

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for approval of revisions to access to premises section of Tariff Sheet No. 6.020, by Florida Power & Light Company. | DOCKET NO. 060151-EI
| ORDER NO. PSC-06-0340-PCO-EI
| ISSUED: April 24, 2006

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
J. TERRY DEASON
ISILIO ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW

ORDER SUSPENDING TARIFF

BY THE COMMISSION:

On February 20, 2006, Florida Power & Light Company (FPL or utility) filed a petition to revise Section 2.8 of its current Ninth Revised Tariff Sheet No. 6.020, Access to Premises, to expand its authority to not only remove trees and vegetation within the utility's rights of way, but also to trim or remove vegetation adjacent to its easements and rights of way and/or the location of its facilities. Under its current tariff, FPL is authorized to, among other things, trim trees within its easements and rights of way. FPL asserts that this change is necessary to clear lines to meet its Storm Secure Plan. FPL believes it would not only prevent outages but allow faster restoration of downed lines, and requests that its petition be acted upon on an expedited basis. We have jurisdiction pursuant to Sections 366.03, 366.04, 366.05, and 366.06, Florida Statutes.

Pursuant to Section 366.06(3), Florida Statutes, we may withhold consent to the operation of all or any portion of a new rate schedule, delivering to the utility making the request a reason or written statement of good cause for doing so within 60 days. We have decided to suspend our approval of this proposed tariff to allow time for full and careful review of its provisions.

Approval of the proposed tariff would appear to expand FPL's authority to trim or remove vegetation on private property if FPL believed it would potentially affect its facilities. We note that FPL's proposed tariff revision could result in disputes with local homeowners about exactly what constitutes a threat to FPL's facilities. Moreover, expansion of tree trimming was discussed during the Infrastructure Workshop as a potential area for legislative action because of the private property issue. The utilities supported legislation which would address the extent to which a private utility could trim or remove trees or vegetation which interfere with utility facilities. We find it prudent to wait for any legislative guidance before moving forward in this area, as action by this Commission at this time could potentially conflict with such legislation.

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FPSC-COMMISSION CLERK

We further note that FPL requests that its petition be acted upon on an expedited basis. Although the petition gives no reason for the request for expedited action, FPL has expressed concern for mitigating storm damage from vegetation in the upcoming hurricane season. We believe this concern is valid. However, we also find that in the absence of legislation which clearly gives the utility the right to trim or remove vegetation outside of its right of way, we should look further into the property rights issues as well as any potential conflict with local tree trimming ordinances. This issue will be addressed in Docket No. 060173-EU, the proposed overhead facilities hardening rulemaking docket. Given potential legislative guidance and the information collected in the overhead rulemaking docket, the utility may withdraw or modify the filing at a later date to conform to that additional information.

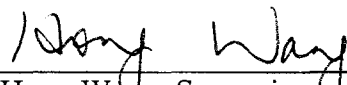
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that FPL's request for approval of revisions to Section 2.8 of its current Ninth Revised Tariff Sheet No. 6.020, Access to Premises, is suspended pending further review. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission this 24th day of April, 2006.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: 

Hong Wang, Supervisor
Case Management Review Section

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.