

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 010908-EI

July 30, 2002

Petitioners' Response to FPL's Motion to Dismiss Complainants Petition for a Hearing on Order No. Order No. PSC-02-0788-PAA-EI

Complaint against Florida Power & Light Company)
regarding placement of power poles and transmission)
lines by Amy and Jose Gutman, Teresa Badillo)
and Jeff Lessera)

Petitioners' Response to FPL's Motion to Dismiss Complainants Petition for a Hearing on Order No. Order No. PSC-02-0788-PAA-EI

Petitioners pursuant to 120.57 (1) Florida Statutes (FS) and rule 28-106.204 Florida Administrative Code (FAC), hereby submit this Response to FPL's Motion to Dismiss Complainants Petition for a Hearing on Order No. Order No. PSC-02-0788-PAA-EI.

For reasons discussed below, the Petition complies with the requirements under Florida Law, was timely filed by all pro se Petitioners listed therein and this Commission has jurisdiction to hear and respond to the issues brought forth in the Petition. Consequently, FPL's Motion to Dismiss Complainants' Petition should be denied.

Petitioners maintain that we have issues of fact and want to be heard.

In the alternative, if there are any informalities that would require further amendment, the Petitioners request the opportunity for leave to amend accordingly. In any case, the Petitioners should be allowed to plead and present their case in a formal hearing before an Administrative Judge.

1. Petitioners have timely filed a complaint with the Public Service Commission with respect to the Parkland Transmission Line Siting on June 2001. According to the Public Service Commission Rules, 25-22.032 FAC, the PSC is encouraged to work with the customer and the utility company to negotiate a fair and equitable solution to the complaint. Also, this rule encourages a timely response from the PSC. As stated by the Petitioners in the Petition, the PSC personnel that were originally working with this case were willing to negotiate a solution that would be agreeable to both FPL and the Petitioners.

2. Petitioners have a legal right to respond to both points II and III of the Order No. PSC-02-0788-PAA-EI. Petitioners are timely since the order was mailed to

AUS _____
CAF _____
CMP _____
COM _____
CTR _____
ECR _____
GCL _____
OPC _____
MMS _____
SEC _____
OTH _____

petitioners and by Rule 28-106.103 Computation of Time, FAC, five additional days are added to the response date. The Commission stated that the reply for Part III should be made within 15 days of the date of the order, which was June 10, 2002. Adding the additional 5 days required by Rule 28-106.103, Petitioners had until July 1, 2002 to respond. The Petition was received by Ms. Blanca S. Bayo, Division of the Commission Clerk and Administrative Services on June 28, 2002 and recorded on July 1, 2002.

3. The Public Service Commission has already established precedence for working with customers for relocating power poles unfairly placed by FPL. In the PSC case, Complaint against Florida Power & Light Company regarding placement of power pole and lines by Pablo Acosta, DOCKET NO. 000678-EI, the PSC left the docket open until an equitable solution was reached for both parties.

Our case and this Acosta case are very similar. We site very similar issues regarding the placement of the Parkland Transmission Line as Mr. Acosta, et. al., site in their case. FPL's response is the same in both cases. Neither informal meeting met with any success.

The following information found in ORDER NO. PSC-00-1219-PAA-EI sets a legal precedence for the PSC to work with us. It is unfair for the Commission to simply dismiss our complaints when this Acosta case is very similar to our case:

Under Section 366.04(2)(f), Florida Statutes, this Commission has authority to require the filing of data that may be reasonably available and necessary to exercise its jurisdiction. Although FPL is in compliance with the NESC and other legal requirements, we believe there may be other prudent alternatives to the current pole placement available to the company. Customer satisfaction is at issue in this situation, and FPL may want to consider this as a factor. FPL has made mention of two available options, which include underground distribution and modification of existing lines. We request FPL to submit information on the proposed options, along with any other reasonable alternatives to the current pole placement along Southwest 27th Terrace and the associated costs.

ORDERED that the provisions of this Order, except for Commission's request for Florida Power & Light Company to submit alternatives and costs to the current power pole placement on Southwest 27th Terrace are issued as proposed agency action...

ORDERED that this docket should remain open until the Commission has reviewed the alternatives and the costs submitted by Florida Power & Light Company.

At the informal meeting with the PSC, FPL, Mr. Butler and the Petitioners on August 2001, the PSC requested FPL to consider other alternatives and report their findings back to the PSC. This request was simply ignored and forgotten. This request is similar to the one made in the Acosta case.

4. FPL has continued to site high voltage transmission lines close to other neighborhoods within Boca Raton. FPL shows a total disregard toward their current customers when siting transmission lines. Corporations are currently

undergoing great scrutiny in accountability toward customers and stockholders. FPL should also be made accountable to the public for the way they site transmission lines. FPL should consider customer satisfaction.

Petitioners contend that FPL has dealt unfairly with us and are trying to hold us up as an example to the general public. FPL wants to use us as an example and show other communities that FPL always wins. The Public Service Commission is responsible for price protection and fairness and welfare to consumers and is a regulatory body for public utilities.

5. It was found in the DOAH case 01-1504 against FPL for placement of the Parkland Transmission Line that notice provided to the public by both FPL and the South Florida Water Management District was defective. Thus, robbing the Petitioners their due process for objecting to this site before construction. South Florida Water Management District personnel and Governing Board members told petitioners, that had we voiced our objection before construction, the site would not have been approved.

6. There is strong concern that this FPL project has avoided normal scrutiny by the public and other Florida agencies due to FPL's project being sited on South Florida Water Management District Right of Way. Petitioners have stated several times and in many different ways, that we are concerned about the safety of this project. FPL's refusal to give us a statement of safety only fuels our anxiety over this issue. The PSC's lack of formal investigation over compliance with the National Electric Safety Code also contributes to our concern. (PSC personnel drove by the site several times or visually viewed the project but did no real investigation.)

Mr. Butler's comments about Complainants not making a valid request for a hearing with respect to the NESC and Complainants' "rehashing litany" is at least nasty and very misrepresenting of the facts. The Petition very clearly brings in new evidence that was not available until May 6, 2002, with the introduction of the letter written by Florette Braun stating that FPL will "replace poles at permitted locations 12, 13, 14, and 37 (structures 211T12, 212T1, 212T2 and 214T1) to ensure compliance with FPL's internal standards.

7. It is a known fact that when transmission lines are placed closely to homes, property values are diminished. FPL's proposal to provide landscaping along the North side of the Hillsboro Canal would not mitigate the transmission line view from the second stories of the homes, nor would it mitigate the view when driving into our neighborhoods. Also, it would not help with Jeff Lessera's view. Landscaping would not mitigate the view from prespective homebuyers.

Landscaping would do nothing to mitigate the health effects from EMFs and would not help Jeff Lessera's problem of being a human electrical conductor able to light a bulb simply by holding it in the air while standing on his driveway.

8. For these reasons and in accordance with the precedence set with Docket No. 000678-EL, the Petitioners are requesting that the PSC submit our Petition for a formal hearing.

WHEREFORE, the Petitioners move the Commission to Deny FPL's Motion to Dismiss the Complainants' Petition and grant the Petitioners a hearing before an Administrative Judge. Petitioners maintain that we have issues of fact and want to be heard.

Petitioners will agree to another form of mediation if a positive result can be obtained.

Respectfully submitted this 30th day of July 2002.

By: Donna Tennant

Donna Tennant for all Petitioners
12590 Little Palm Lane
Boca Raton, FL 33428

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Petition has been furnished by mail to Mr. John W. Butler, P.A., this 30th day of July 2002 and sent by overnight courier to Ms. Blanca S. Bayo, Division of the Commission Clerk and Administrative Services.

By: Donna Tennant

Donna Tennant
12590 Little Palm Lane
Boca Raton, FL 33428