

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Exemption ) DOCKET NO. 961082-EI  
from Requirement to Provide ) ORDER NO. PSC-96-1356-FOF-EI  
Self-Contained Meter Enclosures ) ISSUED: November 18, 1996  
to Customers Free of Charge and )  
for Approval of Tariff Revision )  
Reflecting Exemption By Florida )  
Power Corporation )  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman  
J. TERRY DEASON  
JOE GARCIA  
JULIA L. JOHNSON  
DIANE K. KIESLING

ORDER APPROVING TARIFF REVISION  
AND  
NOTICE OF PROPOSED AGENCY ACTION  
ORDER MODIFYING ORDER NO. 6674

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the modification of Order No. 6674 discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

In Docket No. 73632-EI, by Order No. 6674, dated May 20, 1975, the Commission directed each regulated electric utility, except Reedy Creek Utilities Company, Inc., to develop uniform methods for determining the costs associated with providing an underground system and to provide the meter socket and base (self-contained meter enclosures) at no cost to contractors of residential properties. See Attachment 1.

Since the issuance of Order No. 6674, Florida Power & Light Company (Order No. 18893, issued February 22, 1988, in Docket No. 870225-EI), Tampa Electric Company (Order No. PSC-95-0132-FOF-EI, issued January 26, 1995, in Docket No. 941250-EI), and Gulf Power Company (Order No. PSC-96-0022-FOF-EI, issued January 8, 1996, in Docket No. 951314-EI) have requested and received exemptions from

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the requirement to provide self-contained meter enclosures at no cost, which is set forth in paragraph 5 of Order No. 6674.

In Order No. PSC-96-0022-FOF-EI, exempting Gulf Power Company from the above mentioned requirement, we recognized that at some point, we might find it appropriate to modify Order No. 6674 to delete the requirement for the utilities to provide meter sockets and/or self-contained meter enclosures at no cost to contractors of residential customers. However, at the time of Gulf Power Company's petition for exemption, Florida Power Corporation did not indicate a change in its position that it preferred to continue to provide such meter sockets and enclosures to residential customers at no charge.

On September 10, 1996, Florida Power Corporation (Florida Power or FPC) filed for relief from our directive in Paragraph 5 of Order No. 6674.

#### Tariff Modification

Self-contained meter enclosures are metallic casings and slots which house the customer's electric meter and are installed when the customer builds its facility. The meter enclosures are not a part of the utility function. Since the benefit of the enclosure is only received by the individual customer, it is appropriate that the costs should be borne by the customer when the structure is initially wired for electric service or when it must be replaced due to obsolescence or wear, and not by the general body of ratepayers.

Florida Power believes that the availability of quality self-contained meter enclosures from electrical suppliers will be sufficient to satisfy market requirements. In an effort to ensure an orderly transition, Florida Power is currently working with major suppliers throughout its service area.

The current amount included in rate base will continue to be written off on the appropriate schedule. Our approval of this petition will eliminate any future accruals to that amount. Florida Power stated in its petition that the cost of self-contained meter enclosures provided in 1995 was \$862,292. The elimination of this estimated annual expense is not expected to have any impact on rates.

With respect to maintenance of existing meter enclosures, Tariff Sheet No. 4.05 specifically addresses both the customer's and Florida Power's responsibility to maintain the meter enclosure. Pursuant to Section 5.01 of the tariff sheet, Florida Power will

temporarily restore power if a service outage is related to the meter enclosure. FPC shall then advise the customer of his or her responsibility to repair or replace the enclosure.

FPC has requested that the tariff become effective January 1, 1997. The tariff shall, therefore, become effective on that date. If the tariff is protested within 21 days from the issuance date of the order, the tariff shall remain in effect with any increase in revenues held subject to refund, pending resolution of the protest.

Modification of Order No. 6674

We have already granted three of the five subject utilities exemptions from the requirement set forth in Paragraph 5 of Order No. 6674. Florida Power Corporation now requests that it also be granted an exemption. We note that Florida Public Utilities Company has also indicated that it agrees that customers should provide and maintain their own meter enclosures. Recognizing that upon issuance of this Order, we will have exempted four utilities from the requirement to provide meter enclosures, and the fifth subject utility has indicated it may also seek exemption, we shall, therefore, eliminate the requirement, rather than continue to issue piece-meal exemptions.

Under the principle of "administrative finality," orders of administrative agencies, like those of the courts, must eventually become final and no longer subject to modification. The courts have, however, acknowledged that agencies can modify orders still under their control, though that authority is somewhat limited. See Peoples Gas System v. Mason, 187 So. 2d 335 (Fla. 1966). The courts have further noted that agencies decide issues relating to a public interest which changes over time as circumstances change. Thus, the analogy between courts and agencies should not be drawn so tightly as to preclude agencies from revisiting subject matter dealt with in a prior order. Reedy Creek Utilities Co. v. Florida Public Service Commission, 418 So. 2d 249 (Fla. 1982), citing Peoples Gas System v. Mason, 187 So. 2d at 339.

The exemptions granted by Order No. 18893, issued February 22, 1988, in Docket No. 870225-EI, Order No. PSC-95-0132-FOF-EI, issued January 26, 1995, in Docket No. 941250-EI, and Order No. PSC-96-0022-FOF-EI, issued January 8, 1996, in Docket No. 951314-EI, indicate a shift in Commission policy. In light of this apparent change in policy, we find it appropriate to revisit the decision in Order No. 6674 and to delete the requirement set forth in Paragraph 5 of that Order.

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With the exception of Paragraph 5, Order No. 6674 shall remain the same.

The modification shall become effective on the date this Order becomes final, provided no protest is filed within 21 days of the issuance of this Order. The modification to Order No. 6674 shall be effective prospectively.

Based on the foregoing, it is therefore

ORDERED by the Florida Public Service Commission that the proposed revision to Florida Power Corporation's tariff to require customers to provide and maintain their own meter enclosures is, hereby, approved, and becomes effective January 1, 1997. If a timely protest of the tariff is filed, the tariff shall remain in effect with any increase in revenues held subject to refund pending resolution of the protest. It is further

ORDERED that numbered Paragraph 5 in Commission Order No. 6674, and the requirement therein, is, hereby, deleted. It is further

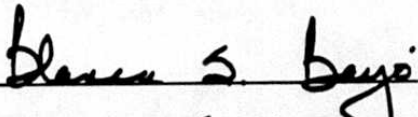
ORDERED that the modification to Commission Order No. 6674 shall become effective, prospectively, on the date this Order becomes final.

ORDERED that the provisions of this Order which modify Order No. 6674, are issued as proposed agency action, and shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

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By ORDER of the Florida Public Service Commission, this 18th  
day of November, 1996.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

As identified in the body of this order, our action modifying Commission Order No. 6674 is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 9, 1996. In the absence of such a petition, this order shall become effective on the date subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

The Commission's decision on the tariff revision is interim in nature and will become final, unless a person whose substantial interests are affected by the action proposed files a petition for a formal proceeding, as provided by Rule 25-22.036(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a)(d) and (e), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 9, 1996.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If the relevant portion of this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and

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the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date 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.