potential implementation strategies for an overlay, which are as follows:

a) All-Services Distributed Overlay - The distributed overlay strategy may be considered in situations when growth in telephone numbers is expected to be more or less evenly distributed throughout the existing NPA. The new area code is added to the same geographic area as the code requiring relief and shares exactly the same geographic boundaries.

b) Concentrated Growth Overlay - A concentrated growth overlay may be considered in situations when the majority of need for the new telephone numbers is expected to be

² NPA Code Relief Planning & Notification Guidelines ATIS-0300061 - Section 5.0 (g).

concentrated in one section of the existing NPA. For example, a fast growing metropolitan area and a sparsely populated rural area could exist within the same NPA. The overlay area code would be assigned initially to the section of the NPA experiencing the fastest growth, and new phone numbers in that section would be assigned from the new area code. As more relief is required, the geographic area served by multiple area codes could expand to the rest of the NPA.

c) Boundary Elimination Overlay - With a boundary elimination overlay, the NPA requiring relief is adjacent to an NPA with available numbering resources. The boundary between these NPAs is eliminated, and spare telephone numbers from the adjacent area code are assigned within the NPA boundary where relief is required.

d) Multiple Overlay - The multiple overlay strategy may be considered where relief is required in an NPA served by two or more area codes. The new area code would be assigned to overlay the multiple existing area codes serving the entire geographic area. This essentially functions the same as an all-services distributed overlay.

Industry Consensus

NANPA, asserts that based on industry guidelines, only an overlay will meet the requirements for relief of the 561 NPA, which is already scheduled to transition to mandatory 10-digit dialing due to the implementation of the National Suicide Prevention Lifeline.³ Therefore, the Industry met on October 12, 2021, and approved an all-services distributed overlay as the recommended form of relief for the 561 area code. According to NANPA, the all-services distributed overlay recommended by industry would provide a projected life of approximately 23 years.

The Industry has also recommended a 9-month implementation schedule. Since the transition to mandatory 10-digit dialing will be in place prior to the implementation of the new area code there will be no permissive dialing period. Therefore, the schedule will only include the necessary network preparation and customer education. At the completion of the network preparation and customer education period, the new area code will be activated. Industry asserts this schedule will allow sufficient time to implement the new area code prior to exhaust of the 561 area code.

Proposed Dialing Plan

If an all-services distributed overlay is approved by the Commission, the Industry recommends the dialing plan be set forth as follows:

Local Calls	10-digit dialing (as required by the FCC)
Toll Calls	1 + 10-digit dialing
Operator Calls	0 + 10-digit dialing

³ NPA Code Relief Planning & Notification Guidelines ATIS-0300061 - Section 5.6.3.

Staff Workshop

In an effort to educate and receive customer input, staff held a virtual customer workshop on November 5, 2021. During this workshop Commission staff and a representative from NANPA explained the area code relief process, the relief option being considered, and customer impact. Staff also allotted time for customers to ask questions or give comments. There was no customer input or comment.

Conclusion

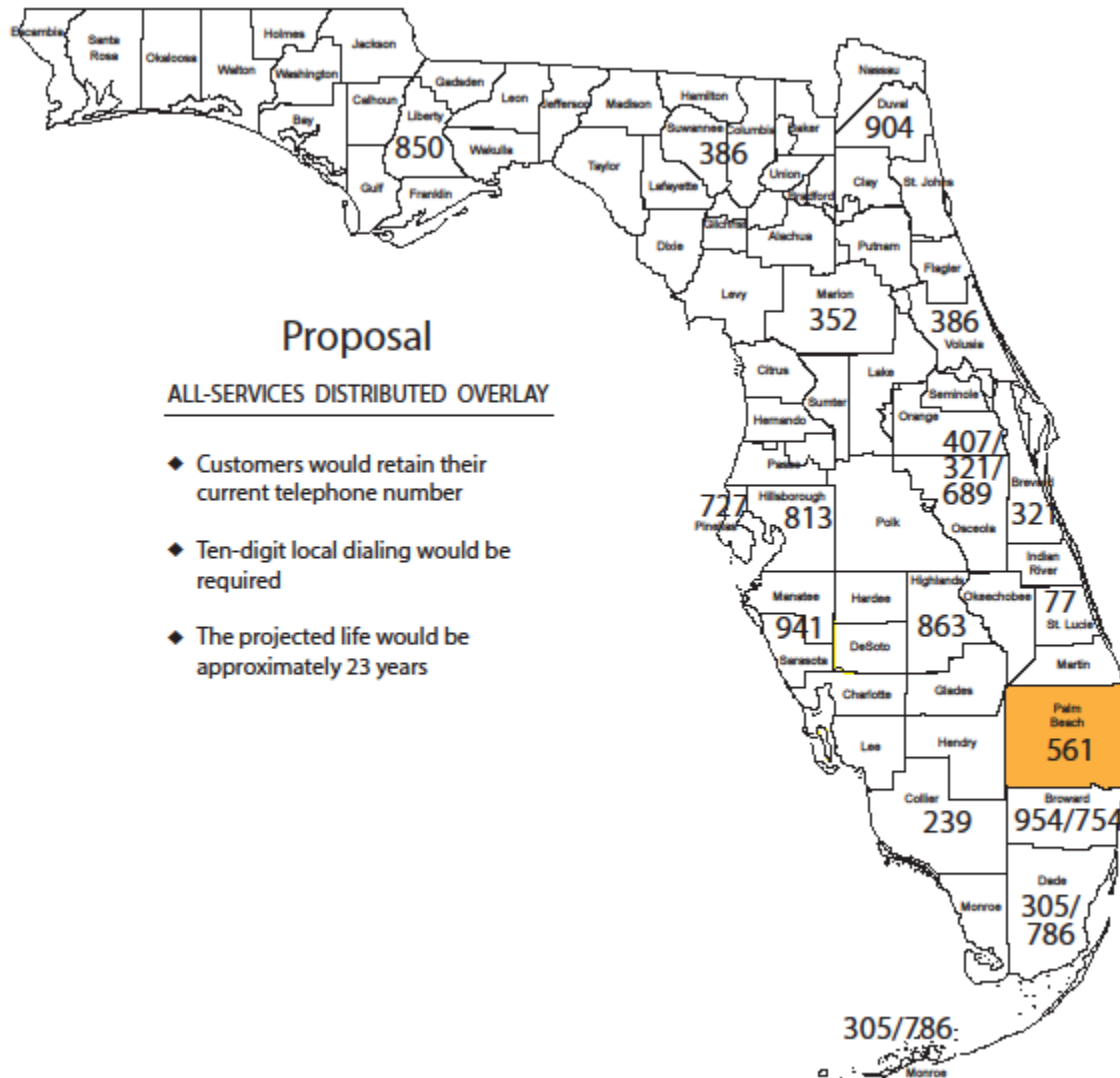
Staff reviewed the petition and analyzed the recommended relief option. Staff notes industry guidelines stipulate that when area code relief is required for a single NPA that is transitioning or scheduled to transition to mandatory 10-digit dialing, only an overlay will meet the requirements for relief. The 561 area code, as a result of the implementation of the National Suicide Prevention Lifeline, is scheduled to complete the transition to mandatory 10-digit dialing prior to the implementation of a relief option. Consequently, in accordance with industry guidelines only an overlay will meet the requirements for relief in the 561 area code. In addition, staff notes an overlay will allow existing customers to retain their current area code and telephone number.

Staff agrees with the Industry and recommends the Commission approve the proposed all-services distributed overlay as the form of relief for the 561 area code. Additionally, staff recommends Commission approval of the proposed 9-month implementation schedule. Finally, staff recommends the Commission approve that central office codes in the new area code be available only when all assignable prefixes in the 561 area code have been assigned.

Issue 2: Should this docket be closed?

Recommendation: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the Proposed Agency Action Order, this docket should be closed upon the issuance of a Consummating Order. (Imig)

Staff Analysis: At the conclusion of the protest period, if no protest is filed, this docket should be closed upon the issuance of a Consummating Order.



Item 4A

FILED 11/23/2021
DOCUMENT NO. 12844-2021
FPSC - COMMISSION CLERK

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: November 23, 2021

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Accounting and Finance (Higgins) *ALM*
Division of Economics (Coston) *JGH*
Office of the General Counsel (Brownless, Osborn) *JSC*

RE: Docket No. 20210001-EI – Fuel and purchased power cost recovery clause with generating performance incentive factor.

AGENDA: 12/07/21 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Fay

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: Recommendation A – Florida Power & Light Company.

Case Background

On November 9, 2021, Florida Power & Light Company (FPL or Company), filed for a mid-course correction (MCC Petition) of its 2022 fuel cost recovery factors. FPL's currently-effective 2021 fuel factors were approved at the April 1, 2021, Commission Conference, and its factors effective January 2022 were approved at the November 2, 2021 Commission Hearing.¹

Underlying the approval of FPL's 2022 factors was the Florida Public Service Commission's (Commission) review of the Company's projected 2022 fuel- and capacity-related service costs. These service costs are recovered through the fuel and capacity cost recovery factors that are set/reset annually in this docket. These cost recovery factors are usually effective for a period of

¹Order No. PSC-2021-0142-PCO-EI, issued April 21, 2021, in Docket No. 20210001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*, and the order stemming from the Commission's November 2, 2021, Fuel Clause Hearing is pending.

12 months. However, the Commission requires that if an investor-owned electric utility's fuel or capacity cost recovery position is projected to exceed a specified range within the standard 12-month timeframe, the utility shall promptly notify the Commission by letter delivered to the Commission Clerk. In the instant case, under Rule 25-6.0424, Florida Administrative Code (F.A.C.), FPL is seeking to modify fuel cost recovery factors that were approved on November 2nd, but have yet to be charged to customers. Thus, at this point in time, it is contemplated that if approved, the proposed fuel factors addressed in this recommendation will be applied for an entire 12-month period.

Mid-Course Corrections

Mid-course corrections are used by the Commission between annual clause hearings whenever costs deviate from revenue by a significant margin. Under Rule 25-6.0424, F.A.C., which is commonly referred to as the Commission's "mid-course correction rule," a utility must notify the Commission whenever it expects to experience an under- or over-recovery of certain service costs greater than 10 percent. The notification of a 10 percent cost-to-revenue variance shall include a petition for mid-course correction to the fuel cost recovery or capacity cost recovery factors, or shall include an explanation of why a mid-course correction is not practical. The Commission's mid-course correction rule and its codified procedures are further discussed later in this recommendation.

FPL's Petition for Mid-Course Correction

On November 9, 2021, FPL filed its MCC Petition and supporting documentation proposing a mid-course correction of its fuel charges.² Staff notes that for the purposes of this recommendation and unless otherwise noted, all figures are based on combined/merged FPL and (former) Gulf Power Company data, but singularly referred to as "FPL."

Specifically, the Commission is being asked to approve an increase in fuel cost recovery charges/factors due to the Company now projecting a period-ending 2022 under-recovery of fuel costs that exceeds the 10 percent threshold. FPL has requested that the proposed revised fuel factors and associated tariffs become effective beginning with the first billing cycle of January 2022. The proposed increase to FPL's currently-approved 2022 fuel charges is being driven by both actual and projected 2021 and 2022 fuel costs being greater than previously estimated. These cost differences are discussed further in Issue 1, while the proposed effective date of the (proposed) revised fuel factors is discussed further in Issue 2.

The Commission is vested with jurisdiction over the subject matter of this proceeding by the provisions of Chapter 366, Florida Statutes (F.S.), including Sections 366.04, 366.05, and 366.06, F.S.

²Document No. 12592-2021.

Discussion of Issues

Issue 1: Should the Commission modify FPL's currently-approved fuel factors for the purpose of addressing its currently-projected under-recovery of 2022 fuel costs?

Recommendation: Yes. Staff recommends the Commission approve adjustments to FPL's currently-approved 2022 fuel factors to incorporate a projected period-ending 2022 under-recovery of fuel costs in the amount of \$809,975,806. (Higgins)

Staff Analysis: FPL participated in the Commission's most-recent fuel hearing which took place on November 2, 2021. Certain decisions rendered at the 2021 hearing set forth FPL's fuel, purchased power, and capacity-related cost recovery factors to become effective with the first billing cycle of 2022. However, as discussed below, the currently-approved 2022 fuel cost recovery factors - without modification - are now projected to under-recover the Company's 2022 fuel cost by greater than 10 percent.

This recommendation directly addresses fuel costs for years 2021 and 2022. Staff notes that FPL's final 2020 fuel true-up was accounted for and incorporated in rates as part of the Company's spring 2021 mid-course correction.³ With respect to Gulf, its final 2020 fuel true-up was considered at the November 2, 2021 Hearing.

The Company's currently-approved 2022 capacity cost recovery factors are projected to remain sufficient to return the required amount of revenue, therefore no change is being sought through this mid-course correction process. Further, the Company's petition and supporting documentation satisfies all filing requirements of Rule 25-6.0424(1)(b), F.A.C.⁴

FPL Mid-Course Correction

The Company filed its MCC Petition on November 9, 2021.⁵ Preceding the filing of its MCC Petition and in accordance with the noticing requirement of Rule 25-6.0424(2), F.A.C., FPL filed letters on September 27, 2021, and October 15, 2021, informing the Commission that based on its then-latest future fuel cost estimations, it was projecting an under-recovery position of greater than 10 percent for the 2022 recovery period.⁶ In both instances, in analyzing settlement prices for natural gas, the Company determined that the continuing price volatility warranted deferring a decision as to whether to file for a mid-course correction of its fuel charges. However, in its second, or October letter, FPL stated that should it project an under-recovery that exceeds the 10 percent threshold based on forward natural gas settlement prices sourced (NYMEX) in early November, it would file a mid-course correction petition, and to minimize any associated bill impact, would request a January 2022 effective date. Based on the aforementioned November 2021 update, the Company determined that filing for a mid-course correction of its 2022 customer fuel charges would be required as the data indicated its projected cost recovery position (through December 2022) would be outside the 10 percent threshold set forth by Rule 25-6.0424, F.A.C.

³Order No. PSC-2021-0142-PCO-EI.

⁴Document Nos. 12592-2021 and 12677-2021.

⁵Document No. 12592-2021.

⁶Document Nos. 11574-2021 and 12168-2021, respectively.

As discussed in greater detail below, the projected 2022 under-recovery of fuel costs is directly associated with higher actual and re-projected natural gas prices than originally estimated.

Projected 2021 Under-Recovery

Accounting for the Company's mid-course correction of its 2022 fuel charges essentially begins with its actual and projected under-recovery of fuel costs in 2021. The two primary projections of 2021 fuel costs are FPL's *Petition for Approval of Fuel Cost Recovery and Capacity Cost Recovery Factors for January through December 2022* (Original 2022 Projection), and *Petition for Mid-Course Correction to its 2022 Fuel Adjustment Factors*.⁷ These documents were filed on September 3, 2021, and November 9, 2021, respectively. Staff notes that in general, a utility's "actual/estimated" filing would contain the final current-year cost projection. However, in this instance, due to higher 2021 fuel prices being projected in the later portion of the year, FPL revised its 2021 actual/estimated true-up through its Original 2022 Projection filing. The revised 2021 actual/estimated true-up amount presented in the Original 2022 Projection is an under-recovery of \$353,945,632. This amount was reviewed and included for 2022 recovery (Issue 10) during the November 2, 2021 Hearing.

Through its MCC Petition, FPL has revised its 2021 actual/estimated true-up a second time. The Company now projects to incur an additional under-recovery of fuel costs in the amount of \$329,554,231 (in 2021). This additional, or incremental 2021 under-recovery is being proposed for recovery as part of this mid-course correction.

For reference, in its Original 2022 Projection filing, the Company projected that the delivered cost of natural gas for the months of August through December 2021 would average approximately \$5.13 per million British thermal unit (MMBtu). However, as indicated through the MCC Petition, FPL now believes, based on a mix of actual and estimated data, that the cost of natural gas for those same months will average approximately \$5.98 per MMBtu.⁸ This new projection represents a cost increase of 16.57 percent.

Projected 2022 Under-Recovery

FPL's original/first 2022 fuel cost projection submitted to the Commission for the purposes of cost recovery was its Original 2022 Projection filing.⁹ This projection of 2022 natural gas costs was formulated using forward market data as of early August 2021. Using data sourced on August 2, 2021, FPL projected for calendar year 2022 an average natural gas cost of \$5.03 per MMBtu. However, through its MCC Petition, FPL now projects based on forward market data as of early November 2021, that the average cost of natural gas in 2022 will be \$5.81 per MMBtu.¹⁰ This new projection represents a cost increase of 15.51 percent.

⁷Document Nos. 10091-2021 and 12592-2021, respectively.

⁸Document Nos. 12592-2021 and 12677-2021.

⁹Document No. 10091-2021.

¹⁰See Document No. 12677-2021, FPL's Responses to Staff's Fourth Data Request, No. 1, Attachment I, page 1 of 2.

In Table 1-1 below, staff displays the revenue requirements associated with the original and updated 2022 projections, as well as the components of the total mid-course correction true-up amount (estimated 2022 End-of-Period Total Net True-up).

Table 1-1
Mid-Course Correction

Category	Original Projection (\$)	Mid-Course Projection (\$)	Difference from Original Projection (%)
Total Fuel Revenue Requirement for 2022 ¹¹	3,824,311,080	4,634,286,887	21.18
Incremental 2021 Actual/Estimated True-Up	-	(329,554,231)	-
2022 True-Up	-	(479,843,545)	-
Interest Provision	-	(578,030)	-
Estimated 2022 End-of-Period Total Net True-up	-	(809,975,806)	-

Sources: FPL's Original 2022 Projection, Schedule E-1, and FPL's MCC Petition, Schedule E1-B.

Following the methodology prescribed in Rule 25-6.0424, F.A.C., the mid-course percentage is equal to the estimated End-of-Period Total Net True-up amount, including interest, divided by the current period's (in this instance, calendar year 2022) total actual and estimated jurisdictional fuel revenue applicable to period, or (\$809,975,806) / \$3,348,352,960.¹² This calculation results in a mid-course correction level of (24.19) percent.

Fuel Factor

FPL's currently-approved levelized 2022 fuel factor for non-time-of-use rates is 3.132 cents per kWh.¹³ The Company is requesting to increase the current levelized fuel factor for non-time-of-use rates to 3.795 cents per kWh, or by approximately 21 percent.

Bill Impacts

In Tables 1-2 and 1-3 below, staff displays the bill impacts of the MCC to typical residential customers using 1,000 kWh of electricity a month in FPL's (pre-merger) service territory and FPL's Northwest (former Gulf Power Company) service territory. Staff also discusses the impacts of the MCC on non-residential customers:

¹¹Includes the (first) revised 2021 Actual/Estimated True-Up.

¹²The total actual and estimated jurisdictional fuel revenue applicable to period is net of the prior period true-up, generating performance incentive, Asset Optimization Mechanism amount, and Solar Together Credit.

¹³Rate approved at the November 2, 2021, Fuel Clause (Docket No. 20210001-EI) Hearing; order pending issuance.

Table 1-2
(Pre-Merger) FPL Service Territory
Monthly Residential Billing Detail at 1,000 kWh

Invoice Component	Currently-Approved Charges for 2022 (\$)	Proposed New Charges for 2022 (\$)	Current to Proposed Difference (\$)	Current to Proposed Difference (%)
Base Charge	\$75.82	\$75.82	-	-
Fuel Charge	28.22	34.87	\$6.65	23.56%
Conservation Charge	1.34	1.34	-	-
Capacity Charge	2.39	2.39	-	-
Environmental Charge	2.99	2.99	-	-
Storm Protection Plan	2.14	2.14	-	-
Transition Rider	(1.98)	(1.98)	-	-
Tax	<u>2.93</u>	<u>3.10</u>	<u>0.17</u>	5.80%
Total	<u>\$113.85</u>	<u>\$120.67</u>	<u>\$6.82</u>	5.99%

Source: FPL MCC Petition, Schedule E-10.

Bill Impacts - FPL's Service Territory

FPL's currently-approved total residential charge for the first 1,000 kWh of usage for January through December 2022 is \$113.85.¹⁴ If the Company's mid-course correction proposal is approved, then the current total residential charge for the first 1,000 kWh of usage for January through December 2022 will be \$120.67, an increase of approximately 5.99 percent. Concerning non-residential customers, FPL reported that bill increases based on average levels of usage for commercial customers would range from approximately 5.82 to 7.73 percent, and approximately 12.39 percent for industrial customers.¹⁵

¹⁴Rate approved at the November 2, 2021, Fuel Clause (Docket No. 20210001-EI) Hearing; order pending issuance.

¹⁵Document No. 12677-2021, filed November 12, 2021, FPL's Responses to Staff's Fourth Data Request, No. 5.

Table 1-3
FPL Northwest (former Gulf Power Company) Service Territory
Monthly Residential Billing Detail at 1,000 kWh

Invoice Component	Currently-Approved Charges for 2022 (\$)	Proposed New Charges for 2022 (\$)	Current to Proposed Difference (\$)	Current to Proposed Difference (%)
Base Charge	\$75.82	\$75.82	-	-
Fuel Charge	28.22	34.87	\$6.65	23.56%
Conservation Charge	1.34	1.34	-	-
Capacity Charge	2.39	2.39	-	-
Environmental Charge	2.99	2.99	-	-
Storm Protection Plan	2.14	2.14	-	-
Storm Restoration Surcharge	11.00	11.00	-	-
Transition Rider	<u>21.06</u>	<u>21.06</u>	-	-
Tax	<u>3.82</u>	<u>4.00</u>	<u>0.18</u>	4.71%
Total	<u>\$148.78</u>	<u>\$155.61</u>	<u>\$6.83</u>	4.59%

Source: FPL MCC Petition, Schedule E-10.

Bill Impacts - FPL's Northwest Service Territory

FPL's currently-approved Northwest total residential charge for the first 1,000 kWh of usage for January through December 2022 is \$148.78.¹⁶ If the Company's mid-course correction proposal is approved, the current total Northwest residential charge for the first 1,000 kWh of usage for January through December 2022 will be \$155.61, an increase of 4.59 percent. Concerning non-residential customers, FPL reported that bill increases based on average levels of usage for commercial customers would range from approximately 4.37 to 6.20 percent. A figure associated with an industrial class was not identified.¹⁷

Tariffs and Noticing

FPL's proposed tariffs are shown on Appendix A to this recommendation. Staff notes that, in addition to the proposed fuel charges, the billing adjustment tariffs attached to this recommendation show the Commission-approved revisions to all other cost recovery clause factors (which are not at issue in this proceeding). FPL stated that it will provide notice of its request for a mid-course correction of fuel charges with its December customer bills. This topic is discussed further in Issue 2.

¹⁶Rate approved at the November 2, 2021, Fuel Clause (Docket No. 20210001-EI) Hearing; order pending issuance.

¹⁷Document No. 12677-2021, filed November 12, 2021, FPL's Responses to Staff's Fourth Data Request, No. 5.

Summary

Staff recommends the Company's fuel cost recovery factors be adjusted to reflect a projected end-of-year 2022 under-recovery of fuel cost in the amount of \$809,975,806. Staff believes this treatment is appropriate as it fully comports with Rule 25-6.0424, F.A.C. Approving the MCC also works to more correctly align expected period costs with same or near period revenue. Further, as discussed in Issue 2, staff recommends the revised fuel factors become effective with the first billing cycle of January 2022.

Conclusion

Staff recommends the Commission approve adjustments to FPL's currently-approved fuel factors to incorporate a projected period-ending 2022 under-recovery of fuel costs in the amount of \$809,975,806.

Issue 2: If approved by the Commission, what is the appropriate effective date for FPL's revised fuel cost recovery factors?

Recommendation: Staff recommends that the fuel cost recovery factors as shown on Appendix A become effective with the first billing cycle of January 2022. (Brownless, Coston)

Staff Analysis: FPL has requested that the revised fuel cost recovery factors become effective with the first billing cycle of January 2022.

Over the last 20 years in the Fuel Clause docket, the Commission has considered the effective date of rates and charges of revised fuel cost recovery factors on a case-by-case basis. The Commission has approved fuel cost recovery factor rate decreases effective sooner than the next full billing cycle after the date of the Commission's vote, with the range between the vote and effective date being from 25 to 2 days. The rationale for that action being that it was in the customers' best interests to implement the lower rate as soon as possible.¹⁸ With regard to fuel cost recovery factor/rate increases, the Commission has approved an effective date of the revised factors ranging from 14 to 29 days after the vote.¹⁹ In two of these cases, the Commission noted that the utility had given its customers 30 days' written notice before the date of the vote that a fuel cost recovery factor increase had been requested and provided the proposed effective date of the higher fuel factors.²⁰

In the instant case, there are 27 days between the Commission's vote on December 7th (2021) and the beginning of FPL's January billing cycle (January 3, 2022).²¹ FPL has stated that during its last billing cycle of 2021, all customers are being notified via eBill or printed bill insert that

¹⁸Order No. PSC-08-0825-PCO-EI, issued December 22, 2008, in Docket No. 080001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*; Order No. PSC-09-0254-PCO-EI, issued April 27, 2009, in Docket No. 090001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*; Order No. PSC-11-0581-PCO-EI, issued on December 19, 2011, in Docket No. 110001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*; Order No. PSC-12-0342-PCO-EI, issued July 2, 2012, in Docket No. 120001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*; Order No. PSC-2012-0082-PCO-EI, issued February 24, 2012, in Docket No. 120001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*; Order No. PSC-15-0161-PCO-EI, issued April 30, 2015, in Docket No. 150001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*; Order No. PSC-2018-0313-PCO-EI, issued June 18, 2018, in Docket No. 20180001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*; Order PSC-2020-0154-PCO-EI, issued May 14, 2020, in Docket No. 20200001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*.

¹⁹Order No. PSC-03-0381-PCO-EI, issued March 19, 2003, in Docket No. 030001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*; Order No. PSC-03-0382-PCO-EI, issued March 19, 2003, in Docket No. 030001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*; Order No. PSC-03-0400, issued March 24, 2003, in Docket No. 030001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*; Order No. PSC-03-0849-PCO-EI, issued July 22, 2003, in Docket No. 030001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*; Order No. PSC-09-0213-PCO-EI, issued April 9, 2009, in Docket No. 090001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*; Order No. PSC-2019-0109-PCO-EI, issued March 22, 2019, in Docket No. 20190001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*.

²⁰Order No. PSC-09-0213-PCO-EI; Order No. PSC-2019-0109-PCO-EI.

²¹Document No. 12677-2021, filed November 12, 2021, FPL's Responses to Staff's Fourth Data Request, No. 7.

their rates are increasing as of January 1, 2022. The eBill and printed bill insert direct the customers to a website which gives the current and proposed rates for all customer classes. Further, all large business customer classes in the Northwest territory will be contacted by their account managers either by phone or email regarding the rate increase. Finally, the information provided clearly identifies the rates that have already been approved in FPL's base rate case, Docket No. 20210015-EI, and the fuel charge rates at issue in this docket.²²

Conclusion

Based on the above, staff recommends that the fuel cost recovery factors as shown on Appendix A become effective with the first billing cycle of January 2022.

²²Document No. 12677-2021, FPL's Responses to Staff's Fourth Data Request, No. 6.

Issue 3: Should this docket be closed?

Recommendation: No. The 20210001-EI docket is an on-going proceeding and should remain open. (Brownless)

Staff Analysis: The fuel docket is on-going and should remain open.

FLORIDA POWER & LIGHT COMPANY

~~Fifty-Eighth-Fifty-Ninth~~ Revised Sheet No. 8.030
Cancels ~~Fifty-Eighth-Fifty-Seventh~~ Revised Sheet No. 8.030

BILLING ADJUSTMENTS

The following charges are applied to the Monthly Rate of each rate schedule as indicated and are calculated in accordance with the formula specified by the Florida Public Service Commission.

RATE	FUEL			CONSERVATION		CAPACITY		ENVIRON- MENTAL	STORM PROTECTION	
	¢/kWh	¢/kWh	¢/kWh	¢/kWh	\$/kW	¢/kWh	\$/kW	¢/kWh	¢/kWh	\$/kW
SCHEDULE	Levelized	On-Peak	Off-Peak							
RS-1, RS-1 w/RTR-1 1 st 1,000 kWh	2.5103.487			0.1490.134		0.2040.239		0.1490.299	0.0420.214	
RS-1, RS-1 w/RTR-1 all addn kWh	2.5104.487			0.1490.134		0.2040.239		0.1490.299	0.0420.214	
RS-1 w/RTR-1 All kWh		0.4090.285	(0.1880.122)	0.1490.134		0.2040.239		0.1490.299	0.0420.214	
GS-1	2.8363.806			0.1500.137		0.2060.248		0.1500.309	0.0420.202	
GST-1		2.2524.092	2.6553.685	0.1500.137		0.2060.248		0.1500.309	0.0420.202	
GSD-1, GSD1-EV GSD-1 w/SDTR (Jan – May)(Oct – Dec)	2.8363.806				0.540.47	0.680.82		0.1330.267		0.140.64
GSD-1 w/SDTR (Jun-Sept)		3.8774.586	2.7003.703		0.540.47	0.680.82		0.1330.267		0.140.64
GSDT-1, HLFT-1 GSDT-1w/SDTR (Jan – May)(Oct – Dec)		2.2524.092	2.6553.684		0.540.47	0.680.82		0.1330.267		0.140.64
GSDT-1 w/SDTR (Jun-Sept)		3.8774.586	2.7003.703		0.540.47	0.680.82		0.1330.267		0.140.64
GSLD-1, CS-1, GSLD1-EV GSLD-1w/SDTR (Jan – May)(Oct – Dec)	2.8243.802				0.570.52	0.760.90		0.1350.269		0.160.73
GSLD-1 w/SDTR (Jun-Sept)		3.8744.581	2.6083.699		0.570.52	0.760.90		0.1350.269		0.160.73
GSLDT-1, CST-1, HLFT-2, GSLDT-1 w/SDTR (Jan-May & Oct-Dec)		2.2544.087	2.6523.680		0.570.52	0.760.90		0.1350.269		0.160.73
GSLDT-1 w/SDTR (Jun-Sept)		3.8744.581	2.6083.699		0.570.52	0.760.90		0.1350.269		0.160.73
GSLD-2, CS-2, GSLD-2 w/SDTR (Jan – May)(Oct – Dec)	2.8143.772				0.570.54	0.730.90		0.1140.234		0.150.69
GSLD-2 w/SDTR (Jun- Sept)		3.8484.546	2.6803.671		0.570.54	0.730.90		0.1140.234		0.150.69
GSLDT-2, CST-2, HLFT-3, GSLDT-2 w/SDTR (Jan – May)(Oct – Dec)		3.2204.055	2.6353.652		0.570.54	0.730.90		0.1140.234		0.150.69
GSLDT-2 w/SDTR (Jun-Sept)		3.8484.546	2.6803.671		0.570.54	0.730.90		0.1140.234		0.150.69
GSLD-3, CS-3	2.7523.688				0.590.50	0.740.82		0.1100.216		0.040.07
GSLDT-3, CST-3		3.1563.964	2.5763.570		0.590.50	0.740.82		0.1100.216		0.040.07

NOTE: The Billing Adjustments for additional Rate Schedules are found (Continued on Sheet No. 8.030.1)

Issued by: Tiffany Cohen, Senior Director, Regulatory Rates, Cost of Service and Systems
Effective: ~~May 1, 2021~~

FLORIDA POWER & LIGHT COMPANY

~~Thirty-Fourth~~ ~~Thirty-Fifth~~ Revised Sheet No. 8.030.1
Cancels ~~Thirty-Fourth~~ ~~Thirty-Third~~ Revised Sheet No. 8.030.1

(Continued from Sheet No. 8.030)													
BILLING ADJUSTMENTS (Continued)													
RATE	FUEL			CONSERVATION			CAPACITY			ENVIRON- MENTAL	STORM PROTECTION		
SCHEDULE	¢/kWh	¢/kWh	¢/kWh	¢/kWh	\$/kW		¢/kWh	\$/kW		¢/kWh	¢/kWh	\$/kW	\$/kW
	Levelized	On-Peak	Off-Peak										
OS-2	2.8143.772			0.0820.093			0.0890.144			0.0890.205	0.1590.600		
MET	2.8143.772				0.540.45		0.670.77			0.1320.247		0.140.66	
CILC-1(G)		3.2534.092	2.6553.684		0.640.56		0.780.92			0.1130.224		0.150.69	
CILC-1(D)		3.2284.057	2.6343.653		0.640.56		0.780.92			0.1130.224		0.150.69	
CILC-1(T)		3.1563.964	2.5763.570		0.640.56		0.750.89			0.1020.199		0.040.08	
SL-1,OL-1, RL-1, PL- 1/SL-1M, LT-1, OS 1/II	2.7513.750			0.042			0.0160.018			0.0270.046	0.0480.221		
SL-2, GSCU- 1/SL- 2M	2.8243.806			0.1140.101			0.1360.160			0.1040.206	0.0260.136		
					RDDRDC	DDC		RDDRDC	DDC			RDDRDC	DDC
SST-1(T)		3.1563.964	2.5763.570		0.070.06	0.03	0.090.10	0.040.05	0.1100.277		0.020.09	0.040.04	
SST-1(D1)		3.2534.092	2.6553.684		0.070.06	0.03	0.080.11	0.040.05	0.1750.511		0.020.09	0.040.04	
SST-1(D2)		3.2514.087	2.6533.680		0.070.06	0.03	0.090.11	0.040.05	0.1750.511		0.020.09	0.040.04	
SST-1(D3)		3.2294.055	2.6353.652		0.070.06	0.03	0.090.11	0.040.05	0.1750.511		0.020.09	0.040.04	
ISST-1(D)		3.2284.057	2.6343.653		0.070.06	0.03	0.090.10	0.040.05	0.1750.277		0.020.09	0.040.04	
ISST-1(T)		3.1563.964	2.5763.570		0.070.06	0.03	0.090.10	0.040.05	0.1100.277		0.020.09	0.040.04	

(Continued on Sheet No. 8.030.2)

Issued by: Tiffany Cohen, Senior Director, Regulatory Rates, Cost of Service and Systems
Effective: ~~May 1, 2021~~

Item 4B

FILED 11/23/2021
DOCUMENT NO. 12845-2021
FPSC - COMMISSION CLERK

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: November 23, 2021

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Accounting and Finance (Higgins) *ALM*
Division of Engineering (Ellis, Wooten) *TB*
Office of the General Counsel (Brownless, Osborn) *JSC*

RE: Docket No. 20210001-EI – Fuel and purchased power cost recovery clause with generating performance incentive factor.

AGENDA: 12/07/21 – Regular Agenda – Post-Hearing Decision – Participation is Limited to Commissioners and Staff

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Fay

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: Recommendation B – Duke Energy Florida, LLC.

Case Background

As part of the continuing fuel and purchased power adjustment and generating performance incentive factor clause proceedings, an administrative hearing was held on November 2, 2021. At the hearing, certain stipulated issues for Duke Energy Florida, LLC (DEF or Company), Florida Power & Light Company (FPL), Florida Public Utilities Company (FPUC), Gulf Power Company (Gulf), and Tampa Electric Company (TECO), were approved by bench decision. The Commission approved stipulations on all but one of the issues before it concerning each of the investor-owned utilities (IOUs) actual and projected fuel and capacity costs. The only issue left outstanding is Issue 1C, a company-specific issue with respect to DEF. More specifically, the subject matter of Issue 1C concerns the recoverability of replacement power costs associated with the January 2021 through April 2021 forced outage of Crystal River Unit No. 4 (CR4). CR4 is an approximate 715 megawatt (MW) coal-fired steam unit located in Citrus County, Florida.

Through Issue 1C, the Commission is being asked to determine if DEF's actions were reasonable and prudent with respect to the factors leading to the forced outage of CR4, and to determine if the associated replacement power costs are recoverable by the Company.

The Florida Industrial Power Users Group (FIPUG), the Florida Retail Federation (FRF), the Office of Public Counsel (OPC), and White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs (PCS Phosphate) filed a joint brief concerning Issue 1C, as well as DEF, on November 15, 2021.

Staff presents its analysis and recommendation on the prudence of DEF's actions and the recovery of replacement power costs associated with CR4's forced outage (Issue 1C) herein.

The Commission is vested with jurisdiction over the subject matter of this proceeding by the provisions of Chapter 366, Florida Statutes (F.S.), including Sections 366.04, 366.05, and 366.06, F.S.

Discussion of Issues

Issue 1C: Has DEF made appropriate adjustments, if any are needed, to account for replacement power costs associated with the January 2021 to April 2021 Crystal River Unit No. 4 outage? If appropriate adjustments are needed and have not been made, what adjustments should be performed?

Recommendation: No. Failure of the plant operator to follow written procedures, without supervisory approval, directly led to the outage at Crystal River Unit 4. As such, replacement power costs should not be borne by retail ratepayers. DEF should credit its customers \$14.4 million associated with retail replacement power costs for the Crystal River Unit No. 4 outage through its 2021 Final True-Up filing. (Wooten)

Position of the Parties

DEF: No adjustments are necessary because DEF's actions related to the outage were reasonable and prudent. The testimony and exhibits clearly demonstrate that DEF could not have known that the highly reliable Beckwith manual sync check relay failed. While the operating procedures were changed as a result of this incident, it was not reasonably foreseeable for DEF to have planned for this unexpected failure in advance of the incident at issue.

FPL: No position.

FRF, FIPUG, OPC, PCS Phosphate: No. The utility bears the burden of proof for recovery of costs claimed. DEF did not demonstrate that its actions causing damage to the plant and the related outages were reasonable and prudent, or that replacement power costs should be borne by customers.

Gulf: See FPL position stated above.

TECO: No position.

NUCOR: No position.

Staff Analysis:

Parties' Arguments

DEF argues that no adjustments are necessary with respect to replacement power costs associated with the January 2021 to April 2021 forced outage of CR4, and that these costs should be deemed fully recoverable. DEF asserts that the testimony and exhibits presented with respect to this matter clearly demonstrate that it could not have known that a highly-reliable plant component (a Beckwith manual sync check relay) failed, which was identified as a "root cause" of the outage. (DEF BR 5) Further, even though operations procedures were changed as a result of the incident, it is not reasonably foreseeable for DEF to have planned for this unexpected failure of the manual sync check relay in advance of the incident. (DEF BR 3)

FRF, FIPUG, OPC, and PCS Phosphate (Joint Intervenor) argue that DEF did not demonstrate that the actions which led to the forced outage of CR4 were reasonable and prudent, or that replacement power costs should be borne by DEF's customers. Further, the DEF operating team at CR4 failed to follow established start up procedures and thereby damaged the plant when attempting to synchronize the generator to the electric grid. (Joint Intervenor BR 2) The Joint Intervenor argue that the Commission should find that DEF failed to demonstrate that it acted prudently in operating CR4 with respect to the actions leading to the forced outage. (Joint Intervenor BR 15)

Analysis

In its brief, DEF states that the Company's actions leading up to the CR4 outage were prudent and reasonable. DEF is requesting cost recovery of the replacement power costs associated with the CR4 outage. To calculate replacement power costs, DEF ran a simulation model that produced the total system costs assuming CR4 was fully available compared to actual system costs for the outage time period. The difference between the two costs represents the estimated system replacement power cost for the outage time period, which totals \$14.5 million (\$14.4 million retail). (EXH 59, 67) No party disputed the estimated system replacement power costs at the hearing.

The events leading up to the forced outage at CR4 occurred when the operator was attempting to synchronize the unit to the grid, on December 17, 2020. Synchronization is a process by which the generating unit is connected to DEF's power system by matching the generator's electric parameters; such as voltage, frequency, phase angle, and the power system's electric parameters. (TR 335) It is important that the electric parameters of each are matched as closely as possible to avoid excessive torque placed upon the generator rotor, which could lead to machine damage. (TR 436) Standard Operating Procedure (SOP) at CR4 is to synchronize the unit to the grid in automatic mode; but manual synchronization of the unit is permitted and has been done at CR4 before and after the outage event. (TR 335)

DEF's operator unsuccessfully attempted to synchronize CR4 to the grid three times, using the automatic synchronization process. The operator's subsequent actions resulted in an out-of-phase synchronization attempt of CR4 to the grid causing damage to the generator rotor and directly leading to the forced outage event. The unit remained in a forced outage status until all repairs and inspections to the generator had occurred. (TR 335 - 336, 445; EXH 8; EXH 54) This event also caused a relay malfunction that tripped the Citrus Combined Cycle Power Block 1 (Citrus) station offline. (TR 417 - 418) Replacement power costs for Citrus are not at issue here. (EXH 8, EXH 54)

Both DEF and the Joint Intervenor agree that the standard for review of prudence is "what a reasonable utility manager would have done, in light of the conditions and circumstances that were known, or should have been known, at the time the decision was made." (Joint Intervenor BR 2; DEF BR 3) It is also clear that DEF has the burden of proof to meet this standard by

providing credible evidence in the record.¹ The Joint Intervenor argue that DEF has not met this burden in this case, and staff agrees as discussed below.

In keeping with common industry practice, DEF performed a Root Cause Analysis (RCA) that explored the contributing factors of the event, the condition of the impacted unit, and corrective actions to prevent repeat occurrences. (TR 336 – 337; EXH 8) The RCA was performed by a team of DEF employees, including DEF witness Simpson. As determined by the RCA, the two root causes of the CR4 outage were (1) the failure of the Beckwith Manual Sync Check Relay (relay) and (2) the operator's failure to follow proper operational procedures. The RCA also identified seven contributing causes related to training and communication issues that contributed to the outage. (TR 337; EXH 8)

The first root cause identified in the RCA was the failure of the protective relay. DEF witness Simpson described the relay as a highly reliable protective device, with an exceedingly low failure rate, designed to prevent the unit from attempting to synchronize to the grid in an out-of-phase condition. (TR 338, 451) The relay was originally procured on February 28, 2002. The relay was then relocated to the CR4 unit and was last functionally tested in April 2020. (EXH 8) DEF states the relay has no manufacturer published life expectancy or testing requirements; however, DEF maintains a six-year maintenance interval for protective devices, including the relay. DEF asserts that the relay was properly maintained and received regular calibrations before its failure in 2020. (TR 351 – 352, 354 451; EXH 54) The evidence in the record reflects that the equipment was reasonably maintained and the failure of the relay was reasonably unforeseen by the Company. DEF contends that had this device performed as designed, the outage would not have occurred. (TR 338) Under such a scenario, the operator's actions would also have gone unnoticed. As stated by DEF witness Simpson:

If he closed it at the correct time and the device was failed, we never would have known. Had he closed prematurely and the device had been good, this event wouldn't have happened. So when he closed early, the protective device failed to do its job, and that's what led to the event. (TR 396-397)

This statement highlights the importance of following written procedures for critical operations. Staff recommends that the failure of the operator to follow written procedures, as discussed below, directly and independently led to the outage event at CR4.

The second root cause of the outage is the operator's failure to follow written operational procedures which led to the out-of-phase synchronization. In interviews conducted as part of the RCA, the operator was not attempting to synchronize in manual mode; but rather, was attempting to reset the synchronization circuit to permit automatic synchronization. (EXH 8, Page 2) According to the RCA, the operator did not follow proper procedures by attempting to reset the synchronization circuit to permit automatic synchronization. The proper written procedure would be to place the unit in a safe condition prior to repositioning the synchronization switch handle. (EXH 8, Page 4) The startup procedures states that, "If [a]uto synchronization is inoperable on [U]nit 4, then use manual sync listed in Enclosure 5." (EXH 8, Page 4) The procedure that the

¹*Florida Power Corp. v. Cresse*, 413 So. 2d 1187, 1191 (Fla. 1982) (the Commission properly imposed upon the utility the burden of showing that excess costs incurred were reasonable and were not the fault of management).

operator was attempting to perform was neither a manual synchronization nor automatic synchronization and was not SOP for synchronization at CR4. (TR 335, 445; EXH 8, Page 4) The RCA states: “The operator understood the synchronizing relay would not allow an out-of-phase synchronization.” (EXH 8, Page 7) The operator’s understanding of the relay was based on past experience and training. (TR 338) Therefore, the evidence in the record does not suggest the operator acted with malice or intentional disregard for safety. However, the incident does highlight the importance of both following written procedures and not overly relying on protective equipment.

Under certain circumstances deviation from established written procedures may be warranted, albeit with supervisory concurrence. The RCA states: “...the operations crew attempted unsuccessfully to synchronize to the grid four times without a questioning attitude and without consulting the Operations Superintendent and/or Station Manager.” (EXH 8, Page 4) According to DEF witness Simpson, the supervisor was present during the troubleshooting process but was unsure if the operator received supervisory approval to deviate from written procedures. (TR 439 – 440, 445) However, the RCA does not state that the operator received supervisory approval to disregard written procedures. (TR 430, 439 – 440) DEF witness Simpson states there is no written procedure addressing the procedure the operator was attempting. However, this procedure had been utilized at CR4 by the operator prior to the outage event. It is further established that this procedure was not approved or preapproved at any point before the outage event. (TR 446 – 447) DEF witness Simpson testified that the operator was properly trained and had the supporting materials necessary to correctly and safely operate the unit. (TR 339) However, according to the RCA, this is in contrast to the supervisor, who had not received adequate on-the-job training prior to the incident. (TR 385-386; EXH 8, Page 4)

Prior to the outage incident, the operator attempted to synchronize the CR4 unit to the grid three times in automatic mode over an approximate eight-second time period. For two of the three attempts, issues that may have been preventing automatic synchronization were identified, but the third attempt failed for an unknown reason. (EXH 8, Page 3) The RCA did not identify a root cause for the failed third attempt. DEF witness Simpson testified that proper procedure after a failed synchronization attempt is for operators to perform a walkdown for the purpose of discovering any issues, correcting the issues and attempting synchronization again. (TR 401; EXH 54) According to the final version of the RCA, this walkdown process was performed for each of the three automatic synchronization attempts. However, this statement is contradicted by a comment in a draft version of the RCA that states: “The operators did not complete a thorough walkdown after each trip, therefore each time they attempted to sync there was another item holding them out.” (TR 408; EXH 8, 64) DEF witness Simpson did not provide any explanation as to the discrepancy between the statement present in the draft RCA and the final RCA. The brief eight-second timeframe in which the synchronization attempts occurred, and this contradictory statement, leads staff to question whether a thorough walkdown occurred prior to each synchronization attempt. Since the CR4 outage event, the startup procedures have been revised to include guidance to contact either the Operations Superintendent or Plant Manager in the case of multiple failed automatic synchronization attempts. (EXH 54)

If the operator had followed written procedures, staff believes the outage would not have occurred and the failed relay would have gone undetected until DEF performed an inspection. If

the relay had not failed, then the operator's disregard of written procedures would have been inconsequential. The record does not satisfactorily establish that either a thorough walkdown occurred after each synchronization attempt or that the operator received supervisory approval to deviate from the written procedure. Based on the evidence in the record, staff recommends that DEF has not adequately proven that its actions were reasonable and prudent.

Conclusion

Failure of the plant operator to follow written procedures, without supervisory approval, directly led to the outage at Crystal River Unit 4. As such, replacement power costs should not be borne by retail ratepayers. DEF should credit its customers \$14.4 million associated with retail replacement power costs for the Crystal River Unit No. 4 outage through its 2021 Final True-Up filing.

Issue 2: Should this docket be closed?

Recommendation: No. The 20210001-EI docket is an on-going proceeding and should remain open. (Brownless)

Staff Analysis: The fuel docket is on-going and should remain open.

Item 5

FILED 11/23/2021
DOCUMENT NO. 12843-2021
FPSC - COMMISSION CLERK

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: November 23, 2021

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Accounting and Finance (Blocker, Norris) *ALM*
Office of the General Counsel (Osborn, J. Crawford) *JSC*

RE: Docket No. 20210005-WS – Annual reestablishment of price increase or decrease index of major categories of operating costs incurred by water and wastewater utilities pursuant to Section 367.081(4)(a), F.S.

AGENDA: 12/07/21 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 03/31/22 (Statutory Reestablishment Deadline)

SPECIAL INSTRUCTIONS: None

Case Background

Since March 31, 1981, pursuant to the guidelines established by Section 367.081(4)(a), Florida Statutes (F.S.), and Rule 25-30.420, Florida Administrative Code (F.A.C.), the Commission has established a price index increase or decrease for major categories of operating costs on or before March 31 of each year. This process allows water and wastewater utilities to adjust rates based on current specific expenses without applying for a rate case.

Staff has calculated its proposed 2022 price index by comparing the Gross Domestic Product Implicit Price Deflator Index for the fiscal year ended September 30, 2021. This same procedure has been used each year since 1995 to calculate the price index. The U.S. Department of Commerce, Bureau of Economic Analysis, released its most recent third quarter figures on October 28, 2021.

Docket No. 20210005-WS

Date: November 23, 2021

Since March 31, 1981, the Commission has received and processed approximately 3,872 index and pass through applications. The Commission has jurisdiction over this matter pursuant to Section 367.081, F.S.

Discussion of Issues

Issue 1: Which index should be used to determine price level adjustments?

Recommendation: The Gross Domestic Product Implicit Price Deflator Index is recommended for use in calculating price level adjustments. Staff recommends calculating the 2022 Price Index by using a fiscal year, four quarter comparison of the Implicit Price Deflator Index ending with the third quarter of 2021. (Blocker)

Staff Analysis: In 1993, the Gross Domestic Product Implicit Price Deflator Index (GDP) was established as the appropriate measure for determining the water and wastewater price index. At the same time, the convention of using a four quarter fiscal year comparison was also established and this practice has been used every year since then.¹ The GDP is prepared by the U.S. Department of Commerce. Prior to that time, the Gross National Product Implicit Price Deflator Index (GNP) was used as the indexing factor for water and wastewater utilities. The Department of Commerce switched its emphasis from the GNP to the GDP as the primary measure of U.S. production.

Pursuant to Section 367.081(4)(a), F.S., the Commission, by order, shall establish a price increase or decrease index for major categories of operating costs incurred by utilities subject to its jurisdiction reflecting the percentage of increase or decrease in such costs from the most recent 12-month historical data available. Since 1995, the price index adjustment has been determined by comparing the change in the average GDP for the year ending September 30, instead of the original December 31, in order to more easily meet the statutory deadline.²

In Order No. PSC-2020-0493-PAA-WS, issued December 14, 2020, in Docket No. 20200005-WS, the Commission, in keeping with the practice started in 1993, reiterated the alternatives which could be used to calculate the indexing of utility revenues. Past concerns expressed by utilities, as summarized from utility input in previous hearings, are:

- 1) Inflation should be a major factor in determining the index;
- 2) Nationally published indices should be vital to this determination;
- 3) Major categories of expenses are labor, chemicals, materials and supplies, maintenance, transportation, and treatment expense;
- 4) An area wage survey, Dodge Building Cost Index, Consumer Price Index, and the GDP should be considered;
- 5) A broad measure index should be used; and

¹ Order No. PSC-1993-0195-FOF-WS, issued February 9, 1993, in Docket No. 19930005-WS, *In re: Annual reestablishment of price increase or decrease index of major categories of operating costs incurred by water and wastewater utilities pursuant to Section 367.081(4)(a), F.S.*

² Order No. PSC-1995-0202-FOF-WS, issued February 10, 1995, in Docket No. 19950005-WS, *In re: Annual reestablishment of price increase or decrease index of major categories of operating costs incurred by water and wastewater utilities pursuant to Section 367.081(4)(a), F.S.*

- 6) The index procedure should be easy to administer.

Based upon these concerns, the Commission has previously explored the following alternatives:

- 1) Survey of Regulated Water and Wastewater Utilities;
- 2) Consumer Price Index;
- 3) Florida Price Level Index;
- 4) Producer Price Index – previously the Wholesale Price Index; and
- 5) GDP (replacing the GNP).

Over the years, the Commission found that the Survey of Regulated Water and Wastewater Utilities should be rejected because using the results of a survey would allow utilities to pass on to customers all cost increases, thereby reducing the incentives of promoting efficiency and productivity. The Commission has also found that the Consumer Price Index and the Florida Price Level Index should be rejected because of their limited degree of applicability to the water and wastewater industry. Both of these price indices are based upon comparing the advance in prices of a limited number of general goods and, therefore, appear to have limited application to water and wastewater utilities.

The Commission further found that the Producer Price Index (PPI) is a family of indices that measure the average change over time in selling prices received by domestic producers of goods and services. PPI measures price change from the perspective of the seller, not the purchaser, and therefore should be rejected. The bases for these indices have not changed, and staff believes that the conclusions reached in Order No. PSC-2020-0493-PAA-WS should continue to apply in this case. Since 1993, the Commission has found that the GDP has a greater degree of applicability to the water and wastewater industry. Therefore, staff recommends that the Commission continue to use the GDP to calculate water and wastewater price level adjustments. Staff recommends calculating the 2022 Price Index by using a fiscal year, four quarter comparison of the Implicit Price Deflator Index ending with the third quarter of 2021.

The following information provides a historical perspective of the annual price index:

Table 1-1
Historical Analysis of the Annual Price Index for Water and Wastewater Utilities

Year	Commission Approved Index	Year	Commission Approved Index
2010	0.56%	2016	1.29%
2011	1.18%	2017	1.51%
2012	2.41%	2018	1.76%
2013	1.63%	2019	2.36%
2014	1.41%	2020	1.79%
2015	1.57%	2021	1.17%

The table below shows the historical participation in the index and/or pass-through programs:

Table 1-2
Percentage of Jurisdictional Water and Wastewater Utilities Filing for Indexes and Pass-Throughs

Year	Percentage	Year	Percentage
2010	29%	2016	38%
2011	43%	2017	37%
2012	30%	2018	42%
2013	41%	2019	60%
2014	39%	2020	43%
2015	49%	2021	52%

Issue 2: What rate should be used by water and wastewater utilities for the 2022 Price Index?

Recommendation: The 2022 Price Index for water and wastewater utilities should be 4.53 percent. (Blocker)

Staff Analysis: The U.S. Department of Commerce, Bureau of Economic Analysis, released the most recent third quarter 2021 figures on October 28, 2021. Consistent with the Commission's establishment of the 2021 Price Index last year, staff is using the third quarter 2021 amounts to calculate staff's recommended 2022 Price Index. Using the third quarter amounts allows time for a hearing if there is a protest, in order for the Commission to establish the 2022 Price Index by March 31, 2022, in accordance with Section 367.081(4)(a), F.S. The percentage change in the GDP using the fiscal year comparison ending with the third quarter is 4.53 percent. This number was calculated as follows.

GDP Index for the fiscal year ended 9/30/21	119.051
GDP Index for the fiscal year ended 9/30/20	<u>113.888</u>
Difference	5.163
Divided by 9/30/20 GDP Index	<u>113.888</u>
2022 Price Index	<u><u>4.53%</u></u>

Issue 3: How should the utilities be informed of the indexing requirements?

Recommendation: Pursuant to Rule 25-30.420(1), F.A.C., the Office of Commission Clerk, after the expiration of the Proposed Agency Action (PAA) protest period, should mail each regulated water and wastewater utility a copy of the PAA order establishing the index containing the information presented in Attachment 1. A cover letter from the Director of the Division of Accounting and Finance should be included with the mailing of the order (Attachment 2). The entire package should also be made available on the Commission's website. (Blocker)

Staff Analysis: Staff recommends that the package presented in Attachment 1 be mailed to every regulated water and wastewater utility after the expiration of the PAA protest period, along with a copy of the PAA order once final. The entire package should also be made available on the Commission's website.

In an effort to increase the number of water and wastewater utilities taking advantage of the annual price index and pass-through programs, staff is recommending that the attached cover letter (Attachment 2) from the Director of the Division of Accounting and Finance be included with the mailing of the PAA Order in order to explain the purpose of the index and pass-through applications and to communicate that Commission staff is available to assist them.

Issue 4: Should this docket be closed?

Recommendation: No. Upon expiration of the 14-day protest period, if a timely protest is not received, the decision should become final and effective upon the issuance of a Consummating Order. Any party filing a protest should be required to prefile testimony with the protest. However, this docket should remain open through the end of the year and be closed upon the establishment of the new docket in January 2022. (Osborn, Blocker)

Staff Analysis: Uniform Rule 25-22.029(1), F.A.C., contains an exception to the procedural requirements set forth in Uniform Rule 28-106.111, F.A.C., providing that “[t]he time for requesting a Section 120.569 or 120.57 hearing shall be 14 days from issuance of the notice for PAA orders establishing a price index pursuant to Section 367.081(4)(a), F.S.” Staff therefore recommends that the Commission require any protest to the PAA Order in this docket be filed within 14 days of the issuance of the PAA Order, and that any party filing the protest should be required to prefile testimony with the protest. Upon expiration of the protest period, if a timely protest is not received, the decision should become final and effective upon the issuance of a Consummating Order. However, this docket should remain open through the end of the year and be closed upon the establishment of the new docket in January 2022.

FLORIDA PUBLIC SERVICE COMMISSION
PRICE INDEX APPLICATION
APPLICABLE TEST YEAR _____

Department of Environmental Protection Public Water System ID NO. _____
Department of Environmental Protection Wastewater Treatment Plant ID NO. _____

	WATER	WASTEWATER
Operation & Maintenance Expenses ¹	\$ _____	\$ _____
LESS:		
(a) Pass-through Items:		
(1) Purchased Power	_____	_____
(2) Purchased Water	_____	_____
(3) Purchased Wastewater Treatment	_____	_____
(4) Sludge Removal	_____	_____
(5) Other ²	_____	_____
(b) Rate Case Expense Included in Expenses	_____	_____
(c) Adjustments to Operation & Maintenance Expenses from last rate case, if applicable: ³		
(1) _____	_____	_____
(2) _____	_____	_____
Costs to be Indexed	\$ _____	\$ _____
Multiply by Annual Commission-Approved Price Index	_____ %	_____ %
Total Indexed Costs	\$ _____	\$ _____
Add Change in Pass-Through Items: ⁴		
(1) _____	_____	_____
(2) _____	_____	_____
Divide Index and Pass-Through Sum by Expansion Factor for Regulatory Assessment Fees	<u> .955 </u>	<u> .955 </u>
Increase in Revenue	_____	_____
Divide by Applicable Test Year Revenue ⁵	\$ _____	\$ _____
Percentage Increase in Rates	===== %	===== %

FOOTNOTES APPEAR ON THE FOLLOWING PAGE
PSC 1022 (09/18)

PAGE 1 FOOTNOTES

¹This amount must match last year's annual report.

²Other expense items may include increases in required Department of Environmental Protection testing, ad valorem taxes, permit fees charged by the Department of Environmental Protection or a local government authority, National Pollutant Discharge Elimination System fees, and regulatory assessment fees. These items should not be currently embedded in the utility's rates.

³This may include adjustments that follow a methodology referenced in the Order from a utility's last rate case (i.e. averaged bad debt expense or excessive unaccounted for water percentage applied to chemicals expense).

⁴This may include an increase in purchased power, purchased water, purchased wastewater treatment, sludge hauling, required Department of Environmental Protection testing, ad valorem taxes, and permit fees charged by the Department of Environmental Protection or a local government authority providing that those increases have been incurred within the 12-month period prior to the submission of the pass-through application. Pass-through National Pollutant Discharge Elimination System fees and increases in regulatory assessment fees are eligible as pass-through costs but not subject to the twelve month rule. All pass-through items require invoices. See Rule 25-30.425, F.A.C. for more information.

⁵If rates changed after January 1 of the applicable test year, the book revenues must be adjusted to show the changes and an explanation of the calculation should be attached to this form. See Annualized Revenue Worksheet for instructions and a sample format.

ANNUALIZED REVENUE WORKSHEET

Have the rates charged for customer services changed since January 1, of the applicable test year?

- () If no, the utility should use actual revenues. This form may be disregarded.
- () If yes, the utility must annualize its revenues. Read the remainder of this form.

Annualizing calculates the revenues the utility would have earned based upon the previous year's customer consumption at the most current rates in effect. To complete this calculation, the utility will need consumption data for the previous year to apply to the existing rate schedule. Below is a sample format which may be used.

CALCULATION OF ANNUALIZED REVENUES*
Consumption Data for Applicable Test Year

	Number of Bill/Gal. Sold	X	Current Rates	Annualized Revenues
Residential Service:				
Bills:				
5/8"x3/4" meters	_____		_____	_____
1" meters	_____		_____	_____
1 1/2" meters	_____		_____	_____
2" meters	_____		_____	_____
Gallons Sold	_____		_____	_____
General Service:				
Bills:				
5/8"x3/4" meters	_____		_____	_____
1" meters	_____		_____	_____
1 1/2" meters	_____		_____	_____
2" meters	_____		_____	_____
3" meters	_____		_____	_____
4" meters	_____		_____	_____
6" meters	_____		_____	_____
Gallons Sold	_____		_____	_____
Total Annualized Revenues for the Applicable Test Year			\$	_____

*Annualized revenues must be calculated separately if the utility consists of both a water system and a wastewater system. This form is designed specifically for utilities using a base facility charge rate structure. If annualized revenues must be calculated and further assistance is needed, contact the Commission Staff at (850) 413-6900.

AFFIRMATION

I, _____, hereby affirm that the figures and calculations upon which the change in rates is based are accurate and that the change will not cause _____ to exceed the range of its last authorized rate of return on equity, which is _____.
(name of utility)

This affirmation is made pursuant to my request for a price index and/or pass-through rate increase, in conformance with Section 367.081(4), Florida Statutes.

Further, I am aware that pursuant to Section 367.081(4)(c), Florida Statutes, whoever makes a false statement in in this affirmation, which statement he or she does not believe to be true in regard to any material matter, is guilty of a felony of the third degree, punishable as provided in Sections 775.082, 775.083, or Section 775.084, Florida Statutes.

Signature: _____
Title: _____
Telephone Number: _____
Fax Number: _____

Sworn to and subscribed before me this _____ day of _____, 20__.

My Commission expires:

(SEAL)

Notary Public
State of Florida

STATEMENT OF QUALITY OF SERVICE

Pursuant to paragraphs 25-30.420(2)(h) and (i), Florida Administrative Code,

(name of utility)

[] does not have any active written complaints, corrective orders, consent orders, or outstanding citations with the Department of Environmental Protection (DEP) or the County Health Departments.

[] does have the attached active written complaint(s), corrective order(s), consent order(s), or outstanding citation(s) with the DEP or the County Health Department(s). The attachment(s) includes the specific system(s) involved with DEP permit number and the nature of the active complaint, corrective order, consent order, or outstanding citation.

Name: _____
Title: _____
Telephone Number: _____
Fax Number: _____
Date: _____

NOTICE TO CUSTOMERS

Pursuant to Section 367.081(4)(a), Florida Statutes, water and wastewater utilities are permitted to adjust the rates and charges to its customers without those customers bearing the additional expense of a public hearing. These adjustments in rates would depend on increases or decreases in noncontrollable expenses subject to inflationary pressures such as chemicals, and other general operation and maintenance costs.

On _____, _____ filed its notice of
(date) (name of utility)
intention with the Florida Public Service Commission to increase water and wastewater rates in
_____ County pursuant to this Statute. The filing is subject to review by the
Commission Staff for accuracy and completeness. Water rates will increase by approximately
_____% and wastewater rates by _____. These rates should be reflected for service rendered
on or after _____.
(date)

Exception

_____ hereby waives the right to implement
(name of utility)
a pass-through rate increase within 45 days of filing, as provided by Section 367.081(4)(b),
Florida Statutes, in order that the pass-through and index rate increase may both be implemented
together 60 days after the official filing date of this notice of intention.

Signature: _____

Title: _____

(To be used if an index and pass-through rate increase are requested jointly.)

NOTICE TO CUSTOMERS

Pursuant to Section 367.081(4)(b), Florida Statutes, water and wastewater utilities are permitted to pass through, without a public hearing, a change in rates resulting from: an increase or decrease in rates charged for utility services received from a governmental agency or another regulated utility and which services were redistributed by the utility to its customers; an increase or decrease in the rates that it is charged for electric power, the amount of ad valorem taxes assessed against its used and useful property, the fees charged by the Department of Environmental Protection in connection with the National Pollutant Discharge Elimination System Program, or the regulatory assessment fees imposed upon it by the Commission; costs incurred for water quality or wastewater quality testing required by the Department of Environmental Protection; the fees charged for wastewater bio solids disposal; costs incurred for any tank inspection required by the Department of Environmental Protection or a local governmental authority; treatment plant and water distribution system operator license fees required by the Department of Environmental Protection or a local governmental authority; water or wastewater operating permit fees charged by the Department of Environmental Protection or a local governmental authority; and consumptive or water use permit fees charged by a water management district.

On _____, _____ filed its notice of
(date) (name of utility)
intention with the Florida Public Service Commission to increase water and wastewater rates in _____ County pursuant to this Statute. The filing is subject to review by the Commission Staff for accuracy and completeness. Water rates will increase by approximately _____% and wastewater rates by _____%. These rates should be reflected on your bill for service rendered on or after _____.
(date)

If you should have any questions, please contact your local utility office. Be sure to have account number handy for quick reference.

Commissioners:

Andrew Giles Fay, Chairman

Art Graham

Gary F. Clark

Mike La Rosa

Gabriella Passidomo

STATE OF FLORIDA



DIVISION OF
ACCOUNTING AND FINANCE
ANDREW L. MAUREY
DIRECTOR
(850) 413-6900

Public Service Commission

Month Day, 2022

All Florida Public Service Commission
Regulated Water & Wastewater Utilities

Re: Docket No. 20210005-WS - 2022 Price Index

Dear Utility Owner:

Since March 31, 1981, pursuant to the guidelines established by Section 367.081(4)(a), Florida Statutes (F.S.), and Rule 25-30.420, Florida Administrative Code (F.A.C.), the Commission has established a price index increase or decrease for major categories of operating costs. This process allows water and wastewater utilities to adjust rates based on current specific expenses without applying for a rate case. The intent of this rule is to insure that inflationary pressures are not detrimental to utility owners, and that any possible deflationary pressures are not adverse to customers. By keeping up with index and pass-through adjustments, utility operations can be maintained at a level sufficient to insure quality of service for the customers.

Pursuant to Rule 25-30.420(1)(a), F.A.C., all operation and maintenance expenses shall be indexed with the exception of:

- a) Pass-through items pursuant to Section 367.081(4)(b), F.S.;
- b) Any amortization of rate case expense; and
- c) Disallowances or adjustments made in an applicant's most recent rate proceeding.

Please note that all sludge removal expense should now be removed from operation and maintenance expenses for the purpose of indexing. Incremental increases in this category of expense may now be recovered using a pass-through request.

All Florida Public Service Commission
Regulated Water & Wastewater Utilities
Page 2
Month Day, 2022

Upon the filing of a request for an index and/or pass-through increase, staff will review the application and modify existing rates accordingly. If for no other reason than to keep up with escalating costs, utilities throughout Florida should file for this rate relief on an annual basis. Utilities may apply for a 2022 Price Index anytime between April 1, 2022, through March 31, 2023 by mail or by emailing Applications@psc.state.fl.us. The attached package will answer questions regarding what the index and pass-through rate adjustments are, how to apply for an adjustment, and what needs to be filed in order to meet the filing requirements. For your convenience, the Commission-approved Price Index is reflected on Form PSC 1022, attached. While this increase for any given year may be minor, (see chart below), the long-run effect of keeping current with rising costs can be substantial.

Year	Annual Commission Approved Index	Year	Annual Commission Approved Index
1997	2.13%	2010	0.56%
1998	2.10%	2011	1.18%
1999	1.21%	2012	2.41%
2000	1.36%	2013	1.63%
2001	2.50%	2014	1.41%
2002	2.33%	2015	1.57%
2003	1.31%	2016	1.29%
2004	1.60%	2017	1.51%
2005	2.17%	2018	1.76%
2006	2.74%	2019	2.36%
2007	3.09%	2020	1.79%
2008	2.39%	2021	1.17%
2009	2.55%	2022	4.53%

Please be aware that pursuant to Section 837.06, F.S., whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree. Our staff is available at (850) 413-6900 should you need assistance with your filing. If you have any questions, please do not hesitate to call.

Moreover, additional rate relief mechanisms are available to water and wastewater utilities as alternatives to full rate cases. Water and wastewater utilities whose total gross annual operating revenues are \$300,000 or less for water service or \$300,000 or less for wastewater service, or \$600,000 or less on a combined basis, may petition the Commission for staff assistance in alternative rate setting. Please refer to Rule 25-30.456, F.A.C., for additional details. Furthermore, water utilities whose total gross annual operating revenues are \$300,000 or less for

Date: November 23, 2021

All Florida Public Service Commission
Regulated Water & Wastewater Utilities
Page 3

Month Day, 2022

water service and wastewater utilities whose total gross annual operating revenues are \$300,000 or less for wastewater service may file an application for a limited alternative rate increase of up to 20 percent applied to metered or flat recurring rates of all classes of service. Please refer to Rule 25-30.457, F.A.C., for additional details.

In addition, the Commission reminds water and wastewater utilities that the Utility Reserve Fund exists to help address concerns over deferred maintenance of critical infrastructure and delays in necessary repairs. The availability of the reserve funds may allow a utility to avoid or defer the need for a future rate case, the expenses of which are ultimately borne by customers. Please refer to Rule 25-30.444, F.A.C., for additional details.

Sincerely,

Andrew L. Maurey
Director

Enclosures

Item 6

FILED 11/23/2021
DOCUMENT NO. 12842-2021
FPSC - COMMISSION CLERK

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: November 23, 2021

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Accounting and Finance (Mouring) *ALM*
Office of the General Counsel (J. Crawford) *JSC*

RE: Docket No. 20210174-WU – Joint motion requesting Commission approval of settlement agreement by the Office of Public Counsel and Black Bear Waterworks, Inc.

AGENDA: 12/07/21 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: ~~Administrative~~ *La Rosa* *11/23/21*

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

Black Bear Waterworks, Inc. (Black Bear or Utility) is a Class C utility serving approximately 331 water customers in Lake County. Black Bear was previously identified as potentially over earning in 2017, and agreed to refund 10.44 percent of water revenues billed for 2017, as a result of a Commission-approved Settlement Agreement in that case.¹ Based on its review of Black Bear's 2020 Annual Report, Commission staff identified potential 2021 overearnings. By letter dated August 5, 2021, Black Bear acknowledged the Commission's jurisdiction over revenues in excess of the maximum of the allowed Return on Equity (ROE) for 2021. On October 15, 2021

¹ Order No. PSC-2017-0481-PAA-WU, issued December 21, 2017, in Docket 20170247-WU, *In re: Joint Motion requesting Commission approval of settlement agreement by the Office of Public Counsel, Black Bear Waterworks, Inc., Brendenwood Waterworks, Inc., Brevard Waterworks, Inc., Country Walk Utilities, Inc., Harbor Waterworks, Inc., Lake Idlewild Utility Company, Raintree Waterworks, Inc., and Sunny Hills Utility Company.*

and October 27, 2021, informal meetings were held between Black Bear and the Office of Public Counsel (OPC) (collectively referred to as Parties) to discuss the final disposition of potential 2021 overearnings. On November 5, 2021, Black Bear and OPC filed a Joint Motion requesting Commission approval of a Settlement Agreement to resolve potential 2021 overearnings.

The purpose of this recommendation is to present the Settlement Agreement proposal to the Commission for approval. The Joint Motion and Settlement Agreement have been attached as Attachment A to this recommendation. The Commission has jurisdiction pursuant to Sections 367.081, 367.082, and 367.121, Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission approve the Joint Motion and Settlement Agreement by the Parties?

Recommendation: Yes. The proposed Settlement Agreement adequately addresses the potential overearnings staff had identified during its ongoing earnings surveillance activities. As outlined in the proposed Settlement Agreement, Black Bear should refund 16.57 percent of water revenues billed for the calendar year 2021. (Mouring)

Staff Analysis: As stated in the Case Background, as part of its ongoing surveillance activities, staff identified possible overearnings based upon a review of Black Bear's 2020 Annual Report. On November 5, 2021, the Parties filed a Joint Motion requesting Commission approval of Settlement Agreement to resolve the disposition of 2021 overearnings, and address possible overearnings for 2022. With respect to 2021 overearnings, Black Bear should refund, via bill credits, 16.57 percent of water revenues billed for the calendar year 2021. The bill credits are anticipated to total approximately \$32,500, and are expected to be issued during the first quarter of 2022. The refunds should be made in accordance with Rule 25-30.360, Florida Administrative Code (F.A.C.)

In its letter dated August 5, 2021, the Utility indicated that it intends to consolidate Black Bear, as well as nine other subsidiary systems that are located within the same geographic vicinity, into a new corporation. This merger is intended to recognize efficiencies and resolve the historical difficulties in earnings for these systems. Many of the systems included in the planned consolidation have habitually earned below the bottom of their authorized rate of return on equity, while others have occasionally overearned while having relatively low rates.

The Settlement Agreement also provides protections for customers for possible overearnings of Black Bear in 2022. Black Bear has agreed to hold subject to refund all revenues received during calendar year 2022 that are above its authorized ROE range until a final review of its 2022 Annual Report.

In keeping with the Commission's long-standing policy and practice of encouraging parties to settle issues whenever possible, staff recommends that the Commission approve the Joint Motion and Settlement Agreement by the Parties. The proposed Settlement Agreement adequately addresses the potential overearnings staff had identified during its ongoing earnings surveillance activities and provides protections for Black Bear's customer for possible overearnings in 2022.

Date: November 23, 2021

Issue 2: Should this docket be closed?

Recommendation: No. If no timely protest is received from a substantially affected person upon expiration of the protest period, the PAA Order will become final upon the issuance of a Consummating Order. However, this docket should remain open to allow staff to verify completion of the refunds discussed in Issue 1. Once staff has verified that the refunds have been made in accordance with Rule 25-30.360, F.A.C., the docket should be closed administratively. (J. Crawford, Mouring)

Staff Analysis: If no timely protest is received from a substantially affected person upon expiration of the protest period, the PAA Order will become final upon the issuance of a Consummating Order. However, this docket should remain open to allow staff to verify completion of the refunds discussed in Issue 1. Once staff has verified that the refunds have been made in accordance with Rule 25-30.360, F.A.C., the docket should be closed administratively.

FILED 11/5/2021
DOCUMENT NO. 12563-2021
FPSC - COMMISSION CLERK

DOCKET NO. 20210174-WU

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Disposition of 2021 Overearnings for
Black Bear Waterworks, Inc.
in Lake County
_____ /

Docket No. 2021 _____

Filed: November 5, 2021

**JOINT MOTION REQUESTING COMMISSION APPROVAL OF
SETTLEMENT AGREEMENT**

The Office of Public Counsel (“OPC”), on behalf of the Citizens of the State of Florida (“Citizens”) and Black Bear Waterworks, Inc. (Black Bear), pursuant to Section 367.081 and Section 120.57(4), Florida Statutes, and Rule 28-106.301, Florida Administrative Code, file this Joint Motion respectfully requesting the Florida Public Service Commission (“Commission”) to approve the Settlement Agreement, attached as Exhibit “A”, as provided in this motion. In support of the Joint Motion, OPC and Black Bear (the “Parties”) state:

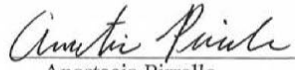
1. The staff of the Commission identified potential 2021 overearnings based upon the review of the 2020 Annual Report of Black Bear.
2. The Parties exchanged data regarding Black Bear potential earnings above the maximum allowed returned on equity (ROE), and conducted discussions related to earnings data provided by Black Bear to OPC.
3. To avoid the time, expense and uncertainty associated with adversarial litigation, and in keeping with the Commission’s long-standing policy and practice of encouraging parties to settle issues whenever possible, OPC and Black Bear have entered into a Settlement Agreement.
4. This Settlement Agreement resolves the disposition of 2021 overearnings for Black Bear as well as holds subject to refund all revenues received during the calendar year 2022 that are above its authorized ROE range until the final review of its 2022 Annual Report.

5. The Parties agree that this Settlement Agreement is in the public interest. The provisions of this Settlement Agreement are contingent on approval of this Settlement Agreement in its entirety by the Commission without modification.

6. The Parties request expedited review and approval of this Settlement Agreement at the December 7, 2021 Commission Agenda Conference.

WHEREFORE, OPC and Black Bear respectfully request the Commission approve this Settlement Agreement.

Respectfully submitted this 5th day of November, 2021.


Anastacia Pirrello
Associate Public Counsel
Office of Public Counsel

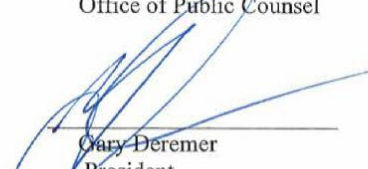

Gary Deremer
President
Black Bear Waterworks, Inc.

Exhibit "A"

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Disposition of 2021 Overearnings for
Black Bear Waterworks:

Docket No. 2021 _____

Filed: November 3, 2021

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is made and entered into this 3rd day of November, 2021, by and between Black Bear Waterworks, Inc. (hereafter referred to as "Black Bear"), and the Office of Public Counsel ("OPC"), on behalf of the Citizens of the State of Florida ("Citizens") and customers of Black Bear (hereafter, "Parties").

WITNESSETH

WHEREAS, the staff of the Florida Public Service Commission ("Commission" or "FPSC") identified potential 2021 overearnings based upon the review of the 2020 Annual Report of Black Bear;

WHEREAS, Black Bear submitted a letter dated August 5, 2021 to the FPSC as acknowledgement of and consent to the FPSC's jurisdiction over the extent to which the earned return on common equity (ROE) for the year ending December 31, 2021 exceeds the maximum of the allowed ROE;

WHEREAS, it was Black Bear's understanding that any decision regarding the disposition of any portion of such earned return above the maximum allowed ROE will be subject for disposition after the nature and extent of any such amount above the approved ROE ranges are known;

WHEREAS, on October 15, 2021 and October 27, 2021, informal meetings between the

Black Bear and OPC were held to discuss the potential disposition of any portion of such earned return above the maximum allowed ROE ("overearnings");

WHEREAS, the Parties conducted further discussions and evaluation of additional data provided by Black Bear to OPC on such overearnings;

WHEREAS, the Parties to this Agreement have undertaken to resolve the issues raised in this proceeding so as to maintain a degree of stability and predictability with respect to customer bills;

WHEREAS, the Parties have entered into this Settlement Agreement in compromise of positions taken in accord with their rights and interests under Chapters 350 and 367, Florida Statutes, as applicable, and as a part of the negotiated exchange of consideration among the parties to this agreement each has agreed to concessions to the others with the expectation that all provisions of this Settlement Agreement will be enforced by the Commission as to all matters addressed herein with respect to all parties regardless of whether a court ultimately determines such matters to reflect Commission policy, upon acceptance of the agreement as provided herein and upon approval in the public interest; and

NOW THEREFORE, for and in consideration of the mutual covenants set forth below, the sufficiency of which is hereby acknowledged the parties agree to the following:

1. **Black Bear Waterworks, Inc.:** Black Bear Waterworks, Inc. (Black Bear) agrees to refund via credit on its customers' account 16.57% of water revenues billed for the calendar year 2021. The refunds shall be made pursuant to Rule 25-30.360(3), Florida Administrative Code. This refund credit shall be based upon each individual customer's billed amounts for the 2021 calendar year. Black Bear also agrees to hold subject to refund all revenues received during the calendar year 2022 that are above its authorized ROE range until the final review of its 2022

Annual Report. Black Bear hereby consents to the FPSC's jurisdiction over the extent to which its earned ROE for the year ending December 31, 2022 exceeds the maximum of its allowed ROE.

2. In keeping with the Commission's long-standing policy and practice of encouraging parties to settle issues whenever possible, the Parties submit this Settlement Agreement for review and approval. The Parties agree that this Settlement Agreement is in the public interest. The provisions of this Settlement Agreement are contingent on approval of this Settlement Agreement in its entirety by the Commission without modification. The Parties further agree that they will support this Settlement Agreement and will not request or support any order, relief, outcome, or result in conflict with the terms of this Settlement Agreement in any administrative or judicial proceeding relating to, reviewing, or challenging the establishment, approval, adoption, or implementation of this Settlement Agreement or the subject matter hereof. No Party will assert in any proceeding before the Commission that this Settlement Agreement nor any of the terms herein shall have any precedential value nor may it be used in any other proceeding. To the extent a dispute arises among the parties about the provisions, interpretation, or application of this agreement, the parties agree to meet and confer in an effort to resolve the dispute. To the extent that the Parties cannot resolve any dispute, the matter may be submitted to the Commission for resolution. Approval of this Settlement Agreement in its entirety will resolve all matters and issues discussed herein pursuant to and in accordance with Section 120.57(4), Florida Statutes. This docket should be closed administratively after Commission staff verifies the revised tariff sheets, customer notices have been mailed, and refunds have been made.

IN WITNESS WHEREOF, the Parties evidence their acceptance and agreement with the provisions of this Settlement Agreement by their signature.

OFFICE OF PUBLIC COUNSEL

Date: Nov. 3, 2021

By: Richard Gentry

Richard Gentry;
Public Counsel

Attorney for the Citizens
of the State of Florida

UTILITIES

Date: Nov 3, 2021

By: Gary Deremer

Gary Deremer;
President

Black Bear Waterworks, Inc.

Item 7

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: November 23, 2021

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (Thompson, Ellis, King) *TB*
Division of Economics (Barrett) *JGH*
Office of the General Counsel (Trierweiler, Jones) *TLJ*

RE: Docket No. 20210121-EG – Petition for approval of modifications to demand-side management program plan and participation standards, by Duke Energy Florida, LLC.

AGENDA: 12/07/21 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: La Rosa

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On August 30, 2020, the Commission issued an order approving Duke Energy Florida's (DEF or Utility) Demand-Side Management (DSM) Plan, and granted staff administrative authority to approve the associated program participation standards.¹ The DSM Plan included DEF's Neighborhood Energy Saver, Home Energy Check, and Residential Load Management programs. On July 2, 2021, DEF petitioned the Commission for approval to modify these three DSM programs.

¹Order No. PSC-2020-0274-PAA-EG, issued August 30, 2020, in Docket No. 20200054-EG, *In re: Petition for approval of proposed demand-side management plan, by Duke Energy Florida, LLC.*

According to DEF's petition, these modifications are pursuant to the Memorandum of Understanding (MOU) that was entered into by DEF, Vote Solar, the Southern Alliance for Clean Energy, and the CLEO Institute, as an agreement for the counterparties to forgo their opportunity to petition to intervene in DEF's limited proceeding to approve its 2021 settlement agreement.² The MOU was filed for informational purposes only and is non-binding on the Commission.

The Neighborhood Energy Saver program is a low-income residential program designed to assist neighborhoods where approximately 50 percent of households have incomes equal to or less than 200 percent of the poverty level. As part of this program, DEF or a third-party contractor will install energy conservation measures identified through an energy assessment of the customers' homes, and customers will receive energy education materials. The program conservation measures include energy efficient lighting, air sealing-infiltration control, water heater insulation wrap and hot water pipe insulation, water conservation shower heads and faucet aerators, heating, ventilation, and air conditioning (HVAC) filters, indoor wall thermometer, ceiling insulation upgrade, HVAC maintenance/tune up, duct repair, smart power strips, high efficiency heat pumps, high efficiency room air conditioners, and high efficiency central air conditioning. DEF is requesting approval to increase the program participation projection by an incremental 250 customers per year from 2022 to 2024.

The Home Energy Check program is a residential energy audit program that provides all program participants with an analysis of their energy consumption, and provides educational information on how to reduce energy usage to save money. Part of this program involves a home inspection to identify actions that the customer might take to reduce their energy consumption, and another part includes the distribution of energy efficiency kits. These kits include two 17-foot rolls of adhesive weather strip, a 10-pack of switch and outlet gaskets, a hot water gauge, a digital refrigerator thermometer, two nine-watt LED light bulbs, two faucet aerators, and one energy efficient showerhead. DEF is requesting approval to provide additional "Assistance Kits" to up to 20,000 low-income program participants per year from 2021 to 2024.

The Residential Load Management program is a residential demand response program where customers voluntarily allow DEF to reduce demand by controlling service to selected electrical equipment in a customer's home. As part of this program, customers are provided with a monthly credit that varies depending on the number of load management devices the customer has installed and their usage. DEF is requesting approval to provide \$30 gift cards to up to 1,000 low-income program participants, with accounts that are more than 60 days in arrears, each year from 2021 to 2022.

Staff notes that, based on DEF's DSM Annual Report for Calendar Year 2020, DEF surpassed its combined megawatt (MW) and gigawatt-hour (GWH) goals for 2020.³ Specifically, DEF exceeded its combined summer peak, winter peak, and annual energy goals by 168 percent (40 MW), 45 percent (17 MW), and 395 percent (60 GWH), respectively.

²Document No. 03685-2021, filed April 23, 2021, in Docket No. 20210016-EI, *In re: Petition for limited proceeding to approve 2021 settlement agreement, including general base rate increases, by Duke Energy Florida, LLC.*

³<http://www.floridapsc.com/Files/PDF/Utilities/Electricgas/ARDemandSide/2020/Duke%20Energy%20Florida.pdf>

On August 6, 2021, DEF petitioned the Commission for approval of its actual and estimated conservation cost recovery clause expenditures for 2021 and 2022 in the Energy Conservation Cost Recovery (ECCR) clause docket (Docket No. 20210002-EI), including the incremental expenses of the proposed program modifications described above.⁴ The Commission approved ECCR cost recovery clause factors for DEF on November 17, 2021, including recovery of \$955,503 in estimated incremental costs of these proposed program modifications.⁵ These projected costs are subject to adjustment in the 2022 ECCR docket, and DEF would be expected to address in its ECCR true-up filings any over- or under-recovery of the associated costs based on, among other things, the Commission's decision in this docket.

The Commission has jurisdiction over this matter pursuant to Sections 366.80 through 366.83 and 403.519, Florida Statutes (F.S.), collectively known as the Florida Energy Efficiency and Conservation Act (FEECA).

⁴Document No. 08858-2021, filed August 6, 2021, in Docket No. 20210002-EG, *Energy Conservation Cost Recovery Clause*, by Duke Energy Florida, LLC. (“*Actual/Estimated and Projection filing*”). DEF witness Cross identified an estimated expense of \$159,250 for costs in 2021 for programs associated with the instant docket, including an estimated \$129,250 in expense for the Home Energy Check program and \$30,000 for distributing 1,000 “Assistance Gift Cards” associated with the Residential Load Management program. Witness Cross also identified a projected 2022 incremental expense of \$796,253 for programs associated with the instant docket, including \$517,000 in expense for the Home Energy Check program, \$249,253 in expense for the Neighborhood Energy Saver program, and \$30,000 for the Residential Load Management program.

⁵Order No. PSC-2021-0427-FOF-EG, issued November 17, 2021, in Docket No. 20210002-EG, *In re: Energy conservation cost recovery clause*.

Discussion of Issues

Issue 1: Should the Commission approve, for cost recovery purposes, the modifications to DEF's demand-side management plan and participation standards as requested in its petition?

Recommendation: No. The modification to the Home Energy Check program should not be approved for cost recovery purposes because the modification is not cost-effective. The modification to the Residential Load Management program should not be approved for cost recovery purposes because the gift cards do not contribute to demand savings. However, this recommendation does not preclude DEF from making the modifications requested, and having the associated costs borne by its shareholders.

The Commission need not take any action at this time regarding the proposed modification to adjust the forecasted participation in the Neighborhood Energy Saver program because there is no participation cap on this program. If DEF chooses to modify this program's marketing efforts in order to increase participation in the specified years, it would be more appropriate for the Commission to review the associated costs in the ECCR Clause proceeding. (Thompson, Barrett)

Staff Analysis: Staff notes that the MOU discussed in the case background is the impetus for DEF's requested modifications to its Neighborhood Energy Saver, Home Energy Check, and Residential Load Management programs. The MOU was filed for informational purposes only and is non-binding on the Commission. These modifications were brought before the Commission in a petition to modify DSM programs; as such, the criteria used to review the appropriateness of DSM programs are: (1) whether the program advances the policy objectives of FEECA and its implementing rules; (2) whether the program is directly monitorable and yields measureable results; and (3) whether the program is cost-effective.⁶ Staff has reviewed DEF's petition and has evaluated the requested program modifications based upon these criteria.

Neighborhood Energy Saver Program

DEF requests to modify its low-income Neighborhood Energy Saver program to increase the projected program participation by an incremental 250 customers per year from 2022 to 2024. This value was determined through discussions with DEF's program management team about potential neighborhoods, and the ability of the field team to handle the additional workload. The additional program expense for this program modification is \$249,253 for 2022.

The request to increase the program participation by an incremental 250 participants from 2022 through 2024 is not a modification that requires Commission approval as there is currently no participation cap on this program. Program participation is voluntary, and utilities are responsible for marketing and monitoring these participation rates as necessary in order to meet the goals established by the Commission. This has been discussed in prior orders approving DSM programs as shown below:

The values presented above are DEF's projections based upon participation rates which may or may not occur. DEF will be responsible for monitoring actual

⁶Order No. 22176, issued November 14, 1989, in Docket No. 890737-PU, *In re: Implementation of section 366.80-85 Florida Statutes, Conservation Activities of Electric and Natural Gas Utilities*.

participation rates and seeking our approval, if necessary, to modify, add, or remove programs. If DEF is unable to meet our approved goals, the Company may be subject to appropriate action, up to and including financial penalties.⁷

Therefore, if DEF chooses to modify this program's marketing in the specified years, it may do so, and the associated costs would be more appropriately reviewed in the ECCR Clause proceeding.

Home Energy Check Program

DEF requests to modify its Home Energy Check program to provide "Assistance Kits" to up to 20,000 low-income customers per year from 2021 to 2024 that complete either an online or walk-through home energy audit. These kits would be in addition to the kits that are currently provided to program participants who receive either the walk-through, online, or phone-assisted audit, and would include measures that have less than a two-year payback. The measures to be included in the "Assistance Kits" are three nine-watt LED light bulbs, a smart power strip, and hot water pipe insulation. The additional program expense for this program modification is \$517,000 for 2022. No program expense has been incurred in 2021. However, if this modification is approved, DEF intends to extend the implementation of the "Assistance Kits" from 2021 through 2024, to 2022 through 2025.

The additional low-income customer "Assistance Kits" requested for inclusion in this program might otherwise meet the intent of FEECA in regard to helping to reduce the growth rate of peak demand and electricity consumption. However, staff recommends they not be allowed for cost recovery for two reasons.

First, because energy audits are required to be provided to all residential customers pursuant to statute,⁸ cost-effectiveness test results were not provided for this requested program modification. However, in response to Staff's First Data Request, No. 13, DEF stated, "None of the measures included in the "Assistance Kit" are cost-effective under the RIM test but will pass on meaningful bill savings to the recipients."⁹ In addition, there is no statutory requirement to target a particular class of customers in the offering of audits. Section 366.82(11), F.S., specifically states the following regarding the requirement to provide audits:

The commission shall require each utility to offer, or to contract to offer, energy audits to its residential customers. This requirement need not be uniform, but may be based on such factors as level of usage, geographic location, or any other reasonable criterion, so long as all eligible customers are notified. The commission may extend this requirement to some or all commercial customers.

Second, DEF currently has a low-income program in place, the Neighborhood Energy Saver program, in which the additional "Assistance Kits" may have been more appropriately included. In the Neighborhood Energy Saver program, DEF or a third-party contractor installs energy

⁷Order No. PSC-15-0332-PAA-EG, issued August 20, 2015, in Docket No. 150083-EG, *In re: Petition for approval of demand-side management plan of Duke Energy Florida, Inc.*

⁸Section 366.82(11), F.S.

⁹<http://www.floridapsc.com/library/filings/2021/09753-2021/09753-2021.pdf>

conservation measures identified through an energy assessment of customers' homes, and customers receive energy education materials. Although the kits may be more appropriate for inclusion in the current low-income Neighborhood Energy Saver program, this does not negate the fact that the kits are not cost-effective. In addition, the measures proposed for inclusion in the "Assistance Kits" are already included in either DEF's Home Energy Check or Neighborhood Energy Saver program.¹⁰

Based upon the reasons discussed above, staff does not recommend that the costs associated with the additional "Assistance Kits" be approved for cost recovery from the general body of ratepayers as part of DEF's Home Energy Check or Neighborhood Energy Saver programs. This does not preclude DEF from providing these "Assistance Kits" as part of either program at DEF's shareholders' expense.

Residential Load Management Program

DEF requests to modify its Residential Load Management program to provide \$30 gift cards to up to 1,000 low-income program participants, with accounts that are more than 60 days in arrears, each year from 2021 to 2022, for a total of up to \$60 per customer. DEF states that these gift cards could help customers pay their energy bills, and allow DEF to maintain the demand response resources associated with low-income program participants. The additional program expense is \$30,000 for 2022. No program expense has been incurred in 2021. However, if this modification is approved, DEF intends to make two annual \$30 gift cards available to eligible customers following approval.

In response to Staff's First Data Request, DEF indicated that customers have 21 calendar days to pay their bills. If payment is not received within this time frame, late notices are generated which provide five working calendar days to pay before a customer is eligible to be disconnected. The amount of outstanding liability, length of service, and credit history with the Utility aid in determining whether a residential cut-out ticket will automatically be generated. Delinquent accounts that are not automatically eligible for a cut-out appear on DEF's Cut List for review. Manual reviews are done between day one and day five of the account appearing eligible for cut. As of August 20, 2021, DEF had made a total of 117,661 customer disconnections since January 7, 2021, or 0.8 percent of DEF's total number of billed accounts. As inferred by the above, DEF retains discretion with regard to customer disconnections.

All participants in the Residential Load Management program receive a monthly bill credit of up to \$14.00 for allowing DEF to control service to specific electrical equipment during peak hours. The amount of this credit depends on usage, billing months, and which interruption schedules customers select. This program specifically serves to allow DEF to reduce its peak demand.

As noted above, DEF believes providing these gift cards could help those customers pay their energy bills, and allow DEF to maintain the demand response resources associated with these participants. However, staff believes that the offering of gift cards (or a bill credit) in no way advances the policy objectives of FEECA. Unlike the current credits being offered, for allowing

¹⁰Nine-watt LED light bulbs are already included in the program kit currently provided in the Home Energy Check program. Smart power strips and hot water pipe insulation are currently included in the low-income Neighborhood Energy Saver program.

DEF to control service to specific electrical equipment during peak hours, the gift card offering does not contribute to demand savings. While DEF may argue the modification could allow it to maintain demand response resources with this group of customers, the argument is flawed for several reasons. First, the gift cards can be used for purposes other than bill relief. Second, customers may leave the program at any time, including the day after they receive their gift card. Third, DEF's customer arrearages average more than \$30.¹¹ Therefore, the gift card, even if used toward the customer's bill, is unlikely to have a meaningful impact upon the amounts owed in arrears, and will not halt a disconnection or retain the customer as a program participant. Therefore, the gift cards would not guarantee continued demand savings from these customer resources.

Regarding the savings associated with the up to 1,000 existing program participants that would potentially be retained as a result of the gift cards, this results in approximately 1.43 MW or 0.36 percent of the program's total projected annual summer demand savings, and approximately 2.03 MW or 0.29 percent of the program's total projected annual winter demand savings, based on the savings values provided in DEF's petition. Therefore, if the demand response resources associated with these participants were lost, this would not have a large impact on the program's demand savings.

Due to the reasons discussed above, these gift cards should be considered charitable contributions, which are not costs that should be borne by the general body of ratepayers. As with the requested Home Energy Check program modification, this does not preclude DEF from having the costs associated with the gift cards borne by its shareholders. Furthermore, there are other resources for DEF's customers in need of financial assistance. For example, DEF's Energy Neighbor Fund combines donations from DEF's employees and customers, and the Duke Energy Foundation matches these donations up to \$500,000, and provides the proceeds to DEF's Energy Neighbor Fund agency partners. DEF provides customers in need with agency contact information through inbound calls to its Customer Care Center, through its website, and through outbound awareness campaigns. DEF can also reach out to agencies directly with the customer's permission, and inform the customer of which agencies DEF is contacting on their behalf. Resources of this nature would be proper avenues for providing voluntary financial assistance to customers in need.

Conclusion

The modification to the Home Energy Check program should not be approved for cost recovery purposes because the modification is not cost-effective. The modification to the Residential Load Management program should not be approved for cost recovery purposes because the gift cards do not contribute to demand savings. However, this recommendation does not preclude DEF from making the modifications requested, and having the associated costs borne by its shareholders.

The Commission need not take any action at this time regarding the proposed modification to adjust the forecasted participation in the Neighborhood Energy Saver program because there is no participation cap on this program. If DEF chooses to modify this program's marketing efforts

¹¹The average amount of arrearages per customer is approximately \$130.

in order to increase participation in the specified years, it would be more appropriate for the Commission to review the associated costs in the ECCR Clause proceeding.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the PAA Order, a Consummating Order should be issued and the docket should be closed. (Trierweiler)

Staff Analysis: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the PAA Order, a Consummating Order should be issued and the docket should be closed.

Item 8

FILED 11/23/2021
DOCUMENT NO. 12829-2021
FPSC - COMMISSION CLERK

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: November 23, 2021

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (Guffey) *JGH*
Office of the General Counsel (Sandy, Crawford) *JSC*

RE: Docket No. 20210160-EU – Joint petition for approval of modification to territorial agreement in Orange County, by City of Winter Park and Duke Energy Florida, LLC.

AGENDA: 12/07/21 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Passidomo

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On September 27, 2021, the City of Winter Park (Winter Park or City) and Duke Energy Florida, LLC (DEF) filed a joint petition for approval of an amendment (First Amendment) to their currently effective territorial agreement in Orange County. In 2005, the City of Winter Park purchased DEF's facilities and established a municipal utility to provide service within the City.¹ In 2014, the Commission approved the joint petitioners' currently effective territorial agreement.² The proposed First Amendment to the agreement seeks to further redefine the

¹ Order No. PSC-05-0453-PAA-EI, issued April 28, 2005, in Docket No. 20050117-EI, *In re: Petition to relieve Progress Energy Florida, Inc. of the statutory obligation to provide electrical service to certain customers within the City of Winter Park, pursuant to Section 366.03 and 366.04, F.S.*

² Order No. PSC-14-0108-PAA-EU, issued February 24, 2014, in Docket No. 20130267-EU, *In re: Joint petition for approval of territorial agreement in Orange County by the City of Winter Park and Duke Energy Florida, Inc.*

parties' specific service areas in Winter Park. The proposed First Amendment and associated maps indicating the service area revisions are included in Attachment A to this recommendation.

During the review process, staff issued two data requests to the joint petitioners, to which the responses were received on October 26 and on November 9, 2021. On November 17, 2021, DEF provided an email, which has been placed in the docket file, with additional clarifications on the process leading up to the proposed First Amendment.³ On November 19, 2021, staff had an informal conference call meeting with the joint petitioners to obtain further clarifications related to the proposed First Amendment. The Commission has jurisdiction over this matter pursuant to Section 366.04, Florida Statutes (F.S.).

³ Document No. 12808-2021.

Discussion of Issues

Issue 1: Should the Commission approve the proposed First Amendment to the current territorial agreement in Orange County between Winter Park and DEF?

Recommendation: Yes, the Commission should approve the proposed First Amendment to the current territorial agreement in Orange County between Winter Park and DEF. The approval of this amendment will not be a detriment to the public interest and will enable Winter Park and DEF to redefine specific service areas in the City of Winter Park. (Guffey, Sandy)

Staff Analysis: Pursuant to Section 366.04(2)(d), F.S., and Rule 25-6.0440(2), Florida Administrative Code (F.A.C.), the Commission has the jurisdiction to approve territorial agreements between and among rural electric cooperatives, municipal electric utilities, and other electric utilities. Unless the Commission determines that the Agreement will cause a detriment to the public interest, the Agreement should be approved.⁴

The Proposed First Amendment to the Territorial Agreement

Through this proposed First Amendment, the joint petitioners desire to redraw certain small sections of the territorial boundaries in Winter Park. The joint petitioners explained, that after the separation of the City from DEF and the 2014 territorial agreement, DEF continued to serve certain small areas within the City. The proposed First Amendment addresses those areas still served by DEF within the City and would eliminate potential duplicate facilities, create contiguous boundaries, and address certain parcels that were split by the current territorial boundaries. Pursuant to Paragraph 3 of the First Amendment, 11 DEF customers (nine commercial and two residential) will be transferred to Winter Park. Revised Exhibit F, as shown on Page 19 of 26 in Attachment A to the recommendation, clarified that of the 11 customers to be transferred to the City, seven are existing customers and four are vacant parcels.⁵ No customers will be transferred from the City to DEF.

During the November 19, 2021 conference call meeting with staff, the joint petitioners stated that in an effort to have a more contiguous boundary, and avoid duplication of service, DEF approached the City, after a review of its service territory, regarding the transfer of certain parcels within the City's boundary that are currently served by DEF. The joint petitioners agreed to transfer seven existing DEF customers and four vacant lots within DEF's service area to the City of Winter Park. In addition, the joint petitioners agreed to transfer the service of the land parcel which includes the City's wastewater treatment plant, which has been temporarily served by DEF for many years, to DEF as the City has no facilities nearby to economically extend service to the wastewater treatment plant.

The proposed amendment will eliminate uneconomic duplication of service facilities and resolve split parcels due to annexation and create cohesive boundaries. The proposed First Amendment does not contemplate transfer or purchase of any facilities by either utility and the joint petitioners assert that the proposed amendment will not cause a decrease in service reliability to

⁴ *Utilities Commission of the City of New Smyrna Beach v. Florida Public Service Commission*, 469 So. 2d 731 (Fla. 1985).

⁵ Document No. 12593-2021, Response 1 and Revised Exhibit F to Staff's Second Data Request.

Date: November 23, 2021

their existing or future customers. The currently effective agreement approved in 2014, shall remain effective for a term of 20 years, pursuant to Section 6.1 of the agreement and the proposed First Amendment does not modify the term of the agreement.

The petitioners, in their response to staff's first data request, stated that in accordance with Rule 25-6.0440(1)(d), F.A.C., the customers to be transferred from DEF to Winter Park pursuant to this agreement were notified by mail and a description of the difference between DEF's and Winter Park's electric rates was provided.⁶ Since the initial notification, the rates have changed. As of October 2021, DEF's residential rate for 1,000 kilowatt-hours (kWh) is \$132.24 and commercial rate for 1,500 kWh is \$207.60. For the same month, Winter Park residential rate for 1,000 kWh is \$121.27 and commercial rate for 1,500 kWh is \$202.54.⁷ The customer notice states that DEF will apply customers' deposits to their last electric bill and will directly refund any surplus.⁸ With regard to the degree of acceptance by affected customers, the petitioners, in their response to staff's first data request, stated that DEF has not received any comments from customers subject to the transfer and will notify the Commission if any comments or questions are received. The joint petitioners intend to transfer the 11 customers by end of 2022.

Conclusion

After review of the joint petition, the proposed First Amendment to the territorial agreement, and responses to staff's data requests, staff believes the First Amendment to the territorial agreement will not cause a detriment to the public interest, will eliminate any potential uneconomic duplication of facilities and will not cause a decrease in reliability of electric service to the present or future customers of Winter Park or DEF. Therefore, staff recommends that the Commission should approve the proposed First Amendment to the territorial agreement between Winter Park and DEF in Orange County.

⁶ In August 2021, DEF's residential rate for 1,000 kWh was \$132.21 and commercial rate for 1,500 kWh was \$207.72. For the same month, Winter Park residential rate for 1,000 kWh was \$115.30 and commercial rate for 1,500 kWh was \$183.57.

⁷ Document No. 12404-2021, Response 2 in Staff's First Data Request.

⁸ Document No. 12404-2021, Response 2 and Attachment A to Staff's First Data Request.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of the Consummating Order. (Sandy)

Staff Analysis: If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of the Consummating Order.

EXHIBIT A

FIRST AMENDMENT TO THE TERRITORIAL AGREEMENT BETWEEN THE CITY OF WINTER PARK AND DUKE ENERGY FLORIDA, LLC

**FIRST AMENDMENT TO THE TERRITORIAL AGREEMENT
BETWEEN
THE CITY OF WINTER PARK
AND
DUKE ENERGY FLORIDA, LLC**

THIS FIRST AMENDMENT TO THE TERRITORIAL AGREEMENT ("First Amendment"), by and between The City of Winter Park (Winter Park) and Duke Energy Florida, LLC (DEF) (collectively, "Parties," or individually a "Party"), is subject to the approval of the Florida Public Service Commission (the "Commission").

WHEREAS, Winter Park and DEF are Parties to an existing territorial agreement ("Current Agreement") delineating their respective service territories in Orange County approved by the Commission in Order No. PSC-14-0138-CO-EU, issued March 21, 2014, in Docket No. 130267-EU; and

WHEREAS, the Parties desire, pursuant to Article II, Retail Electric Service, to modify the territorial boundaries.

NOW THEREFORE, the Parties agree as follows:

1. The territorial boundary modifications are set forth in Attachment 1.
2. Attachment 1 includes updated versions of the following exhibits and shall replace the existing exhibits in the Current Agreement:
 - a. Exhibit A – Maps Depicting The Territorial Boundary Lines And Service Territories of Winter Park and DEF.
 - i. A map demonstrating the proposed boundary modification is provided in a new Exhibit H.
 - b. Exhibit B – Location Of All Extra-Territorial Customers Including Customers Listed On Exhibit C and Exhibit D.
 - c. Exhibit E – Location Of Exhibit C Extra-Territorial Customers

3. In this boundary modification, there are eleven customers (nine commercial and two residential) to be transferred from DEF to Winter Park. These customers are set forth in a new Exhibit F.
4. There are no customers to be transferred from Winter Park to DEF in this First Amendment.
5. The Parties agree, based on sound economic considerations, these boundary modifications will eliminate the uneconomic duplication of facilities, will resolve split parcels due to annexation, as well as create more cohesive boundaries, and will not cause a decrease in reliability to existing or future customers of either Party.
6. Pursuant to Section 6.1: Term, this Current Agreement shall continue and remain in effect for a period of twenty (20) years from the Effective Date. Additionally, the Parties desire that after the expiration of the initial term that this Current Agreement shall remain in effect thereafter unless either Party provides written notice of Termination at least 12 months prior to the termination of the Current Agreement as contemplated by Section 8.3.
7. Upon approval by the Commission, this First Amendment to the Territorial Agreement shall be amended herein.

IN WITNESS WHEREOF, each Party hereto has executed this First Amendment by their duly authorized representative on this 27th day of September, 2021.

The City of Winter Park	Duke Energy Florida, LLC
<u><i>Randy Knight</i></u>	<u><i>Melissa Seixas</i></u> Melissa Seixas
City Manager	State President
ATTEST: City of Winter Park <u>/s/ Jennifer Maier</u> Jennifer Maier Procurement Manager	Duke Energy Florida, LLC ATTEST: <u>/s/ Matthew R. Bernier</u> Matthew R. Bernier Associate General Counsel Attorney for Duke Energy Florida, LLC

ATTACHMENT 1

EXHIBIT A

EXHIBIT B

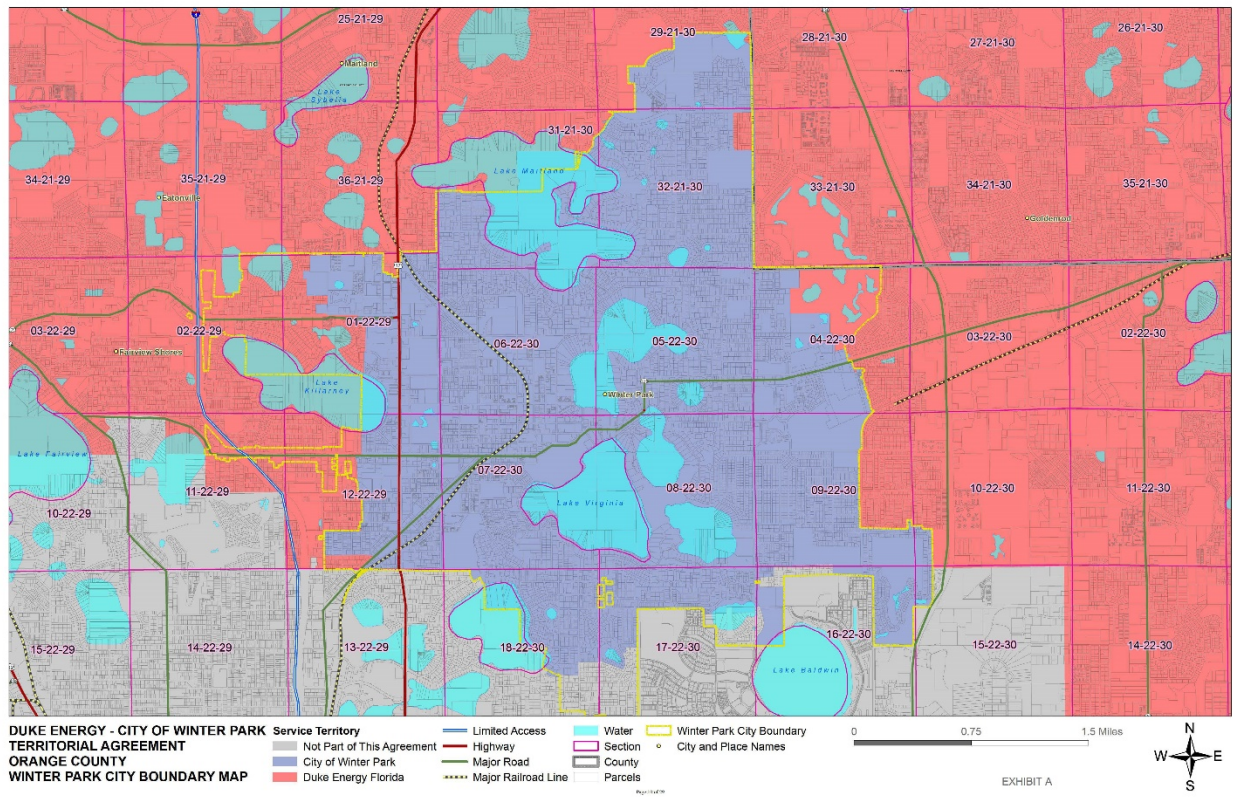
EXHIBIT E

EXHIBIT F

EXHIBIT H

EXHIBIT A

**MAPS DEPICTING THE
TERRITORIAL BOUNDARY LINES
AND SERVICE TERRITORIES OF
WINTER PARK AND DEF**



**DUKE ENERGY - CITY OF WINTER PARK
TERRITORIAL AGREEMENT
ORANGE COUNTY
PAGE INDEX**

EXHIBIT A

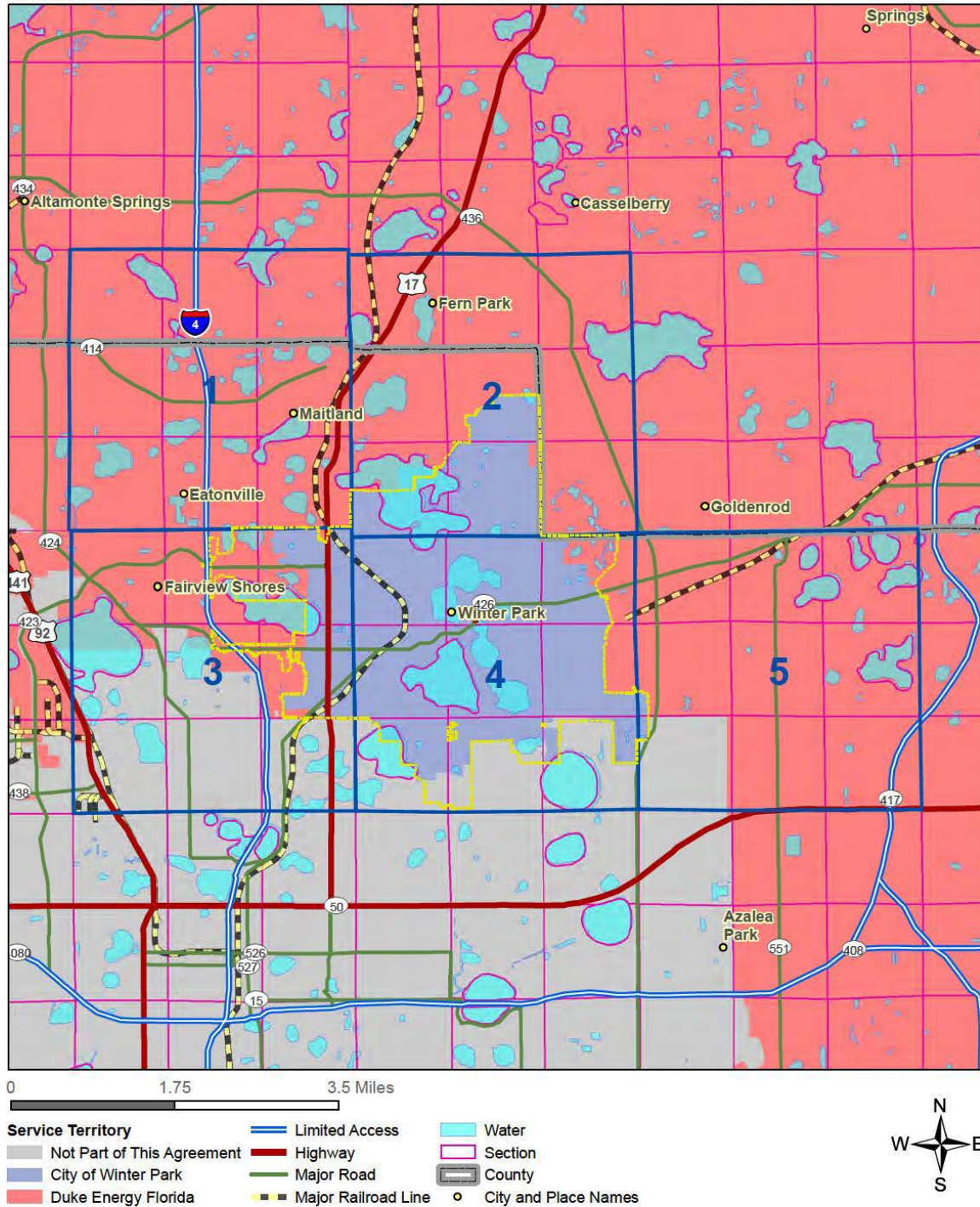


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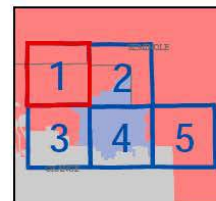


-  Limited Access  Water  County
 Not Part of This Agreement  Highway  Section  Winter Park City Boundary
 City of Winter Park  Major Road  Parcels  City and Place Names
 Duke Energy Florida  Major Railroad Line

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Township: 21S
Range: 29E
County: Orange County

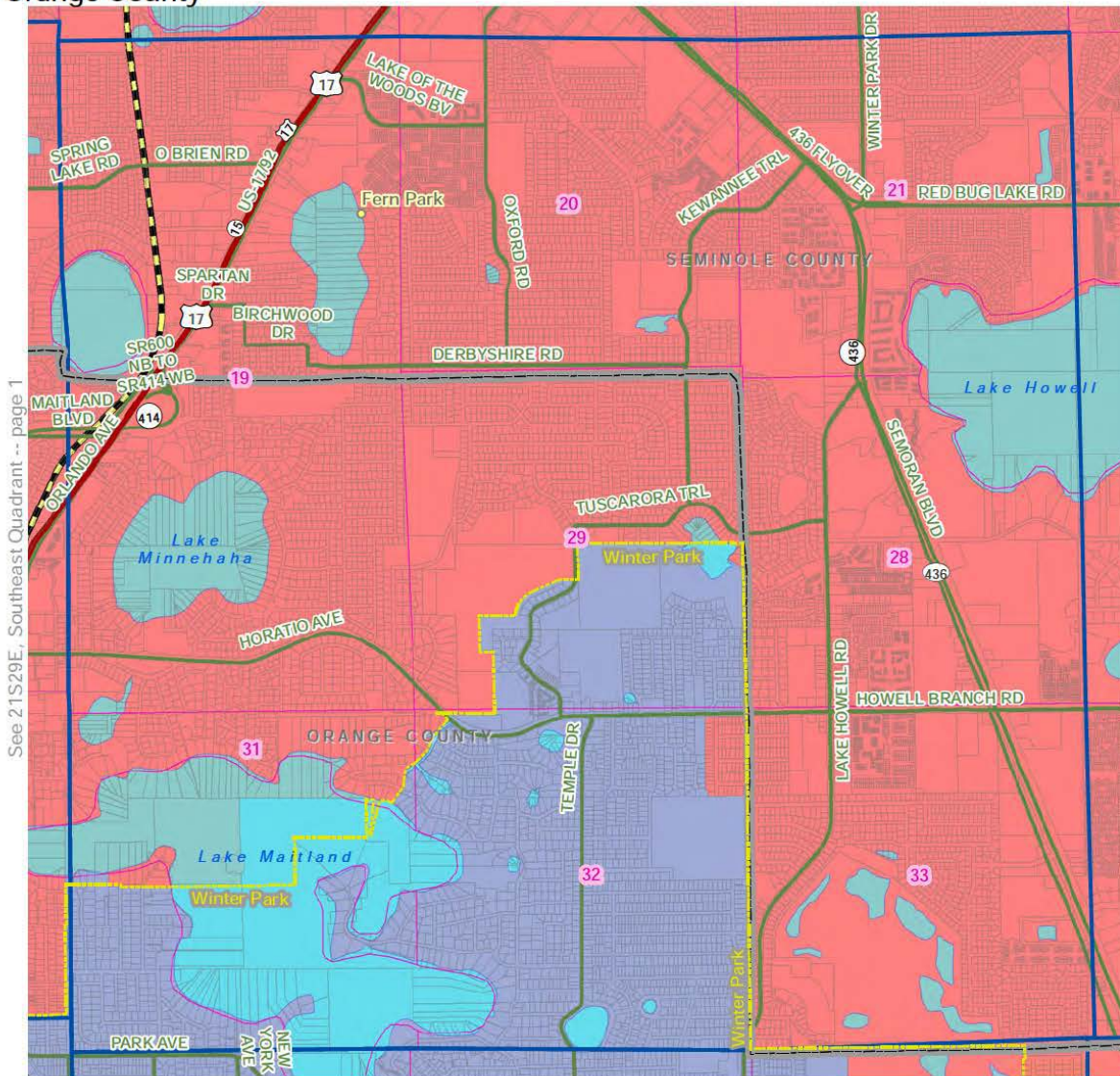


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**DUKE ENERGY - CITY OF WINTER PARK
TERRITORIAL AGREEMENT
Orange County**

EXHIBIT A

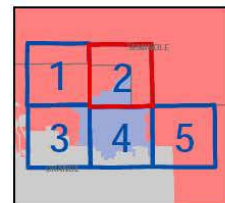


- Service Territory
- Not Part of This Agreement
 - City of Winter Park
 - Duke Energy Florida
- Limited Access
 Highway
 Major Road
 Major Railroad Line
- Water
 Section
 Parcels
 County
 Winter Park City Boundary
 City and Place Names

Quadrant: Southwest
Township: 21S
Range: 30E
County: Orange County



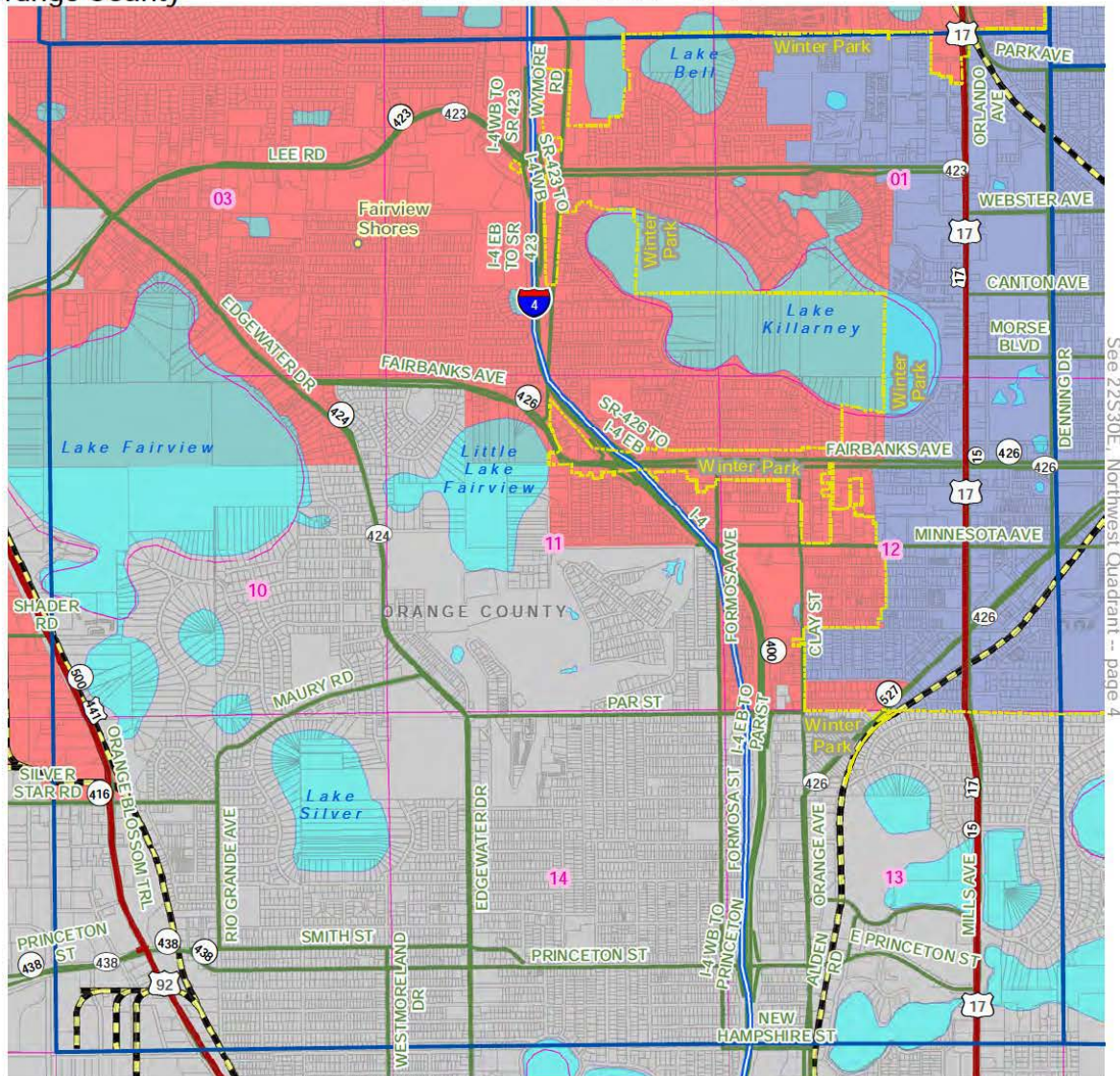
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**DUKE ENERGY - CITY OF WINTER PARK
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EXHIBIT A

See 21S29E, Southeast Quadrant -- page 1



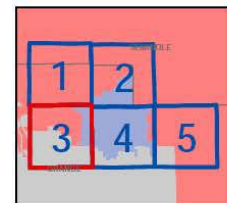
See 22S30E, Northwest Quadrant -- page 4

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| Service Territory | Limited Access | Water | County |
| Not Part of This Agreement | Highway | Section | Winter Park City Boundary |
| City of Winter Park | Major Road | Parcels | City and Place Names |
| Duke Energy Florida | Major Railroad Line | | |

Quadrant: Northeast
Township: 22S
Range: 29E
County: Orange County



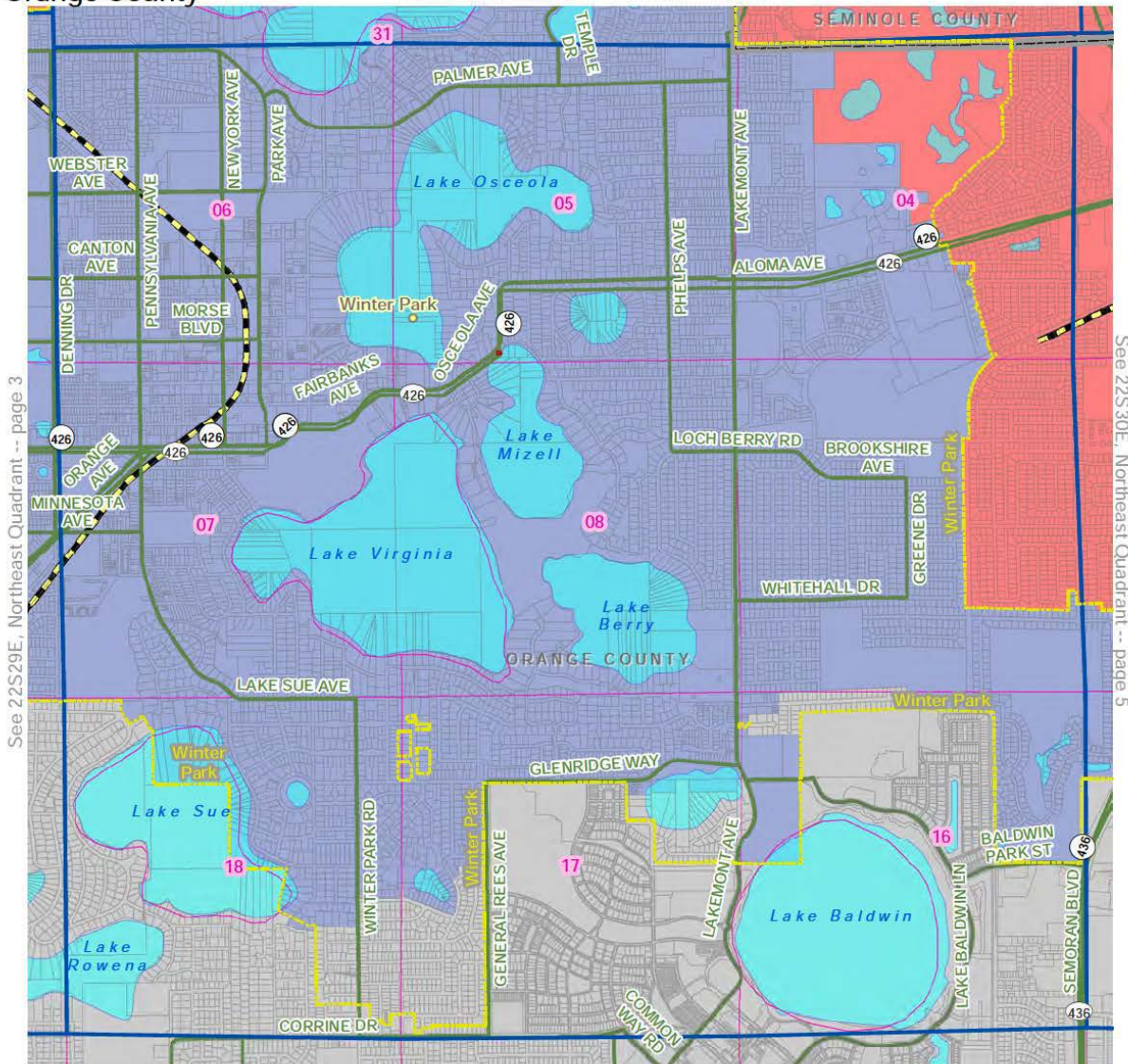
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EXHIBIT A

See 21S30E, Southwest Quadrant -- page 2



See 22S29E, Northeast Quadrant -- page 3

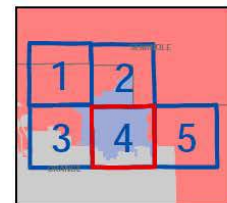
See 22S30E, Northeast Quadrant -- page 5

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| Not Part of This Agreement | — Highway | Section | Winter Park City Boundary |
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| Duke Energy Florida | — Major Railroad Line | | |

Quadrant: Northwest
Township: 22S
Range: 30E
County: Orange County

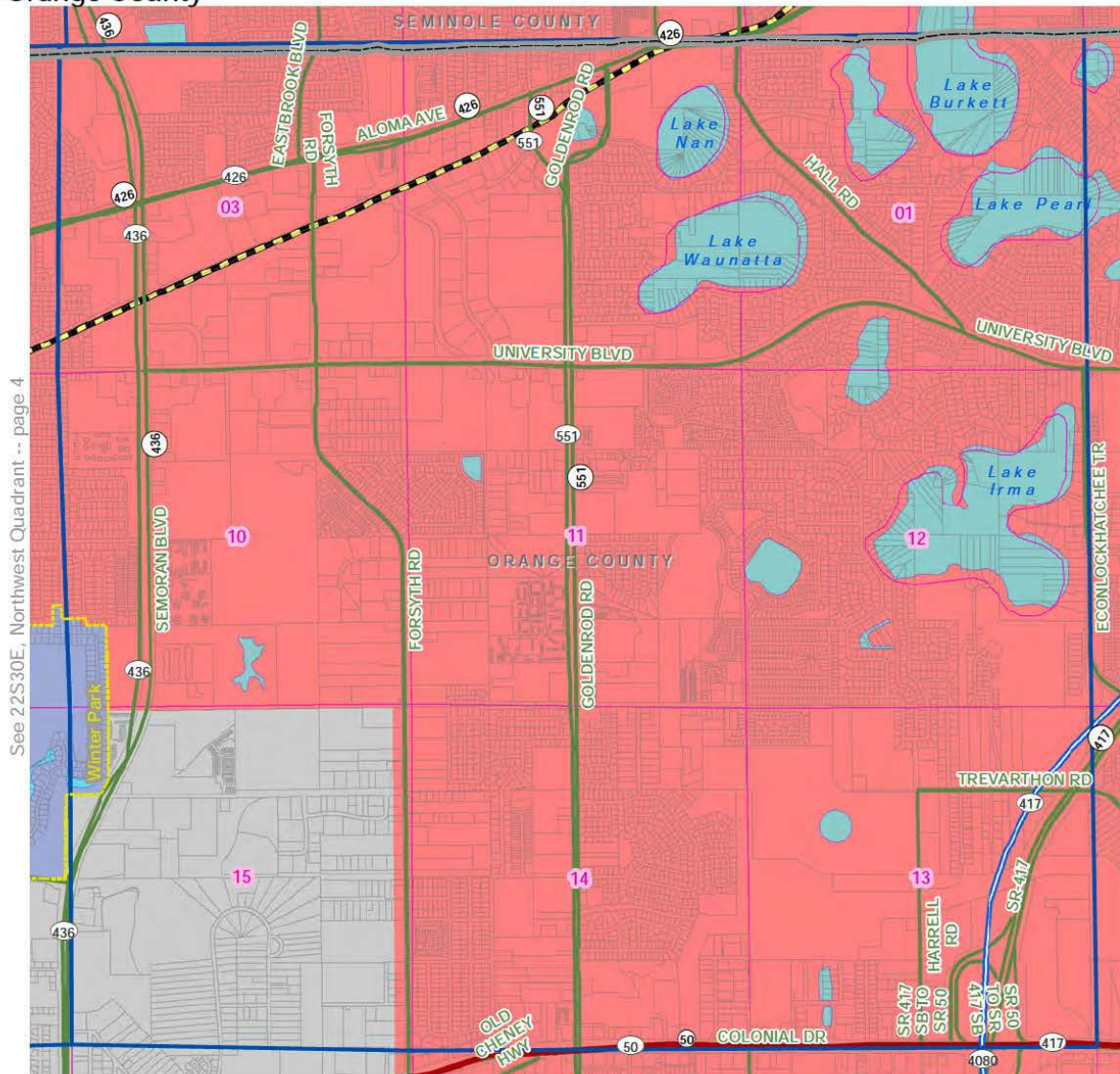


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**DUKE ENERGY - CITY OF WINTER PARK
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EXHIBIT A



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Quadrant: Northeast
Township: 22S
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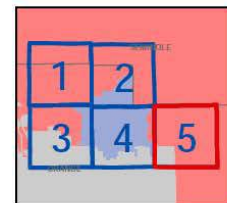


EXHIBIT B

LOCATION OF ALL EXTRA-TERRITORIAL CUSTOMERS INCLUDING CUSTOMERS LISTED ON EXHIBIT C AND EXHIBIT D

**DUKE ENERGY - CITY OF WINTER PARK
TERRITORIAL AGREEMENT
ORANGE COUNTY
EXHIBIT B**

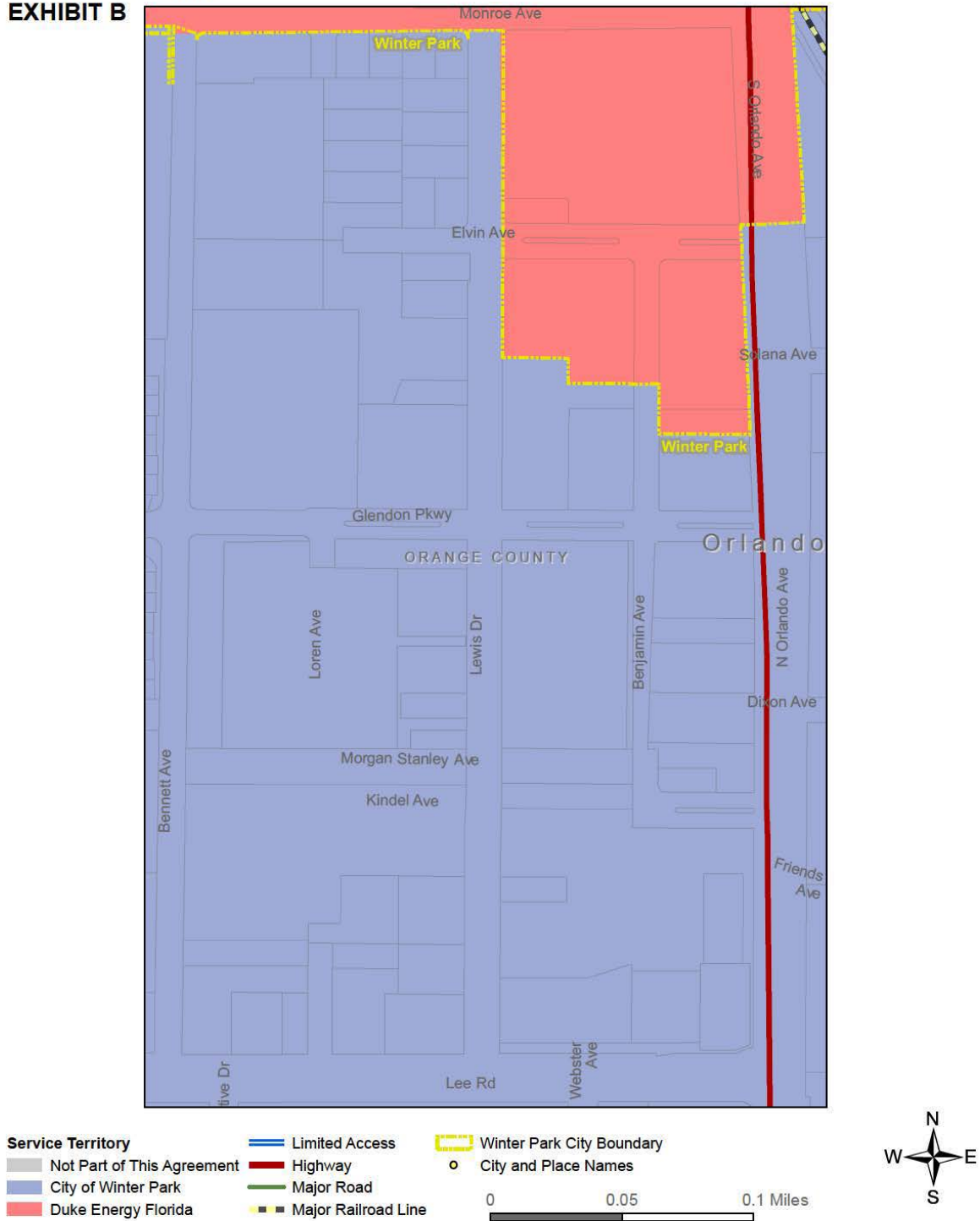


EXHIBIT E

LOCATION OF EXHIBIT C EXTRA-TERRITORIAL CUSTOMERS

**DUKE ENERGY - CITY OF WINTER PARK
 TERRITORIAL AGREEMENT
 ORANGE COUNTY
 EXHIBIT E**

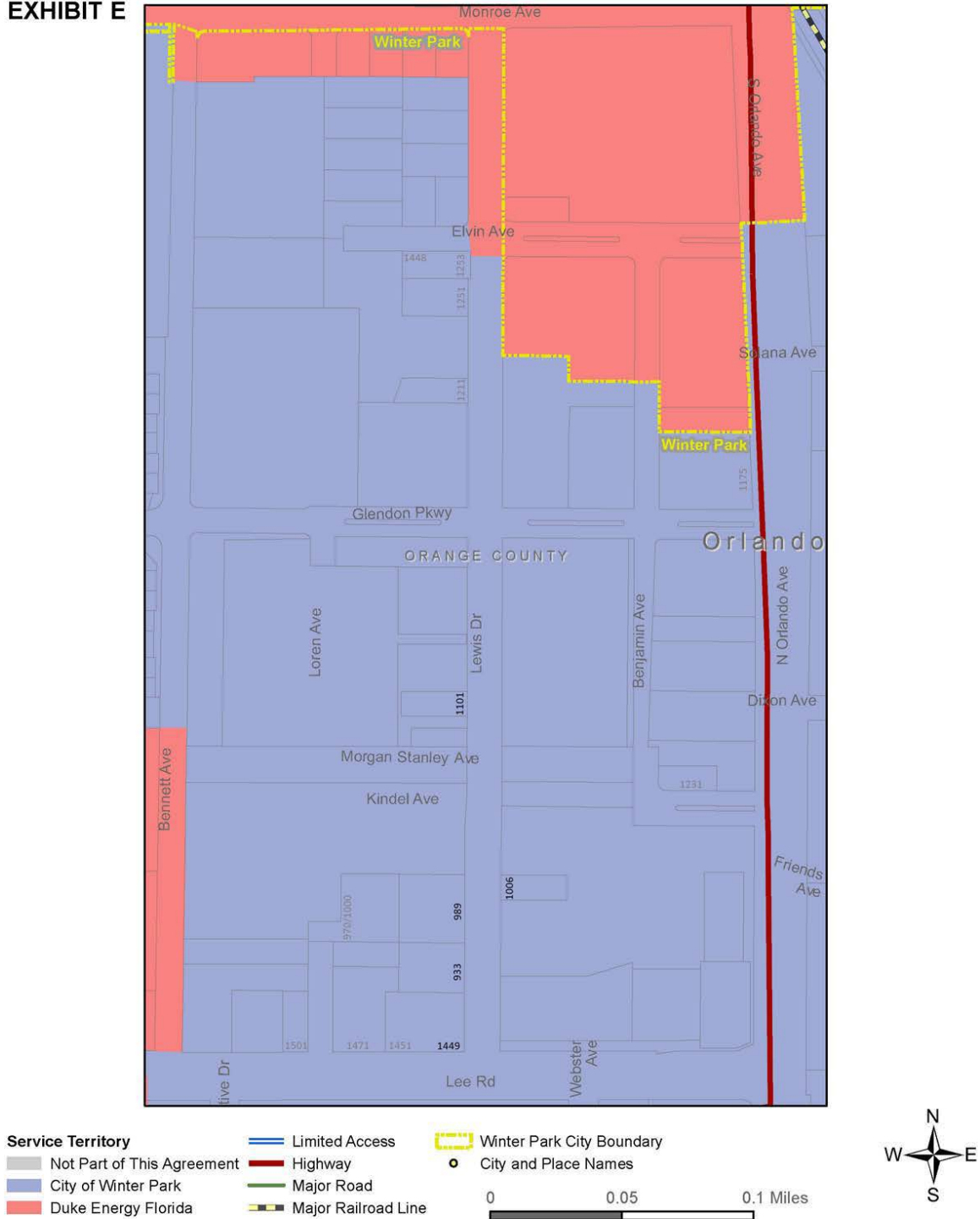


EXHIBIT F

**EXTRA-TERRITORIAL CUSTOMERS
SUBJECT TO TRANSFER
FROM
DEF TO THE
CITY OF WINTER PARK**

EXHIBIT F

**EXTRA-TERRITORIAL CUSTOMERS
SUBJECT TO TRANSFER FROM
DEF TO THE CITY OF WINTER PARK**

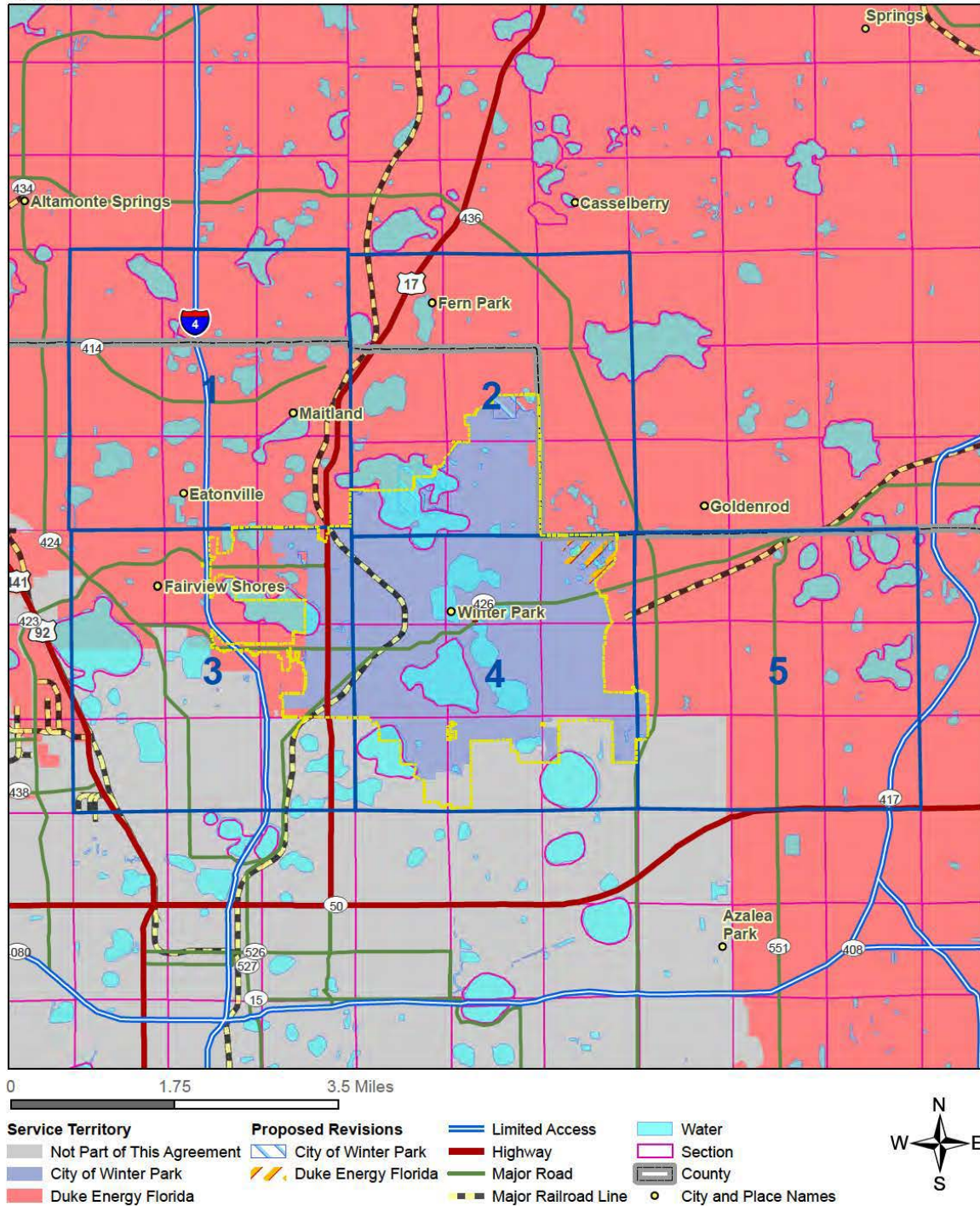
No.	Premise Address	Customer Type	Premise No.
1	1601 LEE RD, WINTER PARK, FL 32789	COMMERCIAL	474644884
2	1601 LEE RD, WINTER PARK, FL 32789	COMMERCIAL	504587468
3	1601 LEE RD *TWR, WINTER PARK, FL 32789	COMMERCIAL	172232941
4	933 BENNETT AVE *TWR, WINTER PARK, FL 32789	COMMERCIAL	97419148
5	1492 W FAIRBANKS AVENUE, WINTER PARK, FL 32789	COMMERCIAL	713211129
6	650 NICOLET AVENUE, WINTER PARK, FL 32789	COMMERCIAL	55965792
7	1500 INDIANA AVENUE, WINTER PARK, FL 32789	RESIDENTIAL	615296703
8	Vacant Parcel (no customer at premise)	TBD	TBD
9	Vacant Parcel (no customer at premise)	TBD	TBD
10	Vacant Parcel (no customer at premise)	TBD	TBD
11	Vacant Parcel (no customer at premise)	TBD	TBD

EXHIBIT H

MAPS DEMONSTRATING THE PROPOSED BOUNDARY MODIFICATIONS

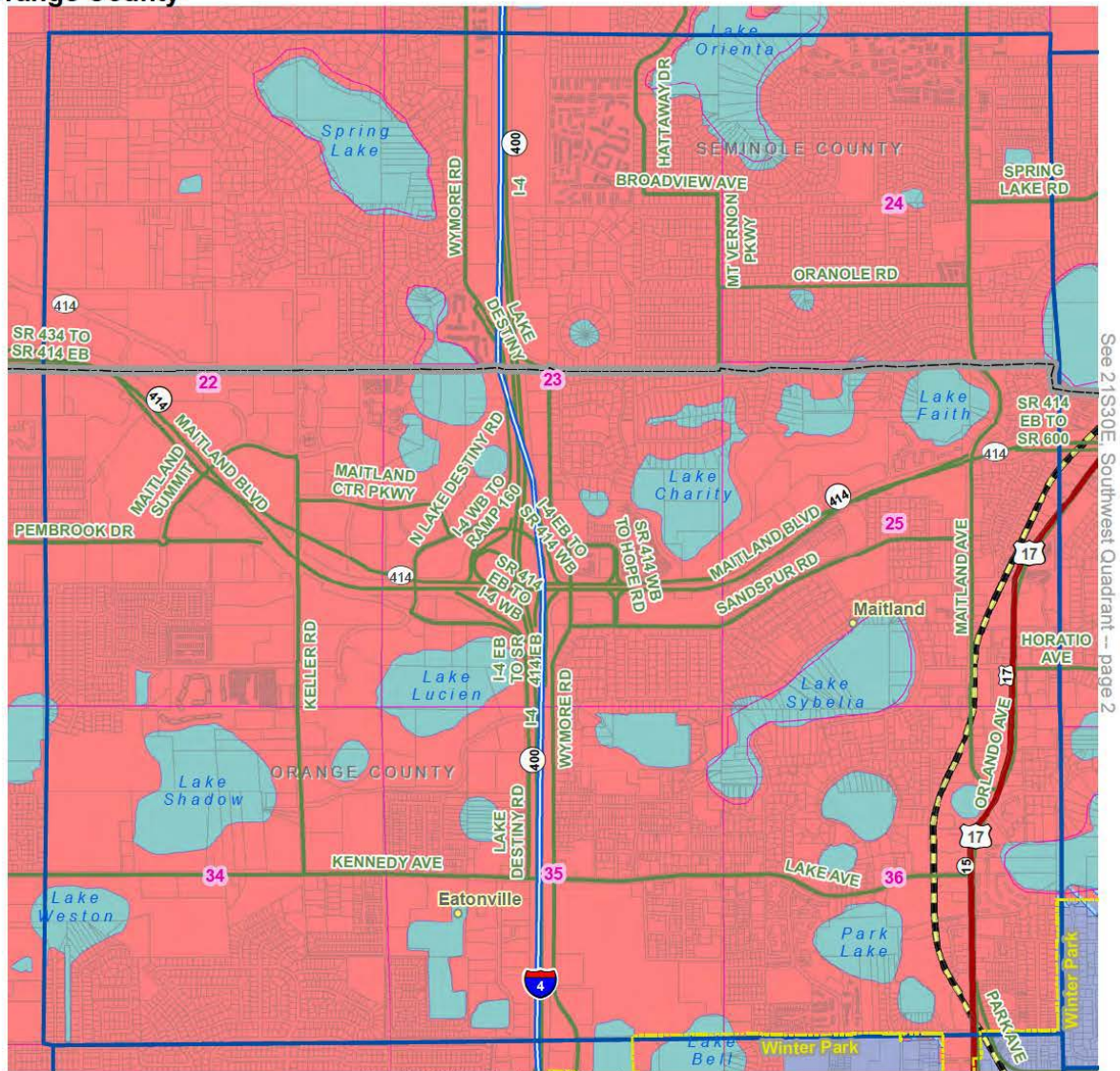
**DUKE ENERGY - CITY OF WINTER PARK
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ORANGE COUNTY
PAGE INDEX**

EXHIBIT H



**DUKE ENERGY - CITY OF WINTER PARK
TERRITORIAL AGREEMENT
Orange County**

EXHIBIT H

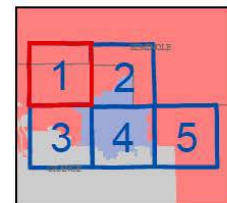


See 22S29E, Northeast Quadrant -- page 3

See 21S30E, Southwest Quadrant -- page 2

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|----------------------------|---------------------------|---------------------|---------|---------------------------|
| Service Territory | Proposed Revisions | Limited Access | Water | County |
| Not Part of This Agreement | City of Winter Park | Highway | Section | Winter Park City Boundary |
| City of Winter Park | Duke Energy Florida | Major Road | Parcels | City and Place Names |
| Duke Energy Florida | | Major Railroad Line | | |

Quadrant: Southeast
Township: 21S
Range: 29E
County: Orange County

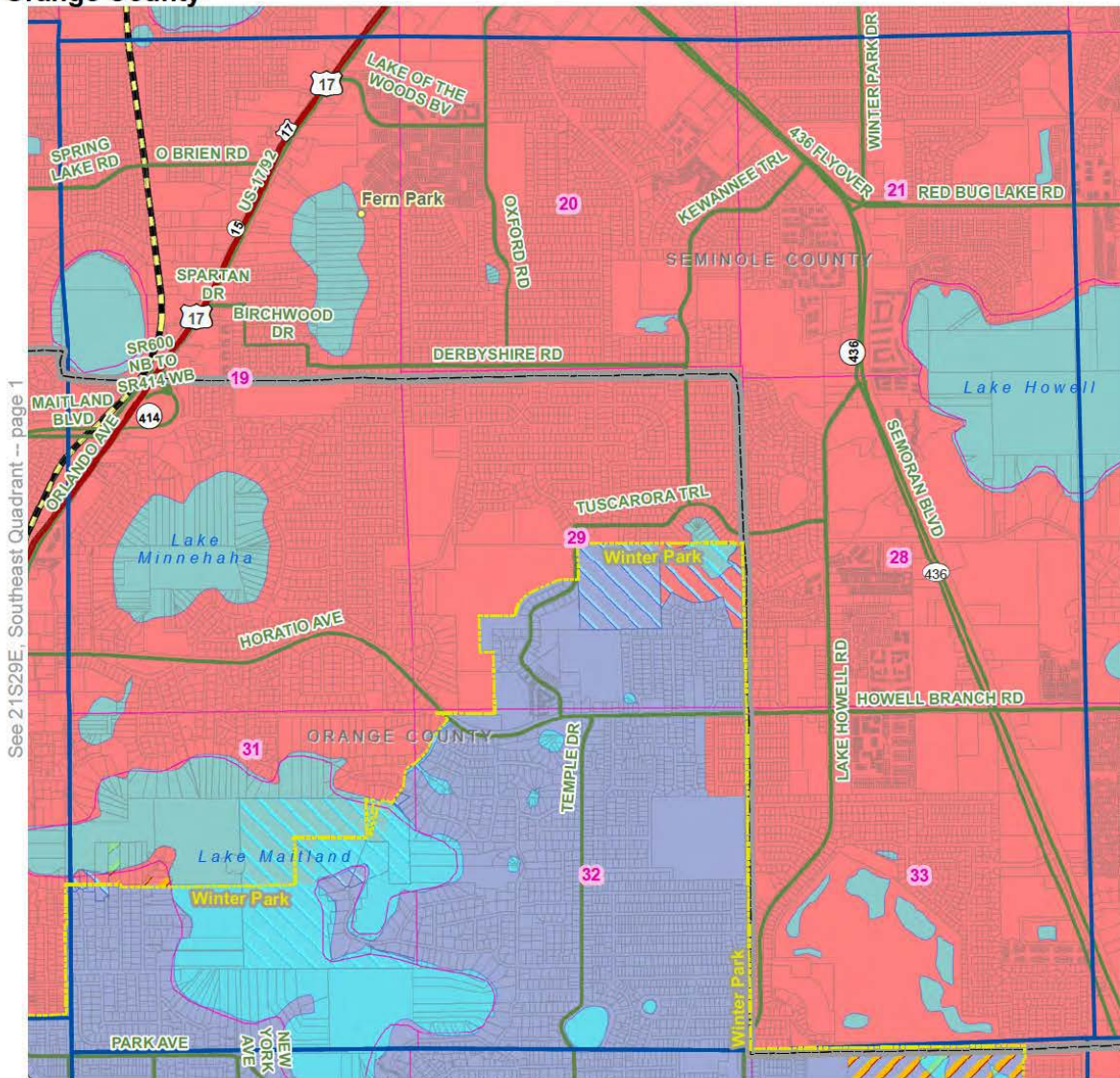


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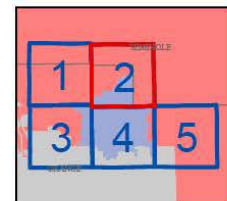
**DUKE ENERGY - CITY OF WINTER PARK
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Orange County**

EXHIBIT H



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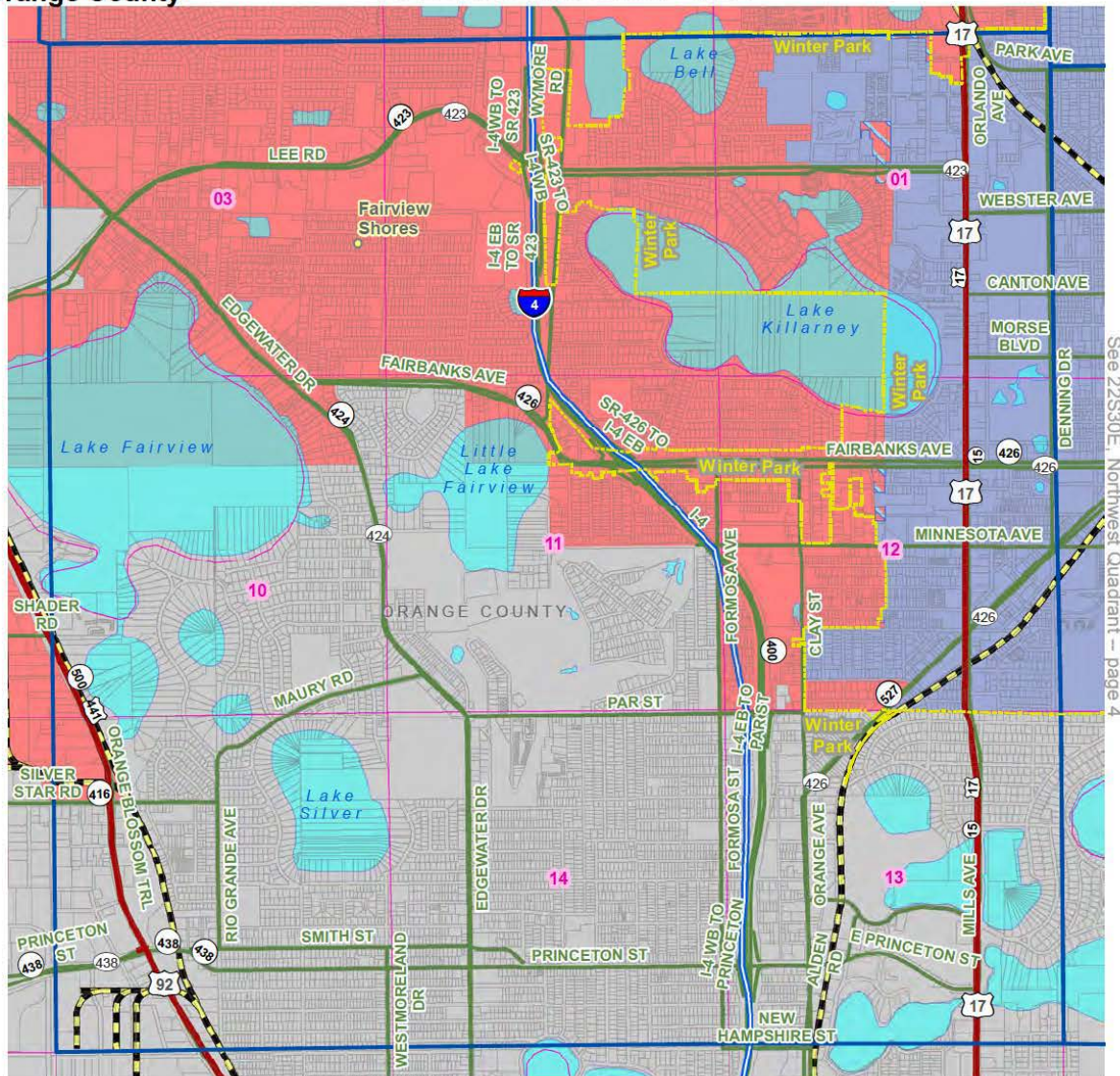
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Township: 21S
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**DUKE ENERGY - CITY OF WINTER PARK
TERRITORIAL AGREEMENT
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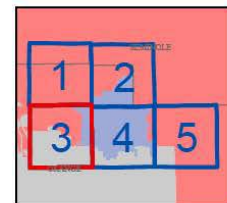
See 21S29E, Southeast Quadrant -- page 1

EXHIBIT H



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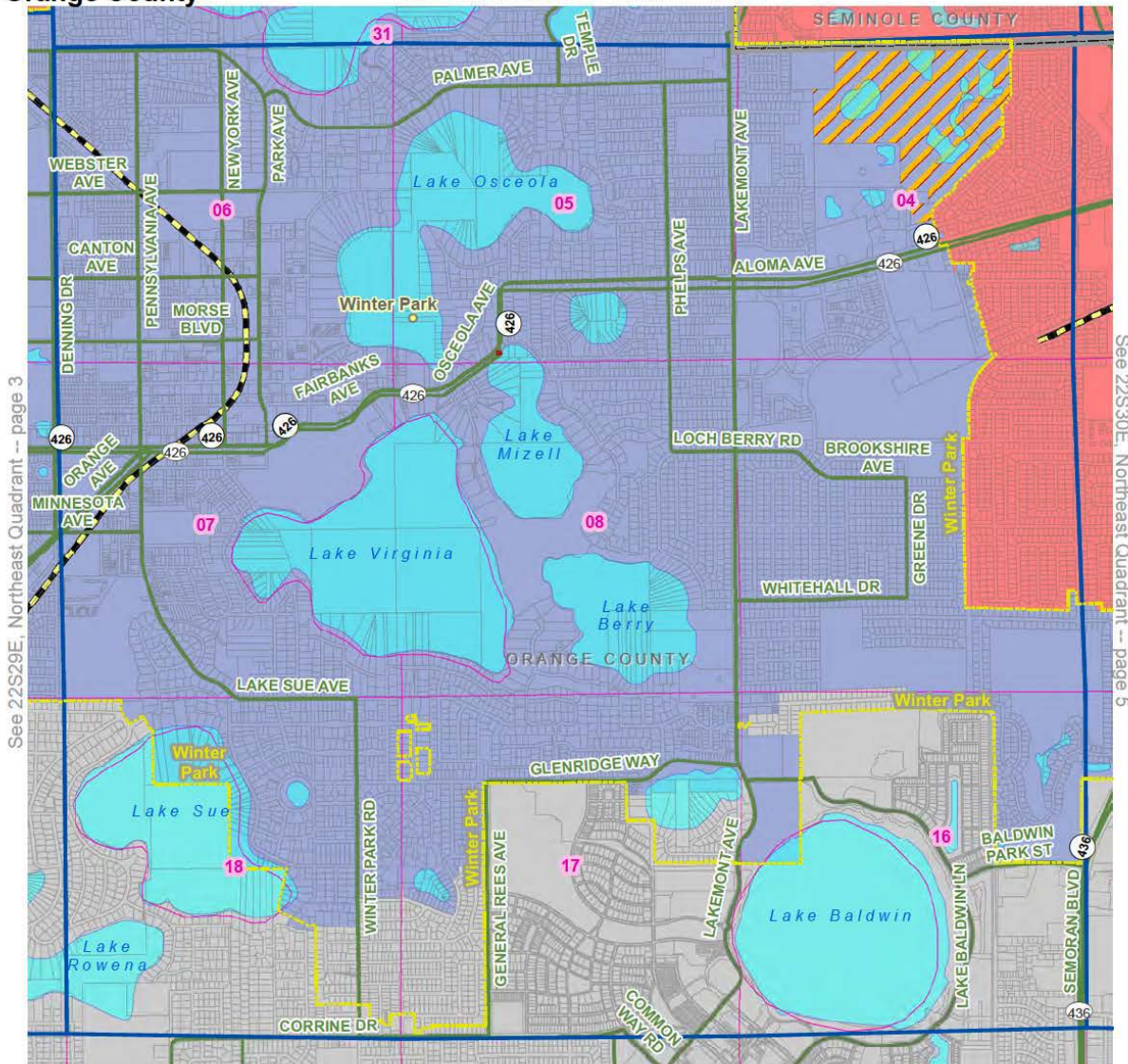
Page 3

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**DUKE ENERGY - CITY OF WINTER PARK
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Orange County**

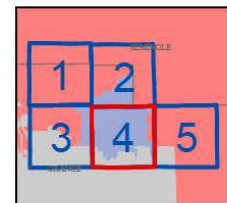
EXHIBIT H

See 21S30E, Southwest Quadrant -- page 2



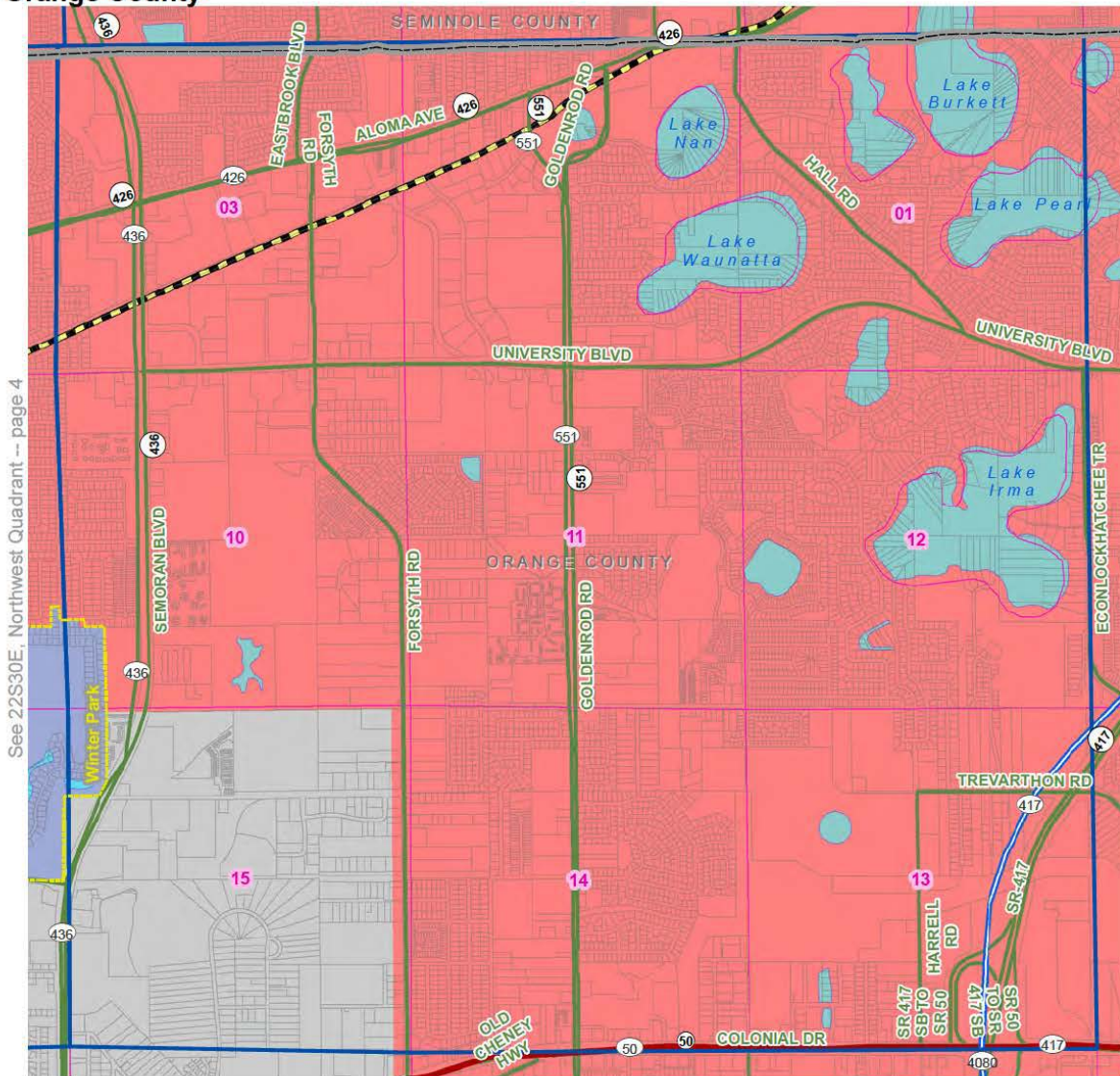
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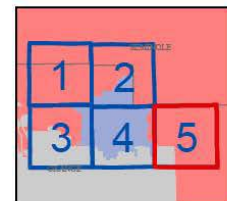
**DUKE ENERGY - CITY OF WINTER PARK
TERRITORIAL AGREEMENT
Orange County**

EXHIBIT H



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Item 9

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: November 23, 2021

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (Forrest, Coston) *JGH*
Office of the General Counsel (Stiller) *JSC*

RE: Docket No. 20210064-EI – Petition for approval of revised underground residential distribution tariffs, by Tampa Electric Company.

AGENDA: 12/07/21 –Tariff Filing – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 04/01/22 (12-Month Effective Date)

SPECIAL INSTRUCTIONS: None

Case Background

On April 1, 2021, Tampa Electric Company (TECO or utility) filed a petition (original petition) for approval of tariff modifications of its underground residential distribution (URD) tariff. TECO's current URD tariffs were approved in Order No. PSC-2018-0319-TRF-EI.¹

In TECO's original petition, the utility provided updated cost calculations and supporting documentation for its low-density and high-density service lateral differential cost, per Rule 25-6.078, Florida Administrative Code (F.A.C.). These calculations take into account current labor and material costs and an updated net present value (NPV) analysis, which includes the average historical storm restoration costs, as allowed in subsection 4 of the rule. The utility's calculation determined that the per lot undergrounding differential for high-density subdivisions is \$0.00 and the per lot undergrounding differential for low-density subdivisions is \$370.29. In its original

¹ Order No. PSC-2018-0319-TRF-EI, issued June 25, 2018, in Docket No. 20180086-EI, *In re: Petition for approval of revised underground residential distribution tariffs, by Tampa Electric Company.*

petition, TECO proposed to waive the \$370.29 per lot low-density subdivision charge, pursuant to Rule 25-6.078(10), F.A.C., and continue to set the charge at \$0.00.

Staff issued three data requests on the original petition, for which responses were provided on May 19, July 14, and August 2, 2021. In addition, on August 4, 2021, TECO filed a revised response to question 3a in staff's third data request. Staff held a conference call with the utility on August 31, 2021. As a result of that call, on September 15, 2021, the utility provided a supplement to its response to staff's first data request, question one. On September 30, 2021, TECO filed a response to staff's first supplemental data request.

On November 10, 2021, staff held a subsequent conference call with the utility. In response to this call, the utility filed an amended petition on November 12, 2021, modifying the utility's requested low-density per lot differential. In the amended petition, the utility removed its requested waiver of the \$370.29 per lot charge, pursuant to Rule 25-6-078(10), F.A.C., and proposed a low-density per lot differential of \$370.29, as supported by the calculations. The proposed tariffs and charges associated with the amended petition are shown in legislative format in Attachment A of the recommendation.

The Commission suspended the proposed tariffs on May 4, 2021, pursuant to Section 366.06(3), Florida Statutes (F.S.). On September 28, 2021, TECO waived the eight-month requirement of Section 366.06(3), F.S. The Commission has jurisdiction over this matter pursuant to Sections 366.03, 366.04, 366.05, and 366.06 F.S.

Discussion of Issues

Issue 1: Should the Commission approve TECO's underground residential distribution tariffs and associated charges?

Recommendation: Yes, the Commission should approve TECO's underground residential distribution tariffs and associated charges as filed in the amended petition, effective thirty days after the Commission vote. (Forrest)

Staff Analysis: Rule 25-6.078, F.A.C., (URD rule) defines electric investor-owned utilities' (IOU) responsibilities for filing updated URD tariffs. All electric IOUs are required to file supporting data and analyses for URD tariffs at least once every three years. The URD tariffs provide standard charges for underground service in new residential subdivisions and represent the additional costs, if any, the utility incurs to provide underground service in place of overhead service. The cost of standard overhead construction is recovered through base rates from all ratepayers. In lieu of overhead construction, customers have the option of requesting underground facilities. Typically, the URD customer is the developer of the subdivision.

In its amended petition, the utility resubmitted its cost calculations and supporting documentation for its low-density and high-density per lot service lateral cost differentials as filed in the original petition. The utility's calculation determined that the per lot undergrounding differential for high-density subdivisions is \$0.00 and the per lot undergrounding differential for low-density subdivisions is \$370.29. The currently approved high- and low-density cost differentials are \$0.00. While labor and material costs have fluctuated since the 2018 filing, the main reason for the increase in the calculated low-density differential is the decrease in the NPV operational cost analysis credit. A lower URD differential charge is typically the result of the avoided storm restoration costs, offsetting any higher labor and material costs associated with underground construction.

Table 1-1 presents a comparison between the currently approved and proposed URD differentials for the low-density and high-density subdivision models. The differentials are shown as a per lot charge.

Table 1-1
Comparison of URD Differential per Lot

	Current Differential	Proposed Differential
Low-density	\$0.00	\$370.29
High-density	\$0.00	\$0.00

Source: TECO's amended Petition Filed on November 12, 2021.

As shown in Table 1-1 above, the differential has increased for low-density subdivisions and has remained \$0.00 for the high-density subdivisions. Two primary factors impacted the calculation of TECO's proposed URD charges are discussed in greater detail below: (1) updated labor and material costs and (2) calculation of operational costs.

Updated Labor and Material Costs

The installation costs of both underground and overhead facilities include the labor and material costs to provide primary, secondary, and service distribution lines as well as transformers. The costs of poles are specific to overhead service while the costs of trenching and backfilling are specific to underground service. Table 1-2 compares the currently approved per lot 2018 costs and the 2021 costs for underground and overhead labor and material for the two subdivision models.

Table 1-2
Labor and Material Costs per Lot

	2018 Costs	2021 Costs	Difference
Low-density			
Underground labor/material costs	\$2,082	\$2,441	\$359
Overhead labor/material costs	\$1,289	\$1,429	\$140
Per lot differential	\$793	\$1,013	\$220
High-density			
Underground labor/material costs	\$1,597	\$1,881	\$284
Overhead labor/material costs.	\$1,001	\$1,122	\$121
Per lot differential	\$595	\$760	\$165

Source: TECO's amended petition filed on November 12, 2021.

As indicated in Table 1-2 above, the total labor and material cost differentials increased for both model subdivisions. The utility states that the reason for the increase is due to the Covid-19 pandemic's effect on the supply chain which caused reduced manufacturing capacity.²

Updated Operational Costs

Rule 25-6.078(4), F.A.C., provides that the differences in NPV of operational costs between overhead and underground systems, including average historical storm restoration costs over the life of the facilities, be included in the URD charge. Operational costs include operations and maintenance (O&M) costs and capital costs. The inclusion of the operational costs is intended to capture longer term costs and benefits of undergrounding.

In calculating the per lot cost differential between overhead and underground, Rule 25-6.078(4), F.A.C., allows the utility to calculate the NPV of operational costs to include the average historical storm restoration costs over the life of underground and overhead systems, and take into consideration any cost differential in its calculations. In recent URD filings, TECO has used a three-year rolling historical average to calculate its NPV storm restoration costs. In response to staff's data request number two, the utility explained that it used an updated computer-generated methodology to calculate storm restoration costs. This methodology relies on long-term potential

² Document No. 03161-2021, in Docket No. 20210064, *In re: Petition of Tampa Electric Company for Approval of Revised Underground Residential Distribution Tariff*.

costs based on hurricane simulations and is based on the testimony of TECO witness Steven P. Harris in TECO's recent rate case proceeding.³ The Commission approved the use of this methodology in calculating the utility's storm reserve surplus in Docket No. 20210034-EI.⁴ TECO explained that the study looks at likely outcomes over a long time period based on historical storm data. The utility states that this methodology helps to reduce the volatility in estimated, avoided storm restoration costs.

Table 1-3
NPV of Operational Costs Differential per Lot

	2018 Calculation	2021 Calculation	Difference
Low-density			
Underground NPV- Operational Costs	\$1,247	\$1,254	\$7
Overhead NPV- Operational Costs	\$2,531	\$1,897	\$(634)
Per lot Differential	\$(1,284)	\$(642)	\$642
High-density			
Underground NPV- Operational Costs	\$590	\$584	\$(6)
Overhead NPV- Operational Costs	\$1,871	\$1,408	\$(463)
Per lot Differential	\$(1,281)	\$(825)	\$456

Source: TECO's amended petition filed on November 12, 2021.

Table 1-3 shows that the NPV of operational costs for overhead service decreased in both low-density and high-density subdivision models.

Other Proposed Tariff Changes

TECO's proposed URD tariffs also include standard charges for the installation and trenching to install underground service laterals from overhead distribution, underground service laterals converted from existing overhead service drops, and non-refundable deposits for cost estimates for the conversion of existing overhead distribution facilities to underground facilities. If a customer requests an underground service lateral, the tariff includes a credit to the customer for avoiding a pole. The charges have been updated to reflect current material and labor costs.

Conclusion

Staff has reviewed TECO's proposed changes to its URD tariffs and associated charges, the accompanying work papers, and responses to staff's data requests and discussions with the utility. Staff believes TECO's proposed URD tariffs and associated charges as filed in the amended petition are reasonable and recommends approval of the tariffs shown in Attachment A. These tariffs should become effective thirty days after the Commission vote.

³ Exhibit No. SPH-1, Document No. 1, Page 13 of 19, filed on April 9, 2021 in Docket No. 20210034-EI.

⁴ Order No. PSC-2021-0423-S-EI, issued November 10, 2021, in Docket No. 20210034-EI, *In re: Petition for rate increase by Tampa Electric Company*.

Issue 2: Should this docket be closed?

Recommendation: If Issue 1 is approved and a protest is filed within 21 days of the issuance of the order, the tariffs should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order. (Stiller)

Staff Analysis: If Issue 1 is approved and a protest is filed within 21 days of the issuance of the order, the tariffs should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.



~~TENTH-ELEVENTH~~ REVISED SHEET NO. 5.510
CANCELS ~~NINTH-TENTH~~ REVISED SHEET NO. 5.510

Continued from Sheet No. 5.500

3.6.5.1 Single Meter Commercial Service

Mobile Home Parks will be supplied single-meter commercial service only where park owner or operator supplies (furnishes) electrical service as a part of his rental and/or general service charge to tenants. Resale of electric energy through park owned meters will not be permitted (See 2.2.1)

3.6.5.2 Individual Company Metered Service

Mobile Home Parks will be supplied through company installed individual meters for individual tenants and other types of service required in park under the provisions required on 3.4.3 and 3.4.4 and the subparts appertaining thereto.

3.6.6 Miscellaneous Types of Electric Service

Certain other types of electric service are available from the company. Information on such services not specifically covered in this Tariff may be obtained at the nearest company office. Such special cases will be given individual consideration.

3.7 SCHEDULE OF STANDARD CHARGES AND NON-REFUNDABLE DEPOSITS FOR COST ESTIMATES FOR UNDERGROUND ELECTRIC DISTRIBUTION SYSTEMS

3.7.1 Standard Charges

The Standard Charges listed here are Contributions In Aid of Construction (CIAC) which are referenced by other sections of these rules and regulations.

3.7.1.1 Residential Subdivision

Low Density Subdivisions per service lateral or dwelling unit...	\$9370.29-00
High Density Subdivisions per service lateral or dwelling unit...	\$0.00

3.7.1.2 New Single-phase UG Service Laterals from Overhead Distribution Systems

Fixed Charge for 2/0 service lateral	\$18,4674.36
Fixed Charge for 4/0 service lateral	\$92,54106.53

Per trench foot charge for 2/0 service lateral	\$11,6240.02
Per trench foot charge for 4/0 service lateral	\$12,189.94

Credit for service pole if otherwise required for overhead service	\$801.36592.39
--	---------------------------

ISSUED BY: ~~N. G. Tower~~ A. D. Collins,
President

DATE EFFECTIVE: ~~June 5, 2018~~



~~TENTH-ELEVENTH~~ REVISED SHEET NO. 5.510
CANCELS ~~NINTH-TENTH~~ REVISED SHEET NO. 5.510

Continued to Sheet No. 5.515

ISSUED BY: ~~N. G. Tower~~ A. D. Collins,
President

DATE EFFECTIVE: ~~June 5, 2018~~



~~SIXTEENTH~~ SEVENTEENTH REVISED SHEET NO. 5.515
CANCELS ~~FIFTEENTH~~ SIXTEENTH REVISED SHEET NO.
5.515

Continued from Sheet No. 5.510

3.7.1.3 Single-phase UG Service Laterals Converted from Existing Overhead Service Drops

Removal charge for overhead service with no service pole	\$205.08 <u>167.70</u>
Removal charge for overhead service with a service pole	\$885.91 <u>752.94</u>
Fixed Charge for 2/0 service lateral	\$18.46 <u>71.36</u>
Fixed Charge for 4/0 service lateral	\$92.54 <u>106.53</u>
Per trench foot charge for 2/0 service lateral	\$11.62 <u>10.02</u>
Per trench foot charge for 4/0 service lateral	\$12.18 <u>9.94</u>
Credit for service pole if otherwise required for overhead service	\$801.36 <u>592.39</u>

Continued to Sheet No. 5.516

ISSUED BY: ~~N. G. Tower~~A. D. Collins,
President

DATE EFFECTIVE: ~~June 5, 2018~~



~~TENTH-ELEVENTH~~ REVISED SHEET NO. 5.516
CANCELS ~~NINTH-TENTH~~ REVISED SHEET NO. 5.516

Continued from Sheet No. 5.515

3.7.2 Non-refundable Deposits for Estimates of CIAC for Conversion of Existing Overhead Distribution Facilities to Underground Facilities

Qualified applicants can request, upon payment of a non-refundable deposit as listed below, the conversion of overhead distribution facilities to underground in accordance with these Rules and Regulations for conversion areas of not less than one (1) city block in length along both sides of the main distribution system, or in the absence of city blocks, not less than five (5) contiguous building lots along both sides of the main distribution system, or in the absence of both, not the less than 600 pole-feet of the main distribution system, including all customers served along both sides of the main distribution system, and so as to result in a decrease in the number of non-lighting poles in the system.

Requests for conversions, except for individual residential service covered under Section 3.4.3.3, will be accompanied by a non-refundable amount as follows:

Density Class	Deposit Amount
Urban Commercial or Residential.....	\$ 10,3919,896 per mile*
Rural Commercial or Residential.....	\$ 5,9405,657 per mile*
High or Low Density Subdivision.....	\$ <u>4947</u> per lot

* As measured along the existing overhead primary and secondary distribution system.

ISSUED BY: ~~N. G. Tower~~ A. D. Collins,
President

DATE EFFECTIVE: ~~June 5, 2018~~