

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Approval of a New)	DOCKET NO. 910475-EI
Condominium, Cooperative and Homeowner's))	ORDER NO. 24619
Association Street Lighting Agreement)	ISSUED: 6/5/91
By Florida Power and Light Company)	
_____)	

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 J. TERRY DEASON
 BETTY EASLEY
 GERALD L. GUNTER
 MICHAEL MCK. WILSON

ORDER APPROVING TARIFF

BY THE COMMISSION:

Florida Power and Light Company (FPL) has requested Commission approval of a new tariff for a Condominium, Cooperative and Homeowners' Association (CCHA) Street Lighting Agreement. FPL asserts in its petition for approval that the new agreement will benefit both qualified CCHAs and developers. Qualified CCHAs would be permitted to assume responsibility for or acquire street lighting systems from FPL without posting a performance guarantee, and developers or builders would be able to recover their performance guarantees prior to the end of the ten-year term of their Private Street Lighting Agreements with Florida Power and Light.

According to Florida Power and Light's petition, most of FPL's street lighting is furnished to, and the cost paid by, governmental entities under the terms and conditions of FPL's Governmental Street Lighting Agreement. FPL does not require a performance guarantee from governmental entities, because it considers them permanent entities with a long-term commitment to furnishing reliable street lighting in their communities.

Street lighting for nongovernmental entities, however, is furnished under the Private Street Lighting Agreement, which requires a performance guarantee. According to FPL, the purpose of the agreement is to secure reimbursement of FPL's expenditures from developers or other speculators who request street lighting for an area at the time they develop it, but may not continue their commitment to the area once it is developed.

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The performance guarantee can be a cash advance, a noncancellable ten-year bond, or a bank letter of credit. A cash advance is refunded over ten years on the anniversary date of the date of initiation of service.

Because CCHAs too are permanent entities, FPL believes it is not necessary to require a performance guarantee from them. FPL has, therefore, requested approval of this agreement for qualified CCHAs. A Private Street Lighting Agreement with the developer will be required until the CCHA assumes "official control" as specified by Florida Statutes.

To qualify for the agreement, the following conditions must be met by the CCHA:

1. The CCHA is controlled by not less than 75% of the unit owners, not including units controlled by the builder/developer.
2. The CCHA is a responsible legal entity to whom FPL can render its bills and receive payment.
3. Membership in the CCHA which controls and operates the common facilities is required as a condition of property ownership.
4. Membership in the CCHA requires each owner to pay his or her proportionate share of the costs of operating and maintaining common facilities, and the obligation to pay is enforceable by placement of a lien on each owner's property.
5. Units are in a planned contiguous development and the commonly owned facilities are located within the development.

We agree with FPL that CCHA's are permanent entities with a long-term commitment to providing reliable street lighting for their communities. We also agree that the requirements for a CCHA to qualify for the agreement should ensure that the CCHA will pay the bills for its street lighting system, and therefore a guarantee should not be necessary. For these reasons we approve Florida Power and Light's new tariff.

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It is therefore

ORDERED by the Florida Public Service Commission that Florida Power and Light Company's proposed new Condominium, Cooperative, and Homeowner's Association Street Lighting Agreement is approved. It is further

ORDERED that this docket may be closed if no protest or notice of appeal is timely filed.

By ORDER of the Florida Public Service Commission, this 5th day of JUNE, 1991.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

by: Kay Flynn
Chief, Bureau of Records

MCB:bmi
otarfpl.mcb

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.

The Commission's decision on this tariff 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

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25-22.036(7)(a)(d) and (e), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on June 26, 1991

In the absence of such a petition, this Order shall become final on the day subsequent to the above date.

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 this Order becomes final 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 sewer 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 the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the date this Order becomes final, 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.