Public Service Commission

October 10, 2022

Ms. Mary Schapiro
Vice Chair – Public Policy
Bloomberg L.P.
767 Lexington Avenue
New York, NY 10065

VIA E-MAIL & USPS

RE: Reclassification of Utility Recovery Bonds Approved and Supported by Florida Public Service Commission Financing Orders

Dear Ms. Schapiro:

In June 2016, the Barclays bond index (the predecessor to the Bloomberg index) recognized the correct nature of recovery bonds issued by regulated investor-owned utilities (IOUs). The Florida Public Service Commission (FPSC) issued a financing order for Duke Energy Florida Project Finance LLC. The resulting bonds were included in the Barclays "corporate/utility" index.

It has come to our attention that an effort is underway to reclassify recovery bonds as "asset-backed securities" (ABS) or "stranded asset bonds." This is not supported by the facts and would drop the bonds from the current index and include them in the ABS index. If this reclassification is allowed to stand it will artificially restrict the market for recovery bonds and lead to higher initial costs for customers when selling new bonds. This is against the public interest. I'm writing to you to respectfully request that the status quo remain. Reclassification is not supported and should not take place.

There is no similarity between an ABS and an IOU recovery bond beyond the use of a legally separate entity to issue the bonds. Past Florida recovery bond issuances were supported by the FPSC's authority over customer rates. This FPSC "guarantee of regulatory action" is not a receivable and the bonds are not backed by a pool of receivables or other financial assets. Classifying these bonds as "stranded asset" or ABS securities like credit card receivables or auto loans is not appropriate nor accurate.

The state of Florida sees recovery bonds as an important utility financing tool. In the aftermath of the devastating hurricanes of 2004 and 2005, the Florida Legislature authorized the FPSC to provide special credit enhancement for bonds to be issued by Florida regulated IOUs if the proceeds were to be used for the recovery of expenses related to catastrophic damage as a result of storm events. By providing the FPSC with additional authority, specifically to issue an irrevocable financing order to impose, charge, collect, and adjust a special surcharge that would bind future commissions, that special FPSC approval could be used as collateral for bonds to be issued by Florida IOUs under specific circumstances. The Legislature also pledged that the State of Florida would never interfere with bondholder rights to be repaid from the utility's revenues for bonds issued under this new kind of FPSC financing order. This state pledge and the FPSC authority were in the public interest because it would allow the recovery of approved expenses over many years and therefore reduce the impact on monthly electricity bills and lower the ultimate cost to customers. In 2007, Florida Power & Light Company, through its subsidiary FPL Recovery Funding LLC, issued $652 million in senior secured bonds for the recovery of storm restoration costs.

In 2015, the Florida Legislature also found it in the public interest to use the same FPSC authority to support the sale of recovery bonds for the recovery of costs associated with the early retirement of certain Florida nuclear power plant facilities. In each case, the legislative and regulatory goal was to lower the utility's charges to electricity customers in the state who were subject to these unusual utility expenses. For the public interest to be served, the bonds need to be sold to the largest pool of investors in utility bonds in the corporate bond market to achieve the lowest rates through the competition inherent in an efficient capital market.

In October 2015, the FPSC issued a financing order to Duke Energy Florida (DEF) for the issuance of $1.294 billion in utility bonds, backed by the FPSC's authority over customer rates, for the recovery of costs related to the early retirement of the Crystal River Unit 3 Nuclear Plant. The FPSC and DEF took specific steps to eliminate the mischaracterization of recovery bonds and meet Financial Accounting Standards Board (FASB), Internal Revenue Service (IRS), Financial Industry Regulatory Authority (FINRA), and Securities & Exchange Commission (SEC) rules governing corporate utility securities. The Duke Energy Florida Project Finance LLC 2016 offering prospectus specifically states the type of security to be issued in a series of "Questions and Answers." (Please see Attachment A for the disclosure that the bonds are "corporate securities.")

All statements in the prospectus filed with the SEC are under strict security law liability that states the disclosures may not contain any material false or misleading statements. The Barclays bond index recognized the correct nature of these securities and included them in the "corporate/utility" index in 2016. The decision was widely known and discussed.[1] It has not been controversial for six years. The "corporate securities" and not ABS definition referred to is the one supported by FASB, IRS, FINRA, and SEC and understood by market participants.

Today, the Florida Storm Recovery Bond legislation remains in effect and is accessible to all Florida IOUs. The customers' interests must be protected by ensuring any future bond issuances are able to achieve the lowest cost possible.

[1] See "Asset Securitization Report" June 2016 "Duke Bonds Set Important Precedent"

We recognize that Bloomberg is an independent public company and that it can act unilaterally in this matter. However, we believe it is against the public interest to reverse the decision in 2016 and exclude recovery bonds from the "corporate/utility" index. I respectfully request that the DEF nuclear-asset recovery bonds, as well as all future IOU-issued recovery bonds, continue to be classified as "corporate/utility" bonds. I'm available at your convenience if you would like to discuss this issue further.

Very truly yours,

Andrew L. Maurey
Director, Division of Accounting and Finance

ALM: dr

Enclosure

cc: The Honorable Ashley Moody, Attorney General of Florida
J. Ben Watkins III, Director, Division of Bond Finance, State Board of Administration of Florida

Attachment A
October 10, 2022

The following is on page 34 of the prospectus on file with the U.S. Securities & Exchange Commission. The Duke Energy Florida Project Finance LLC 2016 offering prospectus specifically states the type of security to be issued in a series of "Questions and Answers".

> **"Q1: Are the Series A Bonds asset-backed securities as defined by the SEC governing regulations Item 1101 of Regulation AB?**
> A: No. The Series A Bonds are not ''asset-backed securities'' and neither DEF nor DEF Project Finance is an ''asset-backed issuer'' as defined by the SEC governing regulations Item 1101 of Regulation AB.
>
> **Q2: What type of securities are the Series A Bonds?**
> A. The Series A Bonds are corporate securities to be issued by DEF Project Finance. The Series A Bonds do not constitute a debt liability or other obligation of, or interest in, DEF or any of its affiliates (other than DEF Project Finance). The bonds will be included on the consolidated balance sheet of DEF as a debt of the consolidated entity, as required by the Financial Accounting Standards Board and the SEC Office of Chief Accountant governing corporate financial reporting for utilities. The bonds will be treated as debt of DEF for U.S. federal income tax purposes. For federal income tax purposes and consistent with financial reporting requirements, DEF will not recognize gross income unless and until DEF bills customers for the nuclear asset-recovery charges and only in connection with such billing of customers for such nuclear asset-recovery charges.
>
> **Q3: What is the collateral securing the Series A Bonds?**
> A: The principal collateral is nuclear asset-recovery property. Nuclear asset-recovery property includes the right to impose, bill, collect and receive nuclear asset-recovery charges from all existing and future customers receiving transmission or distribution service from DEF or its successors or assignees under FPSC-approved rate schedules or under special contracts to be paid on a joint and several basis. See ''DEF's Financing Order—Nuclear Asset-Recovery Charges'' on page 46 in this prospectus. Nuclear asset-recovery property is not a receivable, and the bonds are not secured by a pool of receivables.
>
> **Q4: What is the nature of the pledge provided by the state for the benefit of bondholders?**
> A: The state pledge, in conjunction with the true-up adjustment, constitute a guarantee of regulatory action for the benefit of bondholders. This performance guarantee is pursuant to the irrevocable financing order as authorized by the Financing Act."