



ORIGINAL

R. Wade Litchfield
Senior Attorney
Florida Authorized House Counsel
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420
(561) 691-7135 (Facsimile)

Writer's Direct Dial:
(561) 691-7101

June 24, 2003

030571-E1

VIA HAND DELIVERY

Ms. Blanca S. Bayó, Director
Division of the Commission Clerk and
Administrative Services
Florida Public Service Commission
Betty Easley Conference Center, Room 110
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

JUN 24 PM 1:59
COMMISSION
CLERK

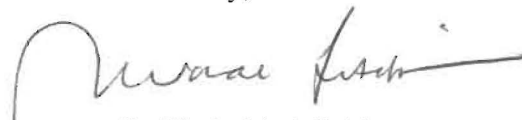
**Re: Florida Power & Light Company's Petition for Approval of a
Mechanism for Governmental Recovery of Underground Fees**

Dear Ms. Bayó:

Enclosed herewith for filing are the original and fifteen (15) copies of Florida Power & Light Company's Petition for Approval of a Mechanism for Governmental Recovery of Undergrounding Fees.

Please acknowledge receipt of this filing by stamping the extra copy of this letter "filed" and returning same to me. Also included herewith is a computer diskette containing FPL's Petition in WordPerfect. Should you have any questions regarding this filing, please contact me at (561) 691-7101.

Sincerely,


R. Wade Litchfield

RWL/ec
Enclosures

RECEIVED & FILED

COMMISSION CLERK

DOCUMENT NUMBER DATE
05628 JUN 24 2003
FPSC-COMMISSION CLERK

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Florida Power & Light Company's)
Request for Approval of a Mechanism)
For Governmental Recovery of)
Undergrounding Fees)

Docket No. _____

Date Filed: June 24, 2003

**FLORIDA POWER & LIGHT COMPANY'S
PETITION FOR APPROVAL OF A MECHANISM FOR
GOVERNMENTAL RECOVERY OF UNDERGROUNDING FEES**

NOW BEFORE THIS COMMISSION, through undersigned Counsel, comes Florida Power & Light Company ("FPL" or the "Company") and hereby requests approval of a Mechanism For Governmental Recovery of Undergrounding Fees ("MGRUF"). In support of this Petition, FPL states as follows:

1. FPL is a public utility subject to the jurisdiction of the Florida Public Service Commission ("Commission") under Chapter 366, Florida Statutes. FPL's General Offices are located at 9250 West Flagler Street, Miami, FL 33174.

2. Any pleading, motion, notice, order or other document required to be served upon the petitioner or filed by any party to this proceeding should be served upon the following individuals:

William G. Walker, III
Vice President
Florida Power & Light Company
215 South Monroe Street
Suite 810
Tallahassee, FL 32301-1859
(850) 521-3910
(850) 521-3939 (telecopier)

R. Wade Litchfield
Senior Attorney
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408-0420
(561) 691-7101
(561) 691-7135 (telecopier)

DOCUMENT NUMBER 05628 JUN 24 2003
FPSC-COMMISSION CLERK

3. FPL is seeking Commission approval of a mechanism for local government to recover certain costs incurred in connection with the conversion of overhead to underground electric service within their corporal boundaries. The proposed addition to FPL's tariff is identified as Section 14.0 – Mechanism for Governmental Recovery of Undergrounding Fees, sometimes referred to hereinafter as the "MGRUF," and will be included in FPL's tariff as Original Sheets No. 6.600, 6.601, and 6.602, included herewith as Composite Exhibit A. The Commission recently approved a mechanism similar in purpose for Florida Power Corporation. See Order No. PSC-02-1629-TRF-EI, approving a Local Governmental Underground Cost Recovery Tariff.

4. A qualifying local government is a municipality or county under Florida law with tax assessment and collection or other comparable authority that would permit such government to avail itself of the MGRUF and enter into an Underground Capital Cost Recovery Contract. The form of the Underground Capital Cost Recovery Contract must be satisfactory to the Company and have been approved by the FPSC or its staff. The agreement will include the terms identified on Original Sheet No. 6.602.

5. The MGRUF's cost recovery procedure consists of the following components: an Underground Assessment Area ("UAA"), a Government Undergrounding Fee, a Target Annual Payment to local government, and an Actual Annual Payment to local government.

6. The UAA will be established by the local government based on its determination that the electric customers located within such boundaries benefit sufficiently from the proposed underground conversion project to warrant recovery of the costs of the project from such customers through payment of a Governmental Undergrounding Fee.

7. The Governmental Undergrounding Fee is the amount billed to customers located in the UAA, will be calculated as the amount projected to produce the Target Annual Payment. The Governmental Underground Fee will be a uniform percentage of total electric revenues applied to customers in a UAA. However, in no event shall the Governmental Undergrounding Fee assessed on a customer exceed the lesser of i) 15% of the customer's total net electric charges exclusive of any Governmental Undergrounding Fees or ii) a maximum monthly amount of \$30 for each residential customer and \$50 for every 5,000 kWh of consumption for each non-residential customer.

8. The Target Annual Payment will be computed as the annual amount necessary to recover the requisite Facility Charge, Governmental Cost, and Billing Charge, as those terms are defined in Original Sheet No. 6.600, over the relevant recovery period (not to exceed twenty years), at the applicable rate of interest the local government uses to finance such costs.

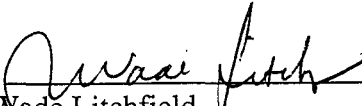
9. The Actual Annual Payment is the amount actually collected each year through the Undergrounding Fee and is the only amount remitted each year by the Company to the local government. The Actual Annual Payment is submitted within sixty calendar days following the conclusion of each calendar year. Amounts collected through the Governmental Fee will not be considered revenues or receipts of the Company for any purpose, including the establishment of electric rates or the determination of revenue sharing or other amounts under any revenue sharing or other incentive plan approved by the Commission, and are not subject to the gross receipts tax, state or local sales or use taxes, or the municipal utility tax. To the extent any taxes are assessed upon the Company's collection of the Governmental Undergrounding Fee, the Actual Annual Payment will be reduced by the amount of the taxes assessed and paid by the Company.

10. The MGRUF is not intended to impose any additional cost or risk on FPL's general body of customers. Thus, for example, the MGRUF is not intended to alter the amount of conversion costs paid by or due from the local government to the Company in connection with converting distribution facilities from overhead to underground. Neither is the MGRUF intended to put the Company in the position of acting as a collection agent for local government. Further, local government will be responsible to provide notice to customers affected by the proposed underground conversion project and the associated Governmental Undergrounding Fee, and to ensure the conversion of any existing overhead service entrances to underground service within the UAA. Also, the Company shall be responsible to remit only the Actual Annual Payment, i.e., the amounts actually collected through the Governmental Undergrounding Fee. All payments made to the Company by a customer shall first be applied to satisfy the customer's payment obligations to the Company and only the excess, if any, of such payments shall be applied to the Governmental Undergrounding Fee and remitted to the local government. Provisions such as these in the MGRUF and the Underground Capital Cost Recovery Contract are necessary to ensure that neither the Company nor its general body of customers assume incremental cost or risk in connection with the implementation of this offering.

WHEREFORE, for the above and foregoing reasons, Florida Power & Light Company

respectfully requests that the Commission grant this Petition for Approval of a Mechanism For
Governmental Recovery of Undergrounding Fees.

Respectfully submitted,

By: 
R. Wade Litchfield
Florida Authorized House Counsel
Attorney for
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408-0420
(561) 691-7101
(561) 691-7135 telecopier

**COMPOSITE
EXHIBIT A**

SECTION 14.0

MECHANISM FOR GOVERNMENTAL RECOVERY OF UNDERGROUNDING FEES (MGRUF)

SERVICE

Under this tariff, the Company provides qualifying local governments with an optional mechanism for recovering certain costs paid by or due from the local government to the Company in connection with converting distribution facilities from overhead to underground service. The MGRUF tariff is offered to local governments as that term is defined below.

LOCAL GOVERNMENT

A "local government" shall be defined as a municipality or county under Florida law possessing tax assessment and collection or other comparable authority sufficient to permit such local governmental to apply for application of this tariff and enter into an Underground Capital Cost Recovery Contract, as defined herein below.

UNDERGROUND ASSESSMENT AREA (UAA)

The local government shall establish the geographic boundaries of an Underground Assessment Area based on a determination, in its discretion and consistent with applicable law, that the electric customers located within these boundaries benefit sufficiently from the underground conversion project in question to warrant the payment of a Governmental Undergrounding Fee to recover the costs of the conversion project. The Underground Assessment Area so established may consist of all or any contiguous portion of the area within the local government's corporate limits, and may overlap all or portions of other Underground Assessment Areas previously established by the local government.

TARGET ANNUAL PAYMENT TO LOCAL GOVERNMENT (TARGET ANNUAL PAYMENT)

Based on the Target Annual Payment calculation, the Company will assess an amount to be recovered through a Governmental Undergrounding Fee, which shall be added to the electric bills of the Company's customers located within a UAA. The Target Annual Payment shall be calculated in accordance with the following formula:

$$\text{Target Annual Payment} = \frac{[(FC + GC + B) \times i]}{1 - (1/(1+i)^n)}$$

Where:

- FC = Facility Charge, all amounts payable to the Company in connection with converting distribution facilities from overhead to underground, as specified in the Installation of Underground Electric Distribution Facilities For the Conversion of Overhead Electric Distribution Facilities sections of the Company's rules and regulations, which the local government intends to collect through a user fee on electric customers in the UAA.
- GC = Governmental Cost, which, at the local government's option, consists of the following costs incurred by the local government:
 1. Ancillary costs related to the undergrounding project, such as right-of-way acquisition, preparation and restoration costs, and financing costs.
 2. The total cost charged by electrical contractor(s) selected and hired by the local government to convert customer facilities (such as service entrances and meter bases) to receive underground service.
- B = Billing Charge, equal to \$50,000 or 10% of the Facility Charge, whichever is less.
- n = The number of years over which the Facility Charge, the Governmental Cost, and the Billing Charge are to be recovered by the local government, which shall not exceed a maximum of twenty (20) years.
- i = The interest rate on the bonds or other financial instruments utilized by the local government to finance the Facility Charge, the Governmental Cost, and the Billing Charge adjusted for financing costs.

(Continued on Sheet No. 6.601)

(Continued from Sheet No. 6.600)

ACTUAL ANNUAL PAYMENT TO LOCAL GOVERNMENT (ACTUAL ANNUAL PAYMENT)

Only those amounts actually collected through the Governmental Undergrounding Fee shall be remitted by the Company to the local government. This amount shall be known as the Actual Annual Payment. The Actual Annual Payment shall be remitted by the Company to the eligible local government within sixty (60) calendar days following the conclusion of each calendar year. Amounts collected through the Governmental Undergrounding Fee are not revenues or receipts of the Company for any purpose, including the establishment of electric rates or the determination of revenue sharing or other amounts under any revenue sharing or other incentive plan approved by the Commission, and are not subject to the franchise fee or other separately stated fees, the gross receipts tax, state or local sales or use taxes, or the municipal utility tax. However, if any such taxes are assessed upon the Company's collection of the Governmental Undergrounding Fee, the Actual Annual Payment shall be reduced by the amount of the taxes assessed and paid by the Company.

GOVERNMENTAL UNDERGROUNDING FEE

- (a) The Company will bill a monthly Governmental Undergrounding Fee to electric customers located in the UAA established by the local government. The Governmental Undergrounding Fee is intended as a recovery mechanism for the local government imposing a user fee on electric customers in the UAA. The Governmental Undergrounding Fee shall be assessed as a percent of total electric revenues and applied to all electric customers located within the UAA, subject to the terms and conditions of the applicable Underground Capital Cost Recovery Contract. The Governmental Underground Fee should be calculated to produce the Target Annual Payment. In no event shall the Governmental Undergrounding Fee assessed on a customer exceed the lesser of i) 15% of the customer's total net electric charges, where total net electric charges are defined as total electric charges exclusive of any Governmental Undergrounding Fees or ii) a maximum monthly amount of \$30 for each residential customer and \$50 for every 5,000 kWh of consumption for each non-residential customer.
- (b) The initial Governmental Undergrounding Fee shall be calculated for the remainder of the calendar year in which the fee becomes effective and shall be recalculated for each succeeding calendar year or portion of a calendar year during its effectiveness. The calculation or recalculation shall be based on the Company's most current projections for the upcoming period, and each recalculation shall include a true-up adjustment based on the difference between projected and actual recovery for the prior calendar year. Each true-up recalculation shall include, but not be limited to, any uncollected Governmental Undergrounding Fee resulting from any applicable limits on the amount of the Governmental Undergrounding Fee which can be assessed on the electric bill or from customer non-payment of the Government Undergrounding Fee.

REIMBURSEMENTS DUE THE COMPANY

Nothing herein shall alter the conversion costs paid by or due from the local government to the Company in connection with converting distribution facilities from overhead to underground. In addition, service under this tariff requires the full upfront payment by the local government to the Company of the Billing Charge included in the Target Annual Payment, as well as any other amounts specified in the Company's rules and regulations.

CUSTOMER NOTIFICATION

The local government shall comply with all applicable federal, state and local requirements in connection with the establishment of a UAA and the imposition of the Governmental Undergrounding Fee. Further, at least ninety (90) days prior to the execution of an Underground Capital Cost Recovery Contract pursuant to this tariff, the local government shall mail a notice to each electric customer located within the proposed UAA as defined by the local government, stating its intention to recover the cost of the underground conversion project in question through a Governmental Undergrounding Fee on the customer's electric bill. In addition, the local government shall provide to the Company such information as the Company may require in the event the Company elects or is required to provide notice to its customers. Such notice would be provided at the cost of the local government and would be in addition to such other notice requirements as may be required under Florida law. To the extent required, the local government shall file notice in the public records once the Governmental Undergrounding Fee has been approved by the local government.

LIMITATION OF SERVICE:

The Company shall withhold application of this tariff under any of the following conditions:

- i. if the Company's projections show the Annual Target Payment would exceed 15% of the net electric charges from customers in the affected UAA
- ii. if the local government fails to ensure the conversion of any existing overhead service entrances to underground service in the affected UAA
- iii. if the local government fails to comply with any of the terms and conditions of this tariff, including, but not limited to the provisions on Customer Notification and Reimbursements Due the Company
- iv. if the local government fails to comply with any other terms or conditions of the Company's rules and regulations, including the Installation of Underground Electric Distribution Facilities for the Conversion of Overhead Electric Distribution Facilities sections of the Company's General Rules and Regulations for Electric Service.

(Continued on Sheet No. 6.602)

(Continued from Sheet No. 6.601)

UNDERGROUND CAPITAL COST RECOVERY CONTRACT

The local government shall enter into an Underground Capital Cost Recovery Contract with the Company, the form of which is satisfactory to the Company and has been approved by the FPSC or its staff, establishing the specific terms and conditions for underground cost recovery consistent with the provisions of this tariff. Terms to be included in the Underground Capital Cost Recovery Contract shall include, but are not limited to, the following:

- 1) [The local government] represents and warrants that it has full legal right and authority: (a) to enter into this Underground Capital Cost Recovery Contract; (b) to take all actions and measures necessary to fulfill [the local government's] obligations under the MGRUF tariff and this Underground Capital Cost Recovery Contract; (c) to establish Underground Assessment Areas; and (d) to authorize the Company to collect a Governmental Undergrounding Fee from the Company's customers pursuant to the MGRUF tariff and this Underground Capital Cost Recovery Contract. [The local government] further represents and warrants that it has complied with all applicable notice and other procedural requirements pertaining to the assessment or collection of a charge to residents for the undergrounding of electric service.
- 2) [The local government] acknowledges and agrees that the Governmental Undergrounding Fee computed and collected by Company in accordance with the MGRUF tariff is assessed solely by virtue of duly exercised authority of [the local government] and not pursuant to authority of the Company or the FPSC and that, in collecting the Governmental Undergrounding Fee for [the local government], the Company is acting on behalf of [the local government] and not in its own right.
- 3) [The local government] acknowledges and agrees that all payments made by the Company's electric customers within the UAA shall first be applied to satisfy the customers' payment obligations to the Company, including payments for electric service, and for any service charges and penalties for late payments, and that only the amount, if any, by which a payment exceeds a customer's obligation to the Company shall be available for application to the Governmental Undergrounding Fee and remittance to [the local government]. [The local government] further acknowledges and agrees that, notwithstanding anything in this Underground Capital Cost Recovery Contract or the MGRUF tariff to the contrary, the Company shall have no obligation to remit to [the local government] any amounts in excess of Governmental Undergrounding Fees actually collected and that any shortfall between the Target Annual Payment and the Actual Annual Payment amount remitted to [the local government] pursuant to this Underground Capital Cost Recovery Contract shall be borne solely by [the local government].
- 4) The Company and [the local government] agree that the Company shall not assess any late payment fee on the Governmental Undergrounding Fee.
- 5) [The local government] agrees, to the extent permitted by applicable law, to indemnify, pay, defend, and hold harmless the Company and its officers, directors, employees, agents, contractors and affiliates (collectively referred to hereinafter as the "FPL Entities") from and against any and all claims, demands, losses, costs, or expenses for loss, damage, or injury to persons or property of the FPL Entities or third parties caused by, arising out of, or resulting from: the application of the MGRUF or this Capital Cost Recovery Contract; the assessment or collection of the Governmental Undergrounding Fee, a breach by [the local government] of its covenants, representations, warranties or obligations hereunder; the negligence or willful misconduct of [the local government] or its contractors, agents, servants or employees; or any other event or act that is the result of, or proximately caused by the local government or its contractors, agents, servants or employees.
- 6) [The local government] acknowledges and agrees that the Company may not and shall not disconnect electric service of customers for failure to pay the Governmental Undergrounding Fee.
- 7) The Company and [the local government] agree that the term and expiration date of this Underground Capital Cost Recovery Contract shall coincide with the number of years specified in the Target Annual Payment section of this tariff.
- 8) [The local government] shall not (a) permit any lien, encumbrance or security interest to attach to the Company's revenues, including without limitation, the amounts collected or to be collected as the Governmental Undergrounding Fees under the MGRUF tariff (collectively, "Revenue Stream"), (b) permit any of the Revenue Stream to be levied upon under legal process, (c) attempt to sell, transfer, pledge or assign any of the Revenue Stream, or permit anything to be done that may impair the value to the Company of the Revenue Stream.
- 9) The Company and [the local government] agree that the Company may suspend on an indefinite basis the application of the Governmental Undergrounding Fee to those customers where four consecutive months of non-payment of said Governmental Undergrounding Fee is experienced. The Company shall provide [the local government] on an annual basis a list of the customers where suspension of the Governmental Undergrounding Fee has taken place as a result of non-payment.
- 10) The Company and [the local government] agree that the Company shall not assess the Governmental Undergrounding Fee until the conversion of distribution facilities from overhead to underground service upon which the Target Annual Payment is based is complete.