

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition to initiate rulemaking to amend Rule 25-6.034, F.A.C., Standard of Construction, by Florida Power & Light Company.

DOCKET NO. 060147-EI

In re: Petition to initiate rulemaking to amend Rule 25-6.0345, F.A.C., Safety Standards for Construction of New Transmission and Distribution Facilities, by Florida Power & Light Company.

DOCKET NO. 060148-EI

In re: Petition to initiate rulemaking to amend Rule 25-6.115, F.A.C., Facility Charges for Providing Underground Facilities of Public Distribution Facilities Excluding New Residential Subdivisions, by Florida Power & Light Company.

DOCKET NO. 060149-EI

ORDER NO. PSC-06-0273-FOF-EI

ISSUED: April 6, 2006

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
J. TERRY DEASON
ISILIO ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW

ORDER DENYING PETITIONS TO INITIATE RULEMAKING

BY THE COMMISSION:

On February 20, 2006, Florida Power & Light Company (FPL) filed three Petitions to Initiate Rulemaking. All three petitions relate to the same general subject area, which is strengthening or "hardening" FPL's electric transmission and distribution infrastructure. Docket No. 060147-EI was opened for FPL's petition to amend Rule 25-6.034, F.A.C., Standards of Construction; Docket No. 060148-EI was opened for FPL's petition to amend Rule 25-6.0345, F.A.C., Safety Standards of Construction for New Transmission and Distribution Facilities; and Docket No. 060149-EI was opened for FPL's petition to amend Rule 25-6.115, F.A.C., Facility Charges for Providing Underground Facilities of Public Distribution Facilities Excluding New Residential Subdivisions.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

In Docket No. 060147-EI, FPL proposes that we initiate rulemaking to amend Rule 25-6.034, F.A.C., to add text, as follows:

25-6.034 Standard of Construction.

(1) The facilities of the utility shall be constructed, installed, maintained and operated in accordance with generally accepted engineering practices to assure, as far as is reasonably possible, continuity of service and uniformity in the quality of service furnished. In support of the public interest in strengthening electrical facilities to enhance their ability to withstand extreme weather events, a utility may exceed the minimum requirements of generally accepted engineering practices.

(2) The Commission has reviewed the American National Standard Code for Electricity Metering, 6th edition, ANSI C-12, 1975, and the American National Standard Requirements, Terminology and Test Code for Instrument Transformers, ANSI-57.13, and has found them to contain reasonable standards of good practice. A utility that is in compliance with the applicable provisions of these publications, and any variations approved by the Commission, shall be deemed by the Commission to have facilities constructed and installed in accordance with generally accepted engineering practices.

In Docket No. 060148-EI, FPL proposes that we initiate rulemaking to amend Rule 25-6.0345, F.A.C., to add text, as follows:

25-6.0345 Safety Standards for Construction of New Transmission and Distribution Facilities.

(1) In compliance with Section 366.04(6)(b), F.S., 1991, the Commission adopts and incorporates by reference the 2002 edition of the National Electrical Safety Code (ANSI C-2), published August 1, 2001, as the applicable safety standards for transmission and distribution facilities subject to the Commission's safety jurisdiction. Each public electric utility, rural electric cooperative, and municipal electric system shall comply with the standards in these provisions. Standards contained in the 2002 edition shall be applicable to new construction for which a work order number is assigned on or after the effective date of this rule. In support of the public interest in strengthening electrical facilities to enhance their ability to withstand extreme weather events, a utility may exceed the minimum requirements of the applicable safety standards for distribution facilities up to and including adopting the National Electrical Safety Code (NESC) extreme wind standards for (i) new construction, (ii) major expansion, maintenance/rebuild and relocation projects, and (iii) targeted top critical infrastructure facilities and major thoroughfares, as determined by NESC extreme wind velocity zones, taking into account political and geographic boundaries and other operational considerations.

In Docket No. 060148-EI, FPL proposes that we initiate rulemaking to amend Rule 25-6.115, F.A.C., to add a new subsection (10), as follows:

25-6.115 Facility Charges For Providing Underground Facilities of Public Distribution Facilities Excluding New Residential Subdivisions.

(10) In those instances where the applicant is a local government, subject to the utility's tariff and upon mutual agreement between the applicant and the utility, the charge payable by the applicant as determined in paragraph (7) above may be reduced by up to 25%. The amount of such reduction in the applicant's charge shall be added to the utility's net plant in service. For purposes of any such application all existing overhead facilities within the area designated for conversion must be included by local government in the requested conversion project. The reduction shall not be available with respect to any road construction or improvement projects for which state or federal funds are available.

The three rules FPL proposes we amend all relate to electric infrastructure. In the first two petitions, FPL is asking us to amend our rules to allow for "hardening", that is, building facilities to more stringent standards than required by the current National Electric Safety Code. In the third docket, FPL is asking us to amend one rule in a way that FPL believes will facilitate the conversion of overhead facilities to underground facilities by reducing the cost paid by the customer requesting the conversion.

At our February 27, 2006, Internal Affairs meeting, our staff presented a series of proposed actions we might take to enhance the reliability of Florida's transmission and distribution grids during extreme weather events. One of the proposed actions, which we approved, was to initiate rulemaking to address strengthening of overhead infrastructure and issues surrounding the conversion of overhead infrastructure to underground facilities. Accordingly, on March 1, 2006, at our direction, our staff opened Dockets Nos. 060172-EU, Proposed rules governing placement of new electric distribution facilities underground and conversion of existing overhead distribution facilities to underground facilities, to address effects of extreme weather events, and 060173-EU, Proposed amendments to rules regarding overhead electric facilities to allow more stringent construction standards than required by National Electric Safety Code. Notices of Proposed Rule Development were issued on March 21, 2006, and were published in the Florida Administrative Weekly on March 31, 2006. A Rule Development Workshop is scheduled for April 17, 2006.

We intend for these rulemaking proceedings to be comprehensive, and include all electric utilities in the state, including investor-owned, municipal, and cooperative utilities. By its terms, rules contained in Chapter 25-6, F.A.C., only apply to "public utilities", which are defined in Florida Statutes as investor-owned electric utilities, unless specifically stated otherwise. The staff-initiated dockets address electrical infrastructure strengthening for all electric utilities; the dockets opened to address FPL's Petitions do not.

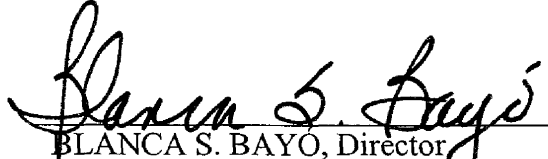
Because our staff has opened dockets to address the issue of strengthening Florida's electric infrastructure in a comprehensive manner, which will include the specific rules that FPL proposes be amended, we hereby deny FPL's Petitions to Initiate Rulemaking. FPL will have an opportunity to address its requested rule amendments during the course of the staff-initiated rulemaking dockets.

Based upon the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Power & Light Company's Petitions to Initiate Rulemaking in Dockets Nos. 060147-EI, 060148-EI and 060149-EI are denied. It is further

ORDERED that these dockets shall be closed.

By ORDER of the Florida Public Service Commission this 6th day of April, 2006.


BLANCA S. BAYO, Director
Division of the Commission Clerk
and Administrative Services

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.