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March 17, 2006

Blanca Bayo, Director  
Division of the Commission Clerk & Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Re: Notice of Intent to Participate in Rulemaking Docket No.  
060172-EU, Proposed Rules for Underground Distribution  
Facilities

Dear Ms. Bayo,

Please accept this letter as notice of the Town of Palm Beach, Florida's intent to participate as a party in PSC Docket No. 060172-EU, In Re: 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. In summary, for several years, the Town of Palm Beach has been actively working and negotiating with Florida Power & Light Company ("FPL"), a public utility under Florida law, toward the conversion of existing overhead distribution facilities in Palm Beach to underground facilities. Accordingly, the Town's interests will be affected - indeed, substantially affected - by the Commission's actions in these proceedings, and the Town is thus entitled to participate herein as a party.

For several years, the Town of Palm Beach has been actively working toward conversion of the existing overhead ("OH") distribution facilities in the Town to underground ("UG") facilities. These efforts have included extensive discussions and negotiations with FPL toward a conversion project, as well as monitoring the Commission's activities relative to

undergrounding. In fact, today, the Town is also filing a Petition to Intervene and Petition for Tariff Amendment in PSC Docket No. 060150-EI, In Re: Petition for Approval of Revisions to Contribution-in-Aid-of Construction Definition in Section 12.1 of First Revised Tariff Sheet No. 6.300, by Florida Power & Light Company, and notices of intent to participate in several other rulemaking dockets relating to undergrounding and related infrastructure reliability issues.

The relevant contact information for the Town of Palm Beach is as follows:

Town of Palm Beach  
ATTN: Thomas G. Bradford, Deputy Town Manager  
360 South County Road  
Palm Beach, Florida 33401  
Telephone (561) 838-5410  
Telecopier (561) 838-5411.

All notices, pleadings, orders, correspondence, and other documents filed or submitted in this rulemaking proceeding should be directed to the Town's representatives as follows:

Robert Scheffel Wright, Attorney at Law  
John T. LaVia, III, Attorney at Law  
Young van Assenderp, P.A.  
225 South Adams Street, Suite 200  
Tallahassee, Florida 32301  
(850) 222-7206 Telephone  
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E-Mails - [swright@yvlaw.net](mailto:swright@yvlaw.net) and [jlavia@yvlaw.net](mailto:jlavia@yvlaw.net),

with a courtesy copy to

Thomas G. Bradford, Deputy Town Manager  
Town of Palm Beach, Florida  
360 South County Road  
Palm Beach, Florida 33401  
Telephone (561) 838-5410  
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E-Mail - [Tbradford@townofpalmbeach.com](mailto:Tbradford@townofpalmbeach.com).

The Commission and at least some of Florida's utilities, with FPL at the forefront, have recognized the potential benefits of undergrounding electric distribution facilities. See, e.g., FPL's petition in the above-referenced PSC Docket No. 060150-EI, where FPL stated the following:

Additionally, data from the 2004 and 2005 hurricanes which impacted FPL's service area indicated that

underground facilities incurred fewer main line (feeder) interruptions than did overhead facilities during each hurricane.

\* \* \*

It is in the public interest to promote local government-sponsored underground conversion projects, thereby reducing the likelihood of long term outages caused by extreme weather events.

Although the additional investment in rate base and other costs that will be incurred by FPL pursuant to the proposed revisions to its [underground conversion tariffs] will not be insignificant, FPL submits that such measures and expenditures are prudent and reasonable considering the benefits described above and, in particular, from the standpoint of public policy concerns that strongly favor a more storm-resilient electric infrastructure.

PSC Docket No. 060150-EI, FPL's Petition at 3-4 (paragraph numbers omitted).

Additionally, the Staff's recommendation that led to the initiation of this docket stated that the Commission should undertake a docket to investigate means of facilitating undergrounding of distribution facilities. Clearly the Town has a direct interest in these rules.

The Town's general positions with regard to this rulemaking proceeding and to the overall issue of undergrounding can be summarized as follows.

1. The Commission should evaluate the total costs and benefits of UG electric service, including both new construction and conversions of existing OH facilities to UG facilities, relative to the costs of OH facilities required to meet (a) minimum standards, i.e., the National Electrical Safety Code ("NESC") Class C standards; (b) "standard" or "typical" construction for individual utilities, e.g., FPL's use of Class B standards for a significant portion of its distribution system; (c) the NESC's "extreme wind" criteria, as proposed by FPL in a separate docket; and (d) the construction requirements to withstand Category 4 and Category 5 storms.

2. The Commission's evaluations and rules should encompass and recognize all costs and benefits of UG vs. OH service that flow directly to the general body of a utility's customers, including not only the differences in initial

construction costs between UG and OH facilities, but also the reductions in: post-storm restoration costs; operating and maintenance costs; costs associated with traffic accidents, property damage, and injuries from vehicles striking poles; and costs associated with accidental electrocutions.

3. The Commission's evaluations and rules must also encompass and recognize the differences in reliability afforded by UG facilities vs. OH facilities. Finally, the Commission must consider the value that undergrounding of both new and existing distribution facilities would provide to Floridians generally, in terms of and as measured by the substantial value that people place on not having their electricity supply interrupted.

4. The Commission's rules should take full account of all benefits provided by undergrounding electric distribution facilities and should provide for appropriate cost allocations and for meaningful incentives to local governments and other entities to undertake underground conversion projects, and new underground installations, to the maximum extent feasible.

5. The Commission's rules should also address, in detail, the terms and conditions upon which the utilities subject to the Commission's rules provide for underground service (both new construction and conversions of existing OH facilities to UG). Specifically, among other things, these rules should address the utilities' requirements and practices relating to: (a) the use of private easements instead of rights-of-way for locating UG facilities; (b) the utilities' attempts to impose excessive indirect and general "accounting-overhead" type costs on local governments seeking to convert OH facilities to UG facilities, using their own personnel and contractors, as specifically allowed by Rule 25-6.115, F.A.C.; (c) the utilities' attempts to impose onerous and unnecessary ownership requirements on government-constructed facilities; and (d) the utilities' refusals, to date, to give credits in CIAC calculations for avoided post-storm restoration costs, avoided tree-trimming expenses, and other cost savings provided to the utility's general body of customers by UG service.

#### Requested Commission Action

The Town of Palm Beach, Florida respectfully requests the Florida Public Service Commission to recognize the Town of Palm Beach as a party to these rulemaking proceedings, and to provide the Town's representatives identified above with copies of all notices, orders, correspondence, pleadings, and other documents

filed herein. If the Commission issues an order on procedure in this docket, the Town respectfully asks that the Commission require all other parties to this docket to similarly provide the Town's representatives with copies of all pleadings, correspondence, comments, proposals, and other materials filed with or submitted to the Commission in this docket.

Thank you very much for your assistance with this matter. If you have any questions, or if I can provide any additional information, please give me a call.

Cordially yours,

A handwritten signature in black ink, appearing to read "Robert Scheffel Wright". The signature is highly stylized and cursive, with a long horizontal flourish extending to the right.

Robert Scheffel Wright

Young van Assenderp, P.A.  
Attorneys for the Town of  
Palm Beach, Florida

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Larry Harris, Esquire