

Ruth Nettles

From: Keating, Beth [beth.keating@akerman.com]
Sent: Thursday, January 31, 2008 11:12 AM
To: Filings@psc.state.fl.us
Subject: Docket No. 070300-EI/070304-EI
Attachments: PDF_Scan.pdf

Good morning. Please accept the attached for filing in the referenced consolidated Dockets. If you have any questions at all, please don't hesitate to contact me.

Sincerely,

Beth Keating

A. Beth Keating
Akerman Senterfitt
106 East College Ave., Suite 1200
Tallahassee, FL 32301
Tel: (850) 521-8002
Fax: (850) 222-0103
E-mail: beth.keating@akerman.com

B. Docket No. 070300-EI - Review of 2007 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, Florida Administrative Code, submitted by Florida Public Utilities Company.

Docket No. 070304-EI - Petition for Rate increase by Florida Public Utilities Company.

C. Filed on behalf of: Florida Cable Telecommunications Association, Inc. (FCTA)

D. Number of page: 6

E. Stipulation and Agreement between FCTA and Florida Public Utilities Company



www.akerman.com | Bio | V Card

CONFIDENTIALITY NOTE: The information contained in this transmission may be privileged and confidential information, and is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately reply to the sender that you have received this communication in error and then delete it. Thank you.

CIRCULAR 230 NOTICE: To comply with U.S. Treasury Department and IRS regulations, we are required to advise you that, unless expressly stated otherwise, any U.S. federal tax advice contained in this transmittal, is not intended or written to be used, and cannot be used, by any person for the purpose of (i) avoiding penalties under the U.S. Internal Revenue Code, or (ii) promoting, marketing or recommending to another party any transaction or matter addressed in this e-mail or attachment.

1/31/2008

DOCUMENT NUMBER-DATE
00781 JAN 31 08
FPSC-COMMISSION CLERK



Fort Lauderdale
Jacksonville
Los Angeles
Madison
Miami
New York
Orlando
Tallahassee
Tampa
Tysons Corner
Washington, DC
West Palm Beach

Suite 1200
106 East College Avenue
Tallahassee, FL 32301
www.akerman.com
850 224 9634 *tel* 850 222 0103 *fax*

January 31, 2008

VIA ELECTRONIC FILING

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

**Re: Docket No. 070300- Review of 2007 Electric Infrastructure Storm Hardening Plan
Submitted by Florida Public Utilities Company**

Dear Ms. Cole:

Enclosed for electronic filing in the above referenced Docket, please find a Stipulation and Agreement reached between the FCTA and Florida Public Utilities Company. If you have any questions whatsoever, please do not hesitate to contact me at (850) 224-9634.

Your assistance in this matter is greatly appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Beth Keating". The signature is written in black ink and is positioned above a horizontal line.

Beth Keating
AKERMAN SENTERFITT
106 East College Avenue, Suite 1200
Tallahassee, FL 32302-1877
Phone: (850) 224-9634
Fax: (850) 222-0103

Enclosures

{TL147822;1}

DOCUMENT NUMBER-DATE
00781 JAN 31 8
FPSC-COMMISSION CLERK

STIPULATION AND AGREEMENT

This Stipulation and Agreement ("Agreement") is between Florida Public Utilities Company ("FPUC") and the Florida Cable Telecommunications Association ("FCTA"), on behalf of its member-operators with attachments to FPUC poles. The purpose of this Agreement is to resolve concerns raised by FCTA concerning the Storm Hardening Plan 2007-2009 submitted by FPUC for approval in Docket No. 070300-EI ("Plan").

1. **Overlashing.** The parties agree as follows:

a. The Overlashing Notification process, set forth as Appendix A ("Notification Process"), shall supersede any conflicting existing contractual agreement between the parties;

b. The Overlashing Notification Process shall not apply to situations in which a party does not increase the weight or diameter of the existing attached bundle; and

c. The parties will incorporate the process and timetables set forth in this part 1. in any future construction specifications or pole attachment agreements to be executed between FPUC and FCTA member operators.

2. **Pole Strength and Loading Analysis.** FCTA has inquired about the extent to which FPUC, in assessing the strength and loading of its poles and deploying EWL to its pilot projects, will account for the potential guying effect of existing lateral lines on the pole and the sheltering effect of nearby trees. The parties agree as follows:

a. FPUC will evaluate and attempt in good faith to incorporate any methodology proposed by FCTA to account for the guying effect of existing lateral lines on the pole, so long as such methodology is consistent with generally accepted engineering practices and the NESC;

b. FPUC will take into account, if deemed appropriate by FPUC and to the extent possible, the sheltering effect of nearby trees when applying EWL design to distribution poles and lines 60 feet or less in height;

c. In evaluating the loading impact of any third-party facilities, FPUC and/or its contractor shall employ a reasonably practicable approach and shall consult with any third-party attacher deemed responsible for overloading; and

d. Any charges imposed by FPUC and its contractor in performing the pole strength and loading analysis shall not exceed the reasonable and actual cost of such analysis without a mark-up and shall not be recovered as a direct reimbursement if it is also recovered in the pole rent.

3. **Pole Inspection Program.** FCTA has raised concerns about certain aspects of FPUC's planned inspection of joint use poles set forth in FPUC's Plan. The parties agree as follows:

a. FPUC shall notify, and consult with, FCTA and its cable-operator members as to the specific purpose(s), procedures, and standards of the pole loading assessment component of its planned Pole Inspection Program;

b. To the extent that FPUC seeks to recover the costs of its Pole Inspection Program from third-party attachers including FCTA member operators, FPUC shall recover such costs only as a flow-through from any applicable FERC accounts to the FCC pole rental formula calculation. FPUC shall not seek direct reimbursement of the costs of its planned Pole Inspection Program from FCTA member operators;

c. Upon discovering a pole that does not meet applicable standards, FPUC will consider where practical the use of guying, bracing, trusses and/or rearrangement of existing facilities prior to changing out the pole in order to meet the applicable standards; and

d. Third-party attachments with an approved permit application and existing Overlapping as of the date of this Agreement will not be deemed to have caused any non-compliance with governing standards, including loading violations.

4. **FCTA Objections to FPUC Plan.** FCTA, on behalf of its member operators, agrees to withdraw Testimony filed in opposition to FPUC's Plan and will not conduct cross examination of FPUC witnesses as to the plan filed in Docket #070300.

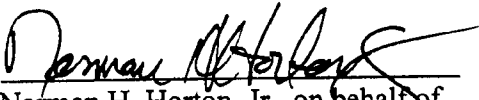
5. **Attachment Standards and Procedures.** FPUC agrees, and hereby clarifies that FPUC is not seeking the approval of the FPSC of its attachment standards and procedures for third-party attachments beyond a finding that FPUC has attachment standards and procedures for third-party attachments that meet or exceed the NESC.

6. **Existing Agreements.** Other than as specifically agreed to herein, the parties will continue to operate pursuant to the terms and conditions of their existing Pole Attachment Agreements.


7. **Term.** This Agreement shall remain effective: (1) unless otherwise agreed to by FPUC and FCTA member operators, or (2) until Florida Public Service Commission ("FPSC") approval of FPUC's storm hardening plan submitted pursuant to F.A.C. 25-6.0342 covering the second three year plan period, 2010 to 2012.

8. **No Waiver.** FCTA does not waive any rights it may have to challenge those of FPUC's construction or attachment standards that exceed the requirements of the NESC as unreasonable of the FCC.

9. **Authority to Bind FCTA Member-Operators.** The FCTA represents that it has authority to bind the FCTA member operators with attachments to FPUC poles (Comcast Cable Communications, LLC and Bright House Networks, LLC).

Signed: 
Norman H. Horton, Jr., on behalf of
Florida Public Utilities Company

Date: 1/31/08

Signed: 
Beth Keating, on behalf of Florida
Cable Telecommunications
Association and its member-operators

Date: 1/31/08

APPENDIX "A"

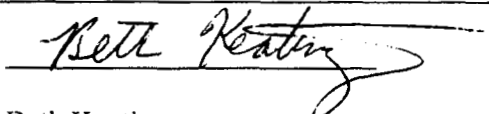
Overlash Notification

- At a minimum, the third-party attacher shall submit to FPUC a 5-day pre-notification for overlash consisting of a list of pole numbers and an accompanying map. Pre-notification shall not be required for maintenance overlashing or when service requirements prohibit such notice, but such notification shall be given within 15 days after an overlash in any such situations. Overlash means lashing additional fiber or coaxial cable to an existing bundle such that the size and/or weight of the existing bundle is increased. In no case will FCTA member operators overlash where such overlashing would overload any pole or pole line. Temporary attachments to FPUC poles for rebuild purposes will be allowed for a maximum of 90 days.
- Within 15 days after such overlashing is complete, third-party attachers shall submit to FPUC post-construction notification which shall include the location of the structure that was overlashed; identification of any necessary make ready work; or certify that the poles are within loading specifications and meet all governing specifications.
- Within 15 days after post-construction notification is received, FPUC may conduct an inspection of the affected poles. The inspection may include loading analysis of poles, if deemed necessary by FPUC, in order to verify adherence to the NESC and FPUC attachment standards. FCTA member operators shall be informed if FPUC will conduct an inspection of the affected poles and shall be allowed to participate fully in the inspection process.
- Should it be determined after consultation with the FCTA member operator that the applicable pole loading standards have been exceeded by the FCTA member operator's overlash, an estimate of make ready costs will be determined and presented to the FCTA member operator. Both parties agree to meet in order to determine cost effective solutions for avoiding excessive make ready costs.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Stipulation between the FCTA and Florida Public Utilities was served via Electronic Mail to the persons listed below on this 31st day of January, 2008:

John T. English Florida Public Utilities Company Post Office Box 3395 West Palm Beach, FL 33402-3395 Email: jenglish@fpuc.com	Norman H. Horton, Jr. Messer Law Firm Post Office Box 15579 Tallahassee, FL 32317 Email: nhorton@lawfla.com
Keino Young Martha Brown Florida Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 Email: kyoung@psc.state.fl.us Email: mbrown@psc.state.fl.us	Charles Beck/Patricia Christensen c/o The Florida Legislature Office of Public Counsel 111 West Madison Street, Room 812 Tallahassee, FL 32399-1400 Email: Christensen.patty@leg.state.fl.us
Mark Cutshaw, General Manager Florida Public Utilities Company 911 South 8 th Street Fernandina Beach, FL 32034 Email: mcutshaw@fpuc.com	Florida Cable Telecommunications Association, Inc. 246 E. 6 th Avenue, Suite 100 Tallahassee, FL 32303 (First Class Mail Only)
Susan S. Masterton/Sandra A. Khazraee Mailstop: FLTLHO0102 1313 Blair Stone Rd Tallahassee, FL 32301 Email: susan.masterton@embarq.com Email: sandra.khazraee@embarq.com	E. Edenfield/P. Carver/Tracy Hatch c/o Mr. Gregory Follensbee 150 South Monroe Street, Suite 400 Tallahassee, FL 32301-1561 Email: greg.follensbee@att.com



Beth Keating
Akerman Senterfitt
106 East College Avenue, Suite 1200
P.O. Box 1877 (32302)
Tallahassee, Florida 32301
(850) 521-8002
beth.keating@akerman.com