

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of 2007 revisions to underground residential and commercial distribution tariff, by Florida Power & Light Company.

DOCKET NO. 070231-EI
ORDER NO. PSC-08-0371-PCO-EI
ISSUED: June 3, 2008

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman
LISA POLAK EDGAR
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

ORDER SUSPENDING PROPOSED TARIFFS

BY THE COMMISSION:

I. Background

Rule 25-6.078, Florida Administrative Code (F.A.C.), defines investor-owned utilities' (IOU) responsibilities for filing updated underground residential distribution (URD) tariffs. This rule requires IOUs to file updated URD charges for our approval at least every three years, or sooner if a utility's underground cost differential for the standard low-density subdivision varies from the last approved charge by 10 percent or more. The rule requires IOUs to file on or before October 15 of each year a schedule showing the increase or decrease in the differential for the standard low-density subdivision.

On October 13, 2006, Florida Power & Light Company (FPL) notified us, pursuant to Rule 25-6.078, F.A.C., that its underground cost differential for the standard low-density subdivision varied from the last approved differential by 31.01 percent. FPL's then current URD charges had been approved in 2005.

To comply with the 10 percent filing requirement of Rule 25-6.078, F.A.C., FPL filed a petition for approval of 2007 revisions to FPL's URD and underground commercial/industrial distribution (UCD) tariffs and their associated charges on April 2, 2007. We suspended the tariff in Order No. PSC-07-0484-PCO-EI, issued June 8, 2007. On June 15 and July 30, 2007, FPL filed responses to the staff's data requests that contained clarifications and additional documentation. On October 16, 2007, we issued Order No. PSC-07-0835-TRF-EI, approving revisions to FPL's URD and UCD tariffs and their associated charges.

On November 6, 2007, the Municipal Utilities Underground Consortium (MUUC) and the City of Coconut Creek, FL (Coconut Creek) filed a petition protesting Order No. PSC-07-0835-TRF-EI and requesting a formal hearing. Pursuant to Order No. PSC-07-0835-TRF-EI,

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FPL's URD and underground commercial/ industrial distribution tariffs have remained in effect with any charges held subject to refund pending resolution of the protest.

The protest maintained that the tariffs should reflect changes in Rule 25-6.078, F.A.C., which require CIAC calculations to address operating and maintenance costs and storm restoration costs. The rule change was effective February 1, 2008; however, FPL argued that since it had filed its intent to revise the tariffs in October 2007, it was not required to adhere to the new rule language in this filing. On November 20, 2007, FPL filed a Motion to Dismiss MUUC's and Coconut Creek's Petition protesting Order No. PSC-07-0835-TRF-EI and requesting a Formal Hearing. On November 27, 2007, MUUC and Coconut Creek filed their Response to FPL's Motion.

On January 30, 2008, the City of South Daytona, FL (South Daytona) filed a Petition to Intervene in the docket. On February 7, 2008, FPL filed a Response in Opposition to the Petition to Intervene by the City of South Daytona. On February 11, 2008, FPL filed an Agreed Motion for Continuance of Protest and Request for a Formal Proceeding by MUUC and Coconut Creek in which FPL agreed to file revised URD and underground commercial/industrial distribution tariffs and their associated charges by April 1, 2008, if MUUC and Coconut Creek agreed to a continuance of their protests. FPL was not able to contact South Daytona by the time the Agreed Motion was filed. On April 1, 2008, FPL filed the revised URD and UCD tariffs.

We have jurisdiction over this matter pursuant to Sections 366.03, 366.04, 366.05, and 366.06, Florida Statutes.

II. Suspension of FPL's 2008 Petition for Approval of Revisions to Its Underground Residential Distribution (URD) and Underground Commercial Distribution (UCD) Tariffs

On April 1, 2008, FPL filed another petition for our approval of revisions to its URD and UCD tariffs and their associated charges. Pursuant to Section 366.06(3), Florida Statutes, we may withhold consent to the operation of all or any portion of a new rate schedule, delivering to the utility requesting such increase a reason or written statement of good cause for doing so within 60 days. We find that there is good cause to suspend the proposed tariffs in this second petition to allow our staff sufficient time to review the petition and gather all pertinent information in order to present an informed recommendation on the tariff proposal. Because this is the first URD filing incorporating the new rule requirements, it may be viewed as a template or precedent for other utilities. Therefore, FPL's petition for approval of revisions to its URD and UCD tariffs is suspended.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Power & Light Company's petition for approval of revisions to its URD and UCD tariffs and their associated charges shall be suspended. It is further

ORDERED that this docket shall remain open pending our vote on the proposed tariff revisions.

By ORDER of the Florida Public Service Commission this 3rd day of June, 2008.



ANN COLE
Commission Clerk

(S E A L)

RRJ

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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, 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 or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.