

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for emergency rule or, alternatively, for declaratory statement prohibiting wireless attachments in electric supply space, by Florida Power & Light Company.

DOCKET NO. 060355-EI
ORDER NO. PSC-06-0970-PCO-EI
ISSUED: November 21, 2006

ORDER CONTINUING STAY OF PROCEEDINGS

On April 24, 2006, Florida Power & Light Company (FPL) filed its Petition for Emergency Rule, or Alternatively, Petition for Declaratory Statement (Petition for Emergency Rule/Declaratory Statement). By its Petition for Emergency Rule, FPL requested that the Commission issue an emergency rule, to remain in effect until the Commission completes its rulemaking in Dockets Nos. 060172-EU and 060173-EU, prohibiting wireless telecommunications attachments in the electric supply space of distribution poles. Alternatively, the Petition for Declaratory Statement requests the Commission issue a declaratory statement that prohibits T-Mobile from attaching wireless telecommunications devices at the top of FPL's electric distribution poles until the Commission completes its rulemaking in Dockets Nos. 060172-EU and 060173-EU.

On May 3, 2006, T-Mobile South LLC (T-Mobile) filed a Petition to Intervene and Notice of Opposition to FPL's Petition. T-Mobile was granted intervention by Order No. PSC-06-0523-PCO-EI, issued June 20, 2006. On May 4, 2006, Sprint Spectrum Limited Partnership, d/b/a Sprint PCS, and Nextel South Corporation (collectively referred to as "Sprint Nextel") filed their Petition to Intervene. Sprint Nextel was granted intervention by Order No. PSC-06-0524-PCO-EI, issued June 20, 2006.

On May 12, 2006, T-Mobile filed its Response in Opposition to FPL's Petition for Emergency Rulemaking/Declaratory Statement. On May 22, 2006, Sprint Nextel filed their Adoption of T-Mobile's Response in Opposition.

On May 22, 2006, FPL filed its Motion for Stay of Proceedings. On May 30, 2006, T-Mobile filed its Response in Opposition to FPL's Motion to Stay Proceeding and Sprint Nextel filed a Response to FPL's Motion for Stay of Proceedings.

By Order No. PSC-06-0541-PCO-EI, issued June 26, 2006, the Motion for Stay of Proceedings was granted. Pursuant to the order, FPL was to file a report on November 1, 2006, indicating the status of the case, which would be used to determine whether the stay should continue.

In accordance with Order No. PSC-06-0541-PCO-EI, FPL filed its Status Report Related to Stay of Proceedings (Status Report) on November 1, 2006. In the Status Report, FPL states that the Commission held a rulemaking hearing regarding the proposed storm hardening rules in

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Dockets Nos. 060172-EI and 060173-EI on August 31, 2006. FPL further states that the Commission may soon adopt rules on the matter. FPL asserts that the outcome of the rulemaking proceedings could potentially resolve some or all of the issues in this proceeding. The company states that "in the interest of administrative efficiency, FPL believes it is appropriate for the proceedings in this docket to continue to be held in abeyance until the rulemaking proceedings in Dockets Nos. 060172-EI and 060173-EI are complete."

On November 13, 2006, T-Mobile filed its Response in Opposition to FPL's Status Report Related to Stay of Proceedings. It states that it incorporates by reference its response filed on May 30, 2006, and asserts that there is "absolutely no reason or basis for continuing this docket seeking the issuance of an emergency rule or declaratory statement." It states that FPL's use of this docket as a placeholder is not a legitimate basis for continuing this docket.

On November 14, 2006, Sprint Nextel filed their Response in Opposition to FPL's Status Report Related to Stay of the Proceedings. The companies state that they incorporate their response filed on May 30, 2006, and that they concur with and adopt the response of T-Mobile.

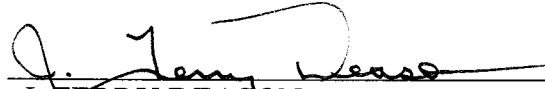
I find it reasonable to continue the stay of the proceedings in this docket. As the Commission will refrain from acting on the petition, no party will be adversely affected during the abeyance. Moreover, because the Commission could potentially resolve some or all of the issues set forth in FPL's Petition for Emergency Rule/Declaratory Statement in Dockets Nos. 060172-EU and 060173-EU, proceeding with this matter may result in an unnecessary expenditure of time and resources. If FPL has not taken action to terminate these proceedings prior to March 1, 2007, FPL shall file a report on March 1, 2007 indicating the status of its filing, which will be used to determine whether the stay should continue.

Therefore, it is

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that the proceedings in Docket No. 060355-EI shall continue to be stayed. It is further

ORDERED that if Florida Power & Light Company has not taken action to terminate these proceedings prior to March 1, 2007, Florida Power & Light Company shall file a report on March 1, 2007, indicating the status of its filing.

By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 21st day of
November, 2006.


J. TERRY DEASON
Commissioner and Prehearing Officer

(S E A L)

LDH/SMC

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.