

BEFORE THE PUBLIC SERVICE COMMISSION

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.

DOCKET NO. 060150-EI
ORDER NO. PSC-07-0442-TRF-EI
ISSUED: May 22, 2007

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
MATTHEW M. CARTER II
KATRINA J. McMURRIAN

ORDER GRANTING MUNICIPAL UNDERGROUND UTILITIES CONSORTIUM'S
PETITION TO INTERVENE, DECLINING TO APPROVE STIPULATION AND
SETTLEMENT IN ITS ENTIRETY, AND APPROVING REVISIONS TO CERTAIN OF
FLORIDA POWER & LIGHT COMPANY'S TARIFF SHEETS

BY THE COMMISSION:

Background

On February 20, 2006, Florida Power & Light Company (FPL or company) filed a petition for approval of revisions to the Contribution-In-Aid of Construction (CIAC) definition in Section 21.1 of its First Revised Tariff Sheet No. 6.300. FPL's tariff provides the general provisions and terms under which it and a customer (applicant) may enter into a contract for the purpose of converting existing overhead electric facilities to underground. The customer is required to pay FPL a CIAC, which represents the conversion costs incurred by FPL. FPL has proposed to revise the definition of CIAC to include a governmental adjustment factor (GAF) of 25 percent when the applicant for conversion is a local government. The 25 percent GAF waiver is designed to encourage the installation of underground facilities by reducing the CIAC the customer is required to pay FPL. The GAF waiver is based on expected savings in storm restoration costs when large contiguous areas are converted from overhead to underground service. FPL has proposed to charge the 25 percent not borne by the requesting municipalities as new plant-in-service for ratemaking purposes. In future rate cases, the 25 percent forgone CIAC would be recovered from FPL's general body of ratepayers.

At the time the tariff was filed, Rule 25-6.115, Florida Administrative Code (F.A.C), "Facility Charges for Providing Underground Facilities of Public Distribution Facilities Excluding New Residential Subdivisions," required the customer requesting the conversion to pay the entire cost. Concurrent with the tariff filing, FPL filed a petition to initiate rulemaking to amend Rule 25-6.115, F.A.C., to allow for the 25 percent reduction as outlined in the proposed tariff. Prior to the rule amendments adopted in Docket Nos. 060172-EU and 060173-EU, the

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rule provided that a utility could waive any or all of the CIAC, but the full amount of the applicable CIAC had to offset the costs as if it had been collected from the customer. In other words, this placed the entire cost of the conversion on the customer unless the utility was willing to forego recovery of those costs. We denied FPL's petition to initiate rulemaking and directed our staff to initiate rulemaking to address strengthening of overhead infrastructure and issues surrounding the conversion of overhead infrastructure to underground facilities.¹ Accordingly, on March 1, 2006, our staff opened Docket Nos. 060172-EU and 060173-EU to initiate comprehensive rulemaking proceedings to enhance the reliability of Florida's transmission and distribution system during extreme weather events.

On March 17, 2006, the Town of Palm Beach and the Town of Jupiter Island (the Towns) each filed a Petition to Intervene and Petitions for Tariff Amendment in this docket. Both towns have been engaged in discussions and negotiations with FPL toward converting the overhead facilities to underground. The petitions to intervene were granted.²

By Order No. PSC-06-0339-PCO-EI, issued April 24, 2006, in this docket, we suspended FPL's tariff filing pending further review and the conclusion of rulemaking in Docket Nos. 060172-EU and 060173-EU. Further, in the event we ultimately approved a tariff revision for FPL in this docket, we permitted FPL to apply any such later-approved discount to the cost of undergrounding facilities for local governments that proceed with underground conversion projects prior to our final decision on the issue. We permitted any such later-approved discount for local government-sponsored conversion projects to apply to undergrounding contracts entered into with local governments on or after April 4, 2006.

On September 21, 2006, FPL filed an amended petition to update and refine its tariff to reflect certain staff-proposed revisions to the rules at issue in Docket Nos. 060172-EU and 060173-EU. FPL agreed that the amended petition constituted a substantive change to the original filing, which restarted the eight-month statutory timeframe in this case. The eight months expire on May 21, 2007.

At our December 5, 2006, agenda conference, we adopted several revisions to our proposed rules governing electric infrastructure and underground CIAC policies. With respect to Rule 25-6.115, F.A.C., we approved the addition of new subsection (11), requiring investor-owned electric utilities to include the net present value of operational costs, including the average historical storm restoration costs over the expected life of the facilities, in a CIAC calculation. We also approved language in new subsection (12) that allows the waiver of all or a portion of the CIAC for a customer requesting conversion without reducing net plant-in-service by the waived amount, if this Commission determines that there are quantifiable benefits to the general body of ratepayers.

¹ Order No. PSC-06-0273-FOF-EI, issued April 6, 2006, in Docket No. 060149-EI, In re: Petition to initiate rulemaking to amend Rule 25-6.115, F.A.C., Facility Charges for Providing Underground Facilities of Public Distribution Facilities Excluding New Residential Subdivisions, by Florida Power & Light Company.

² Order Nos. PSC-06-0366-PCO-EI and PSC-06-0367-PCO-EI, issued May 1, 2006, in this docket.

We further amended Rule 25-6.115(9), F.A.C., to require CIAC calculations to include cost impacts of any new storm hardening construction standards for underground and overhead facilities based on the requirements of Rule 25-6.0342, F.A.C., "Electric Infrastructure Storm Hardening." Rule 25-6.0342, F.A.C., requires investor-owned electric utilities to file a comprehensive storm hardening plan for review and approval by this Commission. The storm hardening plans were to be filed no later than 90 days after the February 5, 2007, effective date of the rules. The storm hardening plans were therefore due to be filed on May 7, 2007, and FPL filed them on that date.

On November 13, 2006, the Towns filed a cost-effectiveness study of undergrounding electric distribution facilities entitled Cost Effectiveness of Undergrounding Electric Distribution Facilities in Florida. The study was prepared on behalf of several municipalities known as the Municipal Underground Utilities Consortium (MUUC). The study was filed in this docket and in Docket Nos. 060172-EU and 060173-EU. We do not address herein the appropriateness of the study submitted by the Towns because the issue before us is FPL's tariff as filed in this docket.

On January 16, 2007, the Town of Gulf Stream, in Palm Beach County, filed a resolution supporting the conversion of overhead distribution facilities to underground facilities and encouraging this Commission to implement all reasonable measures to encourage the conversion of facilities. The City of Rockledge, the City of Cocoa Beach, the City of Plantation, the Town of Palm Beach Shores, the City of Bonita Springs, the City of Satellite Beach, the City of Flagler Beach, the City of Gulf Stream, the City of Palm Beach, the Town of Briny Breezes, the Town of Palm Beach Shores, the City of North Bay Village, and the Town of Jupiter Inlet Colony filed similar resolutions.

On February 15, 2007, the MUUC filed a petition to intervene. On February 20, 2007, FPL filed a response to the petition. On February 27, 2007, MUUC filed a request for oral argument and a response to FPL's request that we reject certain issues raised by MUUC.

In Docket No. 060198-EI, we required all investor-owned electric utilities to file plans and estimated implementation costs for certain storm preparedness initiatives, including collaborative research.³ As a result of that directive, FPL, Progress Energy Florida, Tampa Electric Company, Gulf Power Company, Florida Public Utilities Company, Florida Municipal Electric Association, Florida Electric Cooperatives Association, and Lee County Electric Cooperative (collectively the project sponsors), are providing funding to the Public Utility Research Center (PURC) for the coordination of research to investigate the costs and benefits of undergrounding their existing infrastructures. The project sponsors have contracted with a vendor to perform a study in three phases. In Phase 1, the existing body of knowledge on the costs and benefits of undergrounding was summarized and analyzed in a report dated February 28, 2007. In Phase 2, a study and analysis of Florida cases where overhead facilities have been moved underground will be conducted and a report is due August 6, 2007. Phase 3 will, by March 30, 2008, result in the development of a methodology that can be used to consistently

³ Order No. PSC-06-0351-PAA-EI, issued April 25, 2006, in Docket No. 060198-EI, In re: Requirement for investor-owned electric utilities to file ongoing storm preparedness plans and implementation cost estimates.

quantify the costs and benefits of undergrounding specific areas of existing electricity distribution infrastructure in Florida.

We have jurisdiction pursuant to Sections 366.03, 366.04, 366.05, 366.06, and 366.075, Florida Statutes.

MUUC's Request for Oral Argument

The MUUC requested oral argument on its Response to FPL's Request that the Commission "Reject MUUC's Issues 5 to 8" and Otherwise Limit the MUUC's Ability to Raise Issues, and on FPL's Response to Petition to Intervene of the MUUC.

Rule 25-22.0022(7)(a), F.A.C., which became effective January 1, 2007, provides that "[o]ral argument at agenda conference will only be entertained for recommended orders and dispositive motions, such as motions to dismiss, motions for summary final order, and motions for reconsideration of non-final or final orders." Neither of the filings on which the MUUC requests oral argument are recommended orders or dispositive motions. Therefore, we denied the MUUC's Request for Oral Argument, but permitted interested persons to address us informally on this item at our April 24, 2007, agenda conference pursuant to Rule 25-22.0021(2), F.A.C.

MUUC's Petition to Intervene

Standing. In its Petition to Intervene, the MUUC states that it is comprised of approximately 30 political subdivisions of the State (i.e., Florida cities and towns), the majority of which are retail customers of FPL. Its members have ongoing interests in converting the existing overhead electric distribution lines in their jurisdictions to underground service, and the majority of its members would qualify as "local government applicants" within the scope of FPL's proposed tariff. The MUUC states that it is entitled to intervene because the interests of its members who are FPL customers will be directly affected by our decision in this docket.

The MUUC states that it was created by an Interlocal Agreement dated June 2006, which provides, in pertinent part, that its purpose is to mutually promote the installation of underground electric and other utility and utility-type facilities in the public interest, and to promote and ensure that underground installations and conversions are paid for through appropriate, fair, just, equitable, and reasonable combinations of utility funding and funding by entities that apply for such underground installations and conversions. The MUUC's members own and operate numerous municipal facilities and utility equipment. Because a substantial number of its members are considering underground utility projects, MUUC argues that its substantial interests will be directly affected by this Commission's actions in this docket, and that it meets the standing test as set forth in Agrico Chemical Co. V. DER.⁴ Further, the MUUC states that it

⁴ 406 So.2d 478 (Fla. 2d DCA 1981), rev. denied, 415 So. 2d 1359 (Fla. 1982) (holding that an intervenor must demonstrate that it will suffer a sufficiently immediate injury in fact that is of the type the proceeding is designed to protect). See also Ameristeel Corp. v. Clark, 691 So. 2d 473 (Fla. 1997).

satisfies the associational standing requirements as set forth in Florida Home Builders Ass'n v. Department of Labor and Employment Security.⁵

In its Response to the Petition, FPL states that it does not object to the MUUC's intervention in this docket. However, FPL points out that pursuant to Rule 25-22.039, F.A.C., the MUUC must take this proceeding as it finds it. FPL argues that certain of the disputed issues of material fact as set forth in the Petition purport to expand the proceeding beyond its proper scope, as further discussed below.

Disputed Issues of Material Fact. In its Petition to Intervene, the MUUC states that it supports the proposed 25% credit value for the estimated avoided storm restoration cost component of FPL's CIAC calculation and also supports FPL's request that this Commission recognize the additional investment that would be made by FPL in underground facilities as new plant-in-service, subject to normal prudence criteria. However, the MUUC believes that greater credits than FPL's proposed 25% credit are warranted. Additionally, the MUUC has concerns with several tariff implementation issues, including the eligibility criteria set forth in FPL's proposal. The MUUC states that it has begun negotiations with FPL to resolve as many issues as possible and to clearly define any remaining areas of disagreement. Pending the outcome of these negotiations, the MUUC identifies the following as potential issues of material fact that will be decided in this proceeding, and believes that those items marked with an asterisk (*) are not in dispute:

- ISSUE 1: Is the 25% GAF Waiver Credit proposed by FPL fair, just, and reasonable?*
- ISSUE 2: Will FPL's proposed incentive provide an appropriate incentive to municipalities to undertake OH-to-UG conversion projects?
- ISSUE 3: Should FPL be allowed to include the amount that it pays for new UG facilities in its plant-in-service accounts?*
- ISSUE 4: Are the eligibility criteria set forth in FPL's proposed tariff fair, just, reasonable, and appropriate?
- ISSUE 5: What are the appropriate costs and benefits to be considered and reflected in the calculation of OH-to-UG conversion CIACs?
- ISSUE 6: What is the appropriate level of credit to be applied against in calculating OH-to-UG conversion CIACs?
- ISSUE 7: How should the CIACs for OH-to-UG conversions be calculated when municipalities undertake OH-to-UG conversion projects themselves (either with municipal employees or with an FPL-approved contractor), as is their right

⁵ 412 So. 2d 351, 353-54 (Fla. 1982) (holding that an association representing its members' substantial interests must demonstrate that a substantial number of its members are substantially affected, that the intervention is within the association's general scope of interest and activity, and that the relief requested is of a type appropriate for an association to obtain on behalf of its members).

pursuant to Rule 25-6.115(3), F.A.C., and FPL's Tariff Section 12.2.11 on First Revised Sheet No. 6.330?

ISSUE 8: Is FPL's proposed City/County Right-of-Way Agreement for Underground Conversions fair, just, reasonable, and appropriate?

Finally, the MUUC states that it reserves all rights to raise additional issues in accordance with this Commission's rules and any Order Establishing Procedure issued in this case.

In its Response to MUUC's Petition to Intervene, FPL argues that the MUUC should not be permitted to pursue Issues 5 through 8 as contained in the Petition because these issues go beyond the scope of this proceeding. This proceeding was initiated by FPL to seek approval of tariff sheet revisions that would implement FPL's proposed GAF. The GAF tariff is voluntary and optional. No local government would be required to utilize it for underground conversions. Moreover, the GAF tariff would not affect the calculation of CIAC. It would instead implement a proposed waiver of part of whatever CIAC amount has otherwise been calculated under Rule 25-6.115, F.A.C., which has recently been amended to revise some of the elements in the calculation of CIAC. FPL has petitioned this Commission in this proceeding only for approval of the GAF tariff. It will petition separately for approval of the tariff revisions that implement the revised CIAC calculation.

According to FPL, the scope of this proceeding is properly limited to considering whether the GAF tariff should be approved, and only MUUC Issues 1 through 4 as contained in its Petition to Intervene properly relate to the subject matter of the proceeding. Approval of the GAF tariff would not affect the resolution of MUUC Issues 5 and 6 because the GAF tariff does not affect the calculation of CIAC. Because Issues 5 and 6 deal solely with what factors to consider in calculating the CIAC, they are irrelevant to determining whether to approve the GAF tariff. The same holds true for MUUC Issue 7, which is further illustrated by the fact that the tariff provision central to Issue 7 (Section 12.2.11, contained on Tariff Sheet No. 6.330) is not modified or even affected by FPL's GAF tariff filing. FPL argues that the GAF tariff filing does not even include the right-of-way agreement referenced in MUUC's Issue 8, and that the GAF tariff neither affects nor is affected by that agreement.

FPL points out that in the MUUC's Petition to Intervene at page 11, the MUUC seeks "relief in the form of OH-to-UG CIACs that fully reflect the benefits provided by OH-to-UG conversions and that are fully compliant with the Commission's rules and regulations." FPL argues that granting the relief the MUUC seeks is simply unnecessary and inappropriate to a decision on whether to approve the GAF tariff. FPL requests that if we grant the MUUC's Petition to Intervene, that we strictly limit the intervention to issues directly relevant to review and approval of the GAF tariff and reject MUUC Issues 5 to 8 as unnecessary and inappropriate to this proceeding.

The MUUC filed what it styled as its Response to FPL's Request that the Commission "Reject MUUC's Issues 5 to 8" and Otherwise Limit the MUUC's Ability to Raise Issues. The MUUC states that it is entitled to reply to FPL's filing because FPL's request that we reject

certain issues raised by the MUUC is inherently a motion, or request for relief, as contemplated by Rule 28-106.204(1), F.A.C. We disagree. The MUUC filed a Petition to Intervene, within which it identified eight disputed issues of material fact. FPL filed a response thereto in opposition to certain of those issues, arguing that they should not be addressed in this proceeding. The MUUC's response is in the nature of a reply to FPL's response to the MUUC's Petition to Intervene. As such, we need not consider it. The Uniform Rules of Procedure do not authorize a movant to reply to a response to a motion, and we have routinely declined to consider such replies.⁶

Analysis and Ruling. The MUUC has shown that it has standing to intervene because the interests of a substantial number of its members will be directly affected by our decision in this docket. Therefore, its Petition to Intervene is hereby granted. All parties to this proceeding shall serve copies of all pleadings, notices, and other documents on the MUUC's representatives, as indicated in the Petition.

Pursuant to Rule 25-22.039, F.A.C., the MUUC takes the case as it finds it. No disputed issues of material fact could have existed at the time the Petition was filed because we had yet to rule on the tariff filing. We ruled on the tariff filing at our March 27, 2007 agenda conference, and this order memorializes our ruling. This order is interim in nature and will become final unless a person whose substantial interests are affected by the proposed action timely files a petition for a formal proceeding in the form provided by Rule 28-106.201, F.A.C. Rule 28-106.201(2)(d), F.A.C., requires persons whose substantial interests will be affected by the agency determination to include a statement of all disputed issues of material fact in the petition for formal hearing on the matter. The MUUC will thus have an opportunity to petition for a formal proceeding and raise disputed issues of material fact at the appropriate time.

That said, we agree with FPL that the MUUC's proposed Issues 5 through 8 go beyond the scope of this proceeding and need not be addressed. For the reasons stated by FPL, those issues are irrelevant to our review and decision on whether to approve the GAF tariff. Therefore, the MUUC's intervention shall be limited to issues directly relevant to the proposed tariff that is the subject of this docket.

Stipulation and Settlement

On March 23, 2007, FPL, the Towns, and the MUUC, filed a proposed Stipulation and Settlement (Stipulation) as a resolution to certain concerns the Towns and MUUC have regarding FPL's proposed tariff. On April 3, 2007, our staff met with the parties to the Stipulation to discuss the terms thereof. The main elements contained in the Stipulation are as follow:

- Prompt approval of the GAF waiver, with the express understanding that the GAF waiver amounts would be treated as plant-in-service subject to normal ratemaking treatment.

⁶ See, e.g., Order No. PSC-02-1451-PCO-EQ, issued October 21, 2002, in Docket No. 020898-EQ, In Re: Petition by Cargill Fertilizer, Inc. for permanent approval of self-service wheeling to, from, and between points within Tampa Electric Company's service area.

- Bifurcation of Docket No. 060150-EI, with the first phase being a final order approving the GAF waiver, and the second phase being a resolution of remaining issues regarding the calculation of CIAC for underground conversions under amended Rule 25-6.115, F.A.C.
- “Relation back” of all elements of the CIAC calculation to be determined in the second phase of the bifurcated proceeding for contracts entered into on or after April 4, 2006, provided that the Commission determines that FPL would not be required to reduce net plant-in-service for any CIAC calculation elements it approves for relation back.
- Eligibility criteria to include language to allow an applicant to underground in phases as long as the first three phases meet the minimum size criteria of the GAF tariff and the fourth phase begins within one year of the completion of the third phase.
- Clarification of GAF tariff to state that if the applicant elects to install all or part of the underground facilities, then for purposes of calculating the GAF waiver amount only, the otherwise applicable CIAC shall include FPL’s estimated cost for the applicant-performed work.
- Clarification of GAF tariff that the applicant agrees to pay FPL’s current applicable hourly rate for engineering personnel for developing any separate cost estimates that are requested by the applicant to reflect only FPL’s portion of the work or are required by FPL to reflect both the applicant’s and FPL’s work for the purpose of a GAF waiver calculation.

The Stipulation consists of seven sections of agreement. Most of those sections are self-explanatory and contain minor revisions or clarifications to the eligibility criteria for the GAF waiver as contained in the tariffs attached hereto as Attachment A. We agree with those minor revisions and clarifications to the tariff. Therefore, FPL’s Fourth Revised Sheet No. 9.725, Fifth Revised Sheet No. 9.726, Second Revised Sheet No. 6.300, and Second Revised Sheet No. 6.330, attached hereto as Attachment A, are approved as filed with the Stipulation.

By its terms, the Stipulation will be null and void if not approved by this Commission in its entirety. We have serious concerns with two sections of the Stipulation, which cause us to decline to approve the Stipulation in its entirety. These two sections do not impact the tariff sheets attached to the Stipulation, and FPL states that it does not object to the inclusion of those tariff revisions in the event we decline to approve the Stipulation. The two troublesome sections of the Stipulation are as follow:

1. Paragraph 2 -- Bifurcation of Docket No. 060150-EI. Paragraph 2 of the Stipulation provides for a bifurcation of this docket, with the first phase being a final order approving the GAF waiver, and the second phase being a resolution of the remaining issues regarding the calculation of CIAC for underground conversions under amended Rule 25-6.115, F.A.C. During the meeting on April 3, 2007, with our staff, FPL clarified that the remaining issues are the

appropriate calculation of operational costs and the reflection of the storm hardening of the hypothetical overhead system used in the CIAC calculation. Our concern with this proposal is that the remaining issues regarding the appropriate calculation of operational costs and the reflection of the storm hardening of the hypothetical overhead system are not at issue in this docket.

As previously noted with respect to the inclusion of the MUUC's disputed issues of material fact Nos. 5 – 8, for the reasons stated by FPL, we find that those issues go beyond the scope of this proceeding and need not be addressed here. In particular, MUUC's Issues 5 and 6 relate to costs and benefits of conversion to underground and the appropriate level of credit to be applied in calculating overhead to underground conversion CIACs. This proceeding was initiated by FPL to seek approval of tariff sheet revisions that would implement FPL's proposed GAF. The GAF tariff does not affect the calculation of CIAC; it implements a proposed waiver of part of whatever CIAC amount is otherwise calculated under Rule 25-6.115, F.A.C.

We note that in Paragraph 2 of the Stipulation, the parties state that

[t]his joint request is without waiver of, or prejudice to, the Parties' respective positions on whether the CIAC calculation issues that would be resolved in the second phase are presently at issue in this proceeding by virtue of the fact that the GAF Tariff filed with the Amended Petition sets forth the elements used in the CIAC calculation.

The tariff as included in FPL's amended petition simply repeats the elements of Rule 25-6.115, F.A.C., that are required to be included in the calculation of a CIAC. The tariff filing does not define or discuss in any manner these other calculations. The copying of criteria listed in a Commission rule into a tariff does not constitute a sufficient basis to assert that these calculations are at issue in this docket.

We appreciate FPL's willingness to enter into settlement negotiations with the municipalities that are parties to this docket. Moreover, we note that, like the GAF tariff proposal, the issues involving the appropriate calculation of operational costs and the reflection of the storm hardening of the hypothetical overhead system used in the CIAC calculation relate to the calculation of CIAC for underground conversions. Nevertheless, they are not related to the proposed GAF tariff itself, which is the subject of this docket. Therefore, to add a second phase to this docket to include an analysis of these issues would be to expand the docket beyond its appropriate scope.

As previously noted, we recently amended our rules governing electric infrastructure and underground CIAC policies. We added a new subsection (11) to Rule 25-6.115, F.A.C., requiring investor-owned electric utilities to include the net present value of operational costs including the average historical storm restoration costs over the expected life of the facilities in a CIAC calculation. We further amended Rule 25-6.115(9), F.A.C., to require CIAC calculations to include cost impacts of any new storm hardening construction standards for underground and overhead facilities based on the requirements of Rule 25-6.0342, F.A.C., "Electric Infrastructure

Storm Hardening.” Rule 25-6.0342, F.A.C., requires investor-owned electric utilities to file a comprehensive storm hardening plan for this Commission’s review and approval. The storm hardening plans were to be filed on May 7, 2007, and FPL filed its plans on that date.

FPL states that its May 7, 2007, storm hardening plans will include standardized values to capture differences in operational costs between overhead and underground facilities. FPL states that until this Commission approves its operational costs, CIAC calculations do not include an amount to reflect operational costs. Nevertheless, we find that utilities and an applicant for a conversion project remain free to negotiate on any other elements not specifically addressed in the GAF tariff, until such time as a formula approach for the calculation of these CIAC items is approved in a new docket. These issues can and likely will be raised in the near future, in a new docket, now that the May 7, 2007, storm hardening plans have been filed. We do not believe that these issues are appropriate for inclusion in the consideration of the tariff filing at issue in this docket.

2. Paragraph 3 -- Relation Back. The Stipulation includes a provision that all elements of the CIAC calculation that may be determined in the second phase of the bifurcated proceeding discussed above will relate back to contracts entered into on or after April 4, 2006.

By Order No. PSC-06-0339-PCO-EI, issued April 24, 2006, in this docket, we ordered that

in the event a tariff revision is ultimately approved for FPL in this docket, FPL shall be permitted to apply any such later-approved discount to the cost of undergrounding facilities for local governments that proceed with underground conversion projects prior to our final decision on the issue. Any such later-approved discount for local government-sponsored conversion projects shall apply to undergrounding contracts entered into with local governments on or after April 4, 2006.

The “relation back” provision relies on the assumption that this docket will be bifurcated. We find above that the request for bifurcation of this proceeding to include a second phase to address the issues involving the calculation of CIAC components other than storm restoration is inappropriate. Therefore, there is no second phase decision to relate back to April 4, 2006. There is no basis for a “relation back” provision to address issues that do not exist in the docket. Any Commission action on these other matters will be prospective in nature, in accordance with Rule 25-9.001(3), F.A.C., which states that “[n]o rules and regulations, or schedules of rates and charges, or modifications or revisions of the same, shall be effective until filed with and approved by the Commission as provided for by law.” Without bifurcation, the “relation back” provision would amount to a request that some future rate or credit determined in another docket, for which there is no way to quantify or even identify the impact on the general body of ratepayers at this time, be retroactive to April 4, 2006. We do not believe this is good ratemaking practice.

For the foregoing reasons, we decline to approve the Stipulation in its entirety. However, the Stipulation contains minor revisions and clarifications to the eligibility criteria for the GAF waiver, as shown on the tariff pages attached hereto as Attachment A. FPL does not object to the inclusion of those tariff revisions in the event we decline to approve the Stipulation in its entirety. We agree with those minor revisions and clarifications and we approve them.

GAF Tariff

FPL's Proposal. As previously noted, on September 21, 2006, FPL filed an amended petition for revised tariff sheets to implement its proposed GAF for the calculation of CIAC. The GAF is 25 percent for all eligible local government applicants. The GAF is designed to reduce the CIAC amount that a local government applicant otherwise would pay to reflect storm restoration cost savings from undergrounding. The GAF tariff is optional, i.e., local governments are not required to utilize the GAF tariff for conversion projects. The GAF waiver would only apply when the applicant for conversion of overhead to underground distribution facilities is a local government meeting specified criteria. FPL restricted the tariff to local governments because it believes that local governments are in the best position to guarantee a 100 percent customer conversion participation and to fulfill the GAF requirements, such as undergrounding generally contiguous facilities. The proposed GAF tariff is limited to large, contiguous areas because the storm restoration cost savings are likely to be less than 25 percent for small-scale isolated conversions. FPL has proposed to recover the amount of CIAC waived under the GAF waiver as new plant-in-service. In future rate cases, the forgone CIAC would be recovered from FPL's general body of ratepayers through base rates.

Under the GAF waiver, the local government must make a written request to FPL for the conversion of overhead facilities to underground and enter into a contract with FPL. The entity making the written request is referred to as the applicant. In the request to FPL to convert facilities, the applicant must also define the boundaries of the conversion area. Within the conversion area, all existing overhead facilities, including transformers and switch cabinets, will have to be converted to underground facilities.

To qualify for the GAF waiver, the applicant must meet certain eligibility criteria, which are outlined in FPL's proposed tariff. First, in order for the conversion to incorporate a sufficient amount of overhead facilities to provide electric continuity, the conversion must include a minimum of approximately three pole miles or 200 dwelling units. FPL's tariff allows for exceptions to the project size minimum in special circumstances, such as when a single lateral serves a critical infrastructure facility, or an island or peninsula converting all of its overhead facilities.

Other GAF eligibility criteria includes a provision that the applicant attest that there are no state or federal funds available to the local government applicant to cover any portion of the cost of the conversion. Also, all customers within the conversion area who have overhead service drops must convert their service drops to underground within six months of completion of the underground facilities installation. FPL's proposed tariff includes language requiring that if a local government applicant does not satisfy the eligibility criteria, the local government shall

repay the GAF waiver within 30 days of written notice from FPL. Additionally, if at any point within 30 years of completion of the underground facilities installation, the local government elects to have electric service within the conversion area supplied by a provider other than FPL, the local government shall repay FPL a pro rata share, which shall reflect partial years, of the GAF waiver.

Support for 25% Reduction. To support its petition, FPL states that, based on the fewer interruptions experienced by underground facilities than by overhead facilities during the 2004 and 2005 hurricanes, FPL expects that converting overhead to underground facilities in large communities will reduce the amount of infrastructure damage requiring repair, thereby reducing restoration costs. The general body of ratepayers would benefit from these avoided cost savings through the reduction in aggregate storm restoration costs shared by all. In addition, storm restoration overall may proceed more quickly if fewer areas require extensive rebuilding or repair. FPL further states that 25 percent would provide a significant incentive to encourage conversions, and thus help reduce the potential impact to all customers from future storms. FPL states that the estimated 25 percent reduction represents avoided storm restoration costs resulting from undergrounding generally contiguous facilities. A summary of FPL's analysis supporting the 25 percent reduction in the otherwise applicable CIAC to recognize the estimated avoided storm restoration costs is shown on Attachment B.

FPL states that it expects to collect additional information on storm restoration costs over the coming years and will continue to monitor and evaluate the benefits justifying the GAF waiver. FPL proposed to submit a report to this Commission no later than three years after the GAF tariff is approved, showing the impact of any new storm-restoration data on the quantification of benefits and proposing revisions to the tariff, if warranted.

Impact on Ratepayers. In response to a staff data request, FPL provided an estimate of the rate impact of the proposed GAF tariff assuming all known tentative projects with local governments went forward pursuant to the proposed GAF tariff. Also in response to a staff data request, FPL provided a list of all local governments that have contacted FPL within the last 24 months regarding a conversion. FPL identified 59 projects that have received a ball park estimate, which is designed to provide an order-of-magnitude guidance to help the applicant decide whether to pursue the project. Only a small number of towns have proceeded and paid for a binding cost estimate and as of August 2006, only two towns have indicated a desire to move forward with a full conversion that will be completed in multiple phases.

FPL estimated the total cost of the 59 projects to be \$700 million. The amount of the GAF waiver would be \$175 million ($\$175 = \700×0.25). FPL states that the estimated impact on a 1,000 kWh residential bill is an increase of approximately 0.2 percent, assuming no base rate stipulation is in effect. FPL further states that the assumption that such a large volume of conversions will be implemented in one year appears unrealistic. According to FPL, it is therefore reasonable to expect that any residential customer rate impact from reflecting the GAF waiver amount in rate base will probably be minimal.

Calculation of the CIAC. Under FPL's proposal, the GAF is expressed as a waiver of the CIAC that a local government applicant otherwise would pay. First, FPL calculates the otherwise applicable CIAC amount.

CIAC =

- The estimated cost to install the requested underground facilities
- + The estimated cost to remove the existing overhead facilities
- + The net book value of the existing overhead facilities
- + The net present value of the estimated operational costs of underground facilities over 30 years (new per rule)
- + The net present value of the estimated average storm restoration costs of underground facilities over 30 years (new per rule)
- The estimated cost that would be incurred to install new overhead facilities in lieu of underground
- The estimated salvage value of the existing overhead facilities to be removed
- The net present value of the estimated operational costs of the overhead facilities over 30 years (new per rule)
- The net present value of the estimated average storm restoration costs of overhead facilities over 30 years (new per rule).

Calculation of GAF waiver. The GAF waiver represents the expected storm restoration savings that Rule 25-6.115, F.A.C., requires utilities to include in the CIAC calculation. Instead of performing separate analyses for each governmental underground conversion project, FPL has proposed to provide qualifying GAF applicants the same percentage reduction in storm restoration savings.

The GAF waiver is calculated as follows:

GAF Waiver = 25 percent x the otherwise applicable CIAC + 75 percent x (the net present value of the estimated average storm restoration costs of underground facilities over 30 years less the net present value of the estimated average storm restoration costs of overhead facilities over 30 years).

Since overhead storm restoration costs are typically higher than underground storm restoration costs, the net present value is a negative number, thus reducing the amount of the GAF waiver. The final term avoids double-counting the estimated average storm restoration costs embedded in the otherwise applicable CIAC calculation. Attachment C is an illustrative example provided by FPL of the proposed CIAC and GAF waiver calculation.

Analysis and Ruling. We find that approval of FPL's proposed tariff revision is an important first step in encouraging the installation of underground facilities. We do not view the filing as a cure-all or as complete implementation of the requirements contained in the rule amendments adopted in Docket Nos. 060172-EU and 060173-EU. The GAF waiver is designed to represent the expected storm restoration savings by undergrounding projects that meet the GAF eligibility criteria. As previously noted, this Commission recently amended Rule 25-6.115, F.A.C., to include the net present value of average overhead and underground storm restoration costs in the CIAC calculation. Therefore, the GAF does not offer anything not otherwise available to all customers. However, it provides a short-cut for eligible governments and may expedite construction in those areas. We recognize that the 25 percent is an average. Some projects may provide greater or lesser savings to ratepayers. Nevertheless, we find that the overall benefits of encouraging undergrounding makes this an acceptable risk for a limited time period.

Because only local governments are eligible for the GAF, our staff had concerns about other customers who may seek CIAC underground estimates. Discussions with FPL assured our staff that for applicants who do not qualify for the GAF waiver, FPL will calculate a CIAC as required by rule 25-6.115, F.A.C. The GAF tariff is optional and does not preclude an applicant from justifying additional benefits from undergrounding. Rule 25-6.115(10), F.A.C., allows an applicant to challenge the utility's cost estimates under this Commission's complaint procedures.

During an informal conference call to discuss the filing, the parties indicated that the Towns and FPL believe the 25 percent is a reasonable percentage, based on the information provided by FPL in this docket. Nevertheless, the GAF waiver may need to be fine-tuned as more information on costs and benefits become available. As previously noted, pursuant to recently amended Rule 25-06.0342, F.A.C., Electric Infrastructure Storm Hardening, the investor-owned electric utilities are required to file detailed storm hardening plans, including cost information, for our review and approval. The storm hardening plans may impact the construction cost differential between overhead and underground systems. In addition, the results of the PURC study will be valuable in better quantifying any savings attributable to underground facilities compared to overhead facilities.

For the foregoing reasons, we approve FPL's proposed tariff revision with the provision that it be deemed a pilot program which must be reviewed by this Commission by October 2008. The time frame is tied to the completion of this Commission's review and approval of FPL's storm hardening plans due to be filed May 2007 and the anticipated completion date of the PURC study due March 2008. While a measure of storm restoration savings is also available under the current language in Rule 25-6.115, F.A.C., the use of the GAF tariff could expedite calculations of a CIAC and subsequent construction of underground facilities. The GAF waiver represents a limited implementation of the recently amended Rule 25-6.115, F.A.C. The tariff is optional and does not preclude an applicant from justifying additional benefits from undergrounding.

At least 60 days prior to the expiration of the GAF and associated tariffs, FPL shall file a report with this Commission providing an updated quantification of storm restoration benefits

based on any new storm-restoration data. Based on the analysis, FPL shall also petition this Commission to continue, modify, or discontinue the tariff at that time, as necessary.

Approval of Grandfathering Language. As requested by the parties to, and contained in, the Stipulation, the following “grandfathering” language with respect to the GAF tariff is hereby approved:

If the Commission modifies or terminates the GAF Waiver during the period in which an eligible multi-phase project is being implemented, the GAF Waiver percentage and calculation, as originally approved, shall still apply to any phases begun after such modification or termination; provided that the Applicant continues to make timely progress on all future phases (i.e., that each subsequent phase begins within a 1-year period from completion of the prior phase). If the Applicant fails to make timely progress, the CIAC will be calculated in accordance with the prevailing tariff terms in effect at the time future phases are commenced.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Municipal Underground Utilities Consortium’s Request for Oral Argument is denied. Interested persons were permitted to address the Commission informally on this item at the April 24, 2007, agenda conference pursuant to Rule 25-22.0021(2), F.A.C. It is further

ORDERED that the Municipal Underground Utilities Consortium’s Petition to Intervene is hereby granted. The Municipal Underground Utilities Consortium’s intervention is limited to issues directly relevant to the tariff filing that is the subject of this docket. All parties to this proceeding shall serve copies of all pleadings, notices, and other documents on the Municipal Underground Utilities Consortium’s representatives, as indicated in the Petition to Intervene. It is further

ORDERED that all attachments appended to this Order are incorporated herein by reference. It is further

ORDERED that we decline to approve the Stipulation and Settlement filed by Florida Power & Light Company, the Towns of Palm Beach and Jupiter Island, and the Municipal Underground Utilities Consortium in its entirety. It is further

ORDERED that those sections of the Stipulation and Settlement which are self-explanatory and contain minor revisions or clarifications to the eligibility criteria for the GAF waiver are hereby approved as contained in the tariff revisions attached hereto as Attachment A, with the provision that the Governmental Adjustment Factor (GAF) tariff be deemed a pilot program which must be reviewed by this Commission by October 2008. The approved tariff revisions are Florida Power & Light Company’s Fourth Revised Sheet No. 9.725, Fifth Revised

Sheet No. 9.726, Second Revised Sheet No. 6.300, and Second Revised Sheet No. 6.330. It is further

ORDERED that any GAF waiver amounts shall be treated as plant-in-service subject to normal ratemaking treatment. It is further

ORDERED that the GAF tariff is optional and shall not preclude an applicant from justifying additional benefits from undergrounding. It is further

ORDERED that at least 60 days prior to the expiration of the GAF and associated tariff sheets, Florida Power & Light Company shall file a report with this Commission providing an updated quantification of storm restoration benefits based on any new storm-restoration data. Based on the analysis, Florida Power & Light Company shall also petition this Commission to continue, modify, or discontinue the tariff at that time, as necessary. It is further

ORDERED that if the GAF Waiver is modified or terminated during the period in which an eligible multi-phase project is being implemented, the GAF Waiver percentage and calculation, as originally approved, shall still apply to any phases begun after such modification or termination; provided that the Applicant continues to make timely progress on all future phases (i.e., that each subsequent phase begins within a 1-year period from completion of the prior phase). If the Applicant fails to make timely progress, the CIAC will be calculated in accordance with the prevailing tariff terms in effect at the time future phases are commenced. It is further

ORDERED that if no timely protest is filed within 21 days of the issuance date of this Order, no further action will be necessary and this docket shall be closed upon the issuance of a Consummating Order.

By ORDER of the Florida Public Service Commission this 22nd day of May, 2007.



ANN COLE
Commission Clerk

(S E A L)

RG

NOTICE OF FURTHER PROCEEDINGS

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 the Commission's decision to grant the Petition to Intervene in this matter, 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 Office of Commission Clerk, 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.

Any party adversely affected by the Commission's final action declining to approve the Stipulation and Settlement filed in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, 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 and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, 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 after the issuance of this order, 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.

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 proposed action files a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 12, 2007.

In the absence of such a petition, this Order shall become final and effective upon the issuance of a Consummating Order.

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.

FLORIDA POWER & LIGHT COMPANY

Fourth Revised Sheet No. 9.725
Cancels Third Revised Sheet No. 9.725

**UNDERGROUND FACILITIES CONVERSION AGREEMENT -
GOVERNMENTAL ADJUSTMENT FACTOR WAIVER**

This Agreement, made and entered into this _____ day of _____, 20____, by and between _____ ("Local Government Applicant"), a Florida municipal corporation or county with an address of _____ and FLORIDA POWER & LIGHT COMPANY ("FPL"), a Florida corporation with an address of P.O. Box 14000, 700 Universe Boulevard, Juno Beach, FL 33408-0429.

WHEREAS, the Local Government Applicant has requested that FPL convert certain overhead electric distribution facilities located within the following boundaries (the "Conversion"):

(collectively, the "Existing Overhead Facilities") to underground facilities, including transformers, switch cabinets and other appurtenant facilities installed above ground as set forth in Attachment A hereof (collectively, the "Underground Facilities").

NOW THEREFORE, in consideration of the foregoing premises and the covenants and agreements set forth herein, and other consideration the sufficiency of which is hereby acknowledged, the parties intending to be legally bound, hereby covenant and agree as follows:

1. **Governmental Adjustment Factor Waiver ("GAF Waiver") Eligibility Criteria.** The Local Government Applicant represents and warrants that it meets the following eligibility criteria for the Conversion:
 - a. In order for the Conversion to incorporate a sufficient amount of overhead facilities to provide electrical continuity, the Conversion must include a minimum of approximately 3 pole line miles or approximately 200 detached dwelling units within contiguous or closely proximate geographic areas (the "Conversion Area"). The Conversion may be completed in mutually agreed upon phases, with the project size minimums applying to the aggregate project - provided that any necessary subsequent phase begins within a 1 year period from completion of the prior phase and the minimums are met within, at most, 3 phases; and
 - b. The Local Government Applicant must require all customers within the Conversion Area who currently have overhead service directly from the Existing Overhead Facilities to convert their service entrances to underground within 6 months of completion of the Underground Facilities installation or each phase thereof; and
 - c. The Local Government Applicant must be willing and able to execute a right of way ("ROW") agreement with FPL if the Local Government Applicant requests that facilities be placed in the ROW; and
 - d. For any affected laterals, the complete lateral must be converted, including all stages of any multi-stage lateral; and
 - e. There are no state or federal funds available to the Local Government Applicant to cover any portion of the cost of the Conversion.
- Special Circumstances. Conversions which do not meet the project size minimums described in section 1.a are eligible for the GAF Waiver in the following special circumstances:
- i. 100% of the Existing Overhead Facilities within the Local Government Applicant's corporate limits are to be converted, but are less than the pole line mileage or dwelling unit minimums; or
 - ii. A single lateral that serves at least one Critical Infrastructure Facility as determined by the appropriate local agency with the mutual agreement of FPL; or
 - iii. An island or peninsula where 100% of the Existing Overhead Facilities are to be converted; or

(Continued on Sheet No. 9.726)

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective:

FLORIDA POWER & LIGHT COMPANY

Fifth Revised Sheet No. 9.726
Cancels Fourth Revised Sheet No. 9.726

(Continued from Sheet No. 9.725)

iv. When the aggregate size of the first 3 phases of a project would satisfy the minimum size criteria but, for mutually-agreed engineering or logistical reasons, those phases are non-contiguous; provided that (a) the next (4th) phase must be adjacent to one or more of the first 3 phases such that the combined contiguous area meets the minimum size criteria, and (b) this 4th phase begins within 1 year from completion of the 3rd phase.

2. **Contribution-in-Aid-of-Construction (CIAC).** The Local Government Applicant shall pay FPL a CIAC as required by FPL's Electric Tariff and Section 25-6.115 of the Florida Administrative Code with the Otherwise Applicable CIAC amount reduced by the GAF Waiver.

i. Otherwise Applicable CIAC	\$ _____
ii. GAF Waiver	\$ _____
iii. CIAC Due	\$ _____

In the event the actual cost of the Conversion exceeds the estimate, the Otherwise Applicable CIAC shall be adjusted by the lesser of (a) the difference between the actual cost of the Conversion and the estimate, or (b) 10% of the Otherwise Applicable CIAC identified above. The GAF Waiver shall also be adjusted accordingly and the Local Government Applicant shall pay FPL the resulting difference in the amount of the CIAC Due.

3. **Applicant-Installed Facilities.** The Local Government Applicant may, upon entering into an applicant-installed facilities agreement satisfactory to FPL, construct and install all or a portion of the Underground Facilities. Such work must meet FPL's construction standards and FPL will own and maintain the completed facilities. The Local Government Applicant agrees to rectify any deficiencies, found by FPL, prior to the connection of any customers to the Underground Facilities and the removal of the Existing Overhead Facilities.
4. **Compliance with Tariff.** The Local Government Applicant agrees to comply with and abide by the requirements, terms, and conditions of FPL's Electric Tariff.
5. **Timing of Conversion.** Upon compliance by the Local Government Applicant with the requirements, terms, and conditions of FPL's Electric Tariff, this Agreement and any other applicable agreements, FPL will proceed in a timely manner with the Conversion in accordance with the construction drawings and specifications set forth in Attachment A hereof.
6. **Relocation.** In the event that the Underground Facilities are part of, or are for the purposes of, relocation, then this Agreement shall be an addendum to the relocation agreement between FPL and the Local Government Applicant. In the event of any conflict between the relocation agreement and this Agreement or the Electric Tariff, this Agreement and the Electric Tariff shall control.
7. **Term.** This Agreement shall remain in effect for as long as FPL or any successor or assign owns or operates the Underground Facilities.
8. **GAF Waiver Repayment.** If the Local Government Applicant does not satisfy the relevant eligibility criteria, the Local Government Applicant shall repay the GAF Waiver within 30 days of written notice from FPL of such failure. Additionally, if at any point within 30 years of completion of the Underground Facilities installation, the Local Government Applicant elects to have electric service within the Conversion Area supplied by a provider other than FPL, the Local Government Applicant shall repay FPL a pro-rata share of the GAF Waiver. The pro-rata share (which shall reflect partial years) shall be determined as follows:

$$\text{GAF Waiver} * [(30 - \text{years since the Underground Facilities completion date}) / 30]$$

(Continued on Sheet No. 9.727)

FLORIDA POWER & LIGHT COMPANY

Second Revised Sheet No. 6.300
Cancels First Revised Sheet No. 6.300

INSTALLATION OF UNDERGROUND ELECTRIC DISTRIBUTION FACILITIES
FOR THE CONVERSION OF OVERHEAD ELECTRIC DISTRIBUTION FACILITIES

SECTION 12.1 DEFINITIONS

APPLICANT - Any person, corporation, or entity capable of complying with the requirements of this tariff that has made a written request for underground electric distribution facilities in accordance with this tariff.

CONVERSION - Any installation of underground electric distribution facilities where the underground facilities will be substituted for existing overhead electric distribution facilities, including relocations.

CONTRIBUTION-IN-AID-OF-CONSTRUCTION (CIAC) - The CIAC to be paid by an Applicant under this tariff section shall be the result of the following formula:

CIAC =

- The estimated cost to install the requested underground facilities;
- + The estimated cost to remove the existing overhead facilities;
- + The net book value of the existing overhead facilities;
- + The net present value of the estimated operational costs of underground facilities over 30 years;
- + The net present value of the estimated average storm restoration costs of underground facilities over 30 years;
- The estimated cost that would be incurred to install new overhead facilities, in lieu of underground, to replace the existing overhead facilities (the "Hypothetical Overhead Facilities");
- The estimated salvage value of the existing overhead facilities to be removed;
- The net present value of the estimated operational costs of the overhead facilities over 30 years;
- The net present value of the estimated average storm restoration costs of overhead facilities over 30 years.

GAF Waiver

For Applicants entering into an Underground Facilities Conversion Agreement - Governmental Adjustment Factor Waiver with the Company, the otherwise applicable CIAC amount, as calculated above, shall be reduced by the GAF Waiver. If the Applicant elects to construct and install all or part of the underground facilities, then for purposes of calculating the GAF Waiver amount only, the otherwise applicable CIAC shall be adjusted to add FPL's estimated cost for the Applicant-performed work. The amount of the GAF Waiver shall be calculated as follows:

GAF Waiver =

- 25% x the otherwise applicable CIAC;
- + 75% x (the net present value of the estimated average storm restoration costs of underground facilities over 30 years less the net present value of the estimated average storm restoration costs of overhead facilities over 30 years).

Note: The final term avoids double-counting the estimated average storm restoration costs embedded in the otherwise applicable CIAC.

DISTRIBUTION SYSTEM - Electric service facilities consisting of primary and secondary conductors, service drops, service laterals, conduits, transformers and necessary accessories and appurtenances for the furnishing of electric power at utilization voltage.

SERVICE FACILITIES - The entire length of conductors between the distribution source, including any conduit and or risers at a pole or other structure or from transformers, from which only one point of service will result, and the first point of connection to the service entrance conductors at a weatherhead, in a terminal, or meter box outside the building wall; the terminal or meter box; and the meter.

(Continued on Sheet No. 6.301)

FLORIDA POWER & LIGHT COMPANY

Second Revised Sheet No. 6.330
Cancels First Revised Sheet No. 6.330

(Continued from Sheet No. 6.320)

12.2.10 Type of System Provided

An underground distribution system will be provided in accordance with FPL's current design and construction standards.

12.2.11 Design and Ownership

FPL will design, install, own, and maintain the electric distribution facilities up to the designated point of delivery except as otherwise noted. The Applicant may, subject to a contractual agreement with FPL, construct and install all or a portion of the underground distribution facilities provided that:

- a) such work meets FPL's construction standards;
- b) FPL will own and maintain the completed distribution facilities;
- c) the construction and installation of underground distribution facilities by the Applicant is not expected to cause the general body of ratepayers to incur greater costs;
- d) the Applicant agrees to pay FPL's current applicable hourly rate for engineering personnel for all time spent for (i) reviewing and inspecting the Applicant's work done, and (ii) developing any separate cost estimate(s) that are either requested by the Applicant to reflect only FPL's portion of the work or are required by FPL to reflect both the Applicant's and FPL's portions of the work for the purpose of a GAF Waiver calculation pursuant to an Underground Facilities Conversion Agreement – Governmental Adjustment Factor Waiver; and
- e) the Applicant agrees to rectify any deficiencies found by FPL prior to the connection of any Customers to the underground electric distribution system and the removal of the overhead electric distribution facilities.

12.2.12 Relocation

Where underground electric facilities are requested as part of, or for the purpose of, relocation, the requirements of this tariff shall apply. As applicable, the Underground Facilities Conversion Agreement or the Underground Facilities Conversion Agreement - Governmental Adjustment Factor Waiver shall be executed as an addendum to the relocation agreement between FPL and the Applicant. In the event of any conflict between the relocation agreement and this tariff, the tariff shall control. Furthermore, where the regulations of the Federal or State Department of Transportation (DOT) prevent pre-payment of deposits and other conversion costs, the Federal or State DOT may pay the CIAC after the work has been performed.

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective:

FPL's quantification of benefits for the GAF waiver

The Commission's standard low density subdivision model of 210 homes was used as a basis for FPL's analysis to calculate the percent storm restoration savings. First, FPL calculated the average CIAC cost for converting the subdivision's overhead facilities under rule 25-6.115, F.A.C., as the rule existed prior to the Commission's revision of the rule in Docket Nos. 060172-EU and 060173-EU. Two scenarios were created by varying the age of the existing overhead facilities being replaced, 10 and 20 years.

Table 1
 CIAC pursuant to Rule 25-6.115
 Without the Storm Restoration Cost Differential Component
 Without the Operating & Maintenance Cost Differential Component

	New Underground Facilities	Existing Overhead Facilities			New Overhead Facilities	CIAC
		Net Book Value	Removal Costs	Salvage Costs		
10-Yr Old Overhead	\$537,000	+ \$113,000	+ \$104,000	- \$ 0	- \$334,000	= \$420,000
20-Yr Old Overhead	\$537,000	+ \$12,000	+ \$104,000	- \$ 0	- \$334,000	= \$319,000

As shown in the above table, the CIAC for the subdivision is \$420,000 (10-year old overhead facilities) or \$319,000 (20-year old overhead facilities).

The GAF waiver is derived from avoided storm restoration cost savings to the general body of ratepayers as a result of these facilities being placed underground. FPL relied on its experiences during 2004 and 2005 to develop cost data for storm restoration costs to overhead and underground facilities. FPL assumes the 2004/2005 seasons may reoccur, on average, between three and five years over the next 30 years and used a 30-year forecast period for the avoided storm restoration cost. The 30-year cash flows are discounted to arrive at the annualized amounts of \$82,120 to \$129,269. These amounts are intended to represent the expected range in reduced annual storm damage costs due to underground systems on a per affected customer basis. Affected customers are those customers which experienced a service interruption. FPL then compared the estimated storm damage differential to a typical conversion scenario of a 20-year old overhead system and a 10-year old overhead system (as calculated in Table 1) and concludes that a 25 percent credit for certain conversion projects is appropriate.

Table 2
CIAC Compared to Estimated Storm Restoration Cost Differential Between Overhead and Underground Distribution Facilities

	CIAC (from Table 1)	Storm Restoration Cost Differential				FPL's Estimated Credit
		3 Yr Basis		5 Yr Basis		
		Amount	Percentage of Subtotal CIAC	Amount	Percentage of Subtotal CIAC	
10-Yr Old Overhead	\$420,000	\$129,269	31 percent	\$82,120	20 percent	25 percent
20-Yr Old Overhead	\$319,000	\$129,269	41 percent	\$82,120	26 percent	

The above table shows that if a storm occurs every three years, the storm restoration savings due to undergrounding range from approximately 30 to 40 percent. If a storm occurs every five years, the savings range from 20 to 26 percent. FPL states that these ranges support FPL's proposed GAF waiver of 25 percent.

CIAC & GAF WAIVER EXAMPLES (\$000's)
(Amounts Are Illustrative Only)

1			
	<u>Contribution-In-Aid-of-Construction (CIAC):</u>		
2	The estimated cost to install the requested underground facilities	10,000	
3	+ The estimated cost to remove the existing overhead facilities	1,000	
4	+ The net book value of the existing overhead facilities	3,000	
5	+ The net present value of the estimated operational costs of underground facilities over 30 years (new per rule)	1,800	
6	+ The net present value of the estimated average storm restoration costs of underground facilities over 30 years (new per rule)	700	
7	- The estimated cost that would be incurred to install new overhead facilities, in lieu of underground, to replace the existing overhead facilities (the "Hypothetical Overhead Facilities")	(7,000)	
8	- The estimated salvage value of the existing overhead facilities to be removed	(1,000)	
9	- The net present value of the estimated operational costs of overhead facilities over 30 years (new per rule)	(2,000)	
10	- The net present value of the estimated average storm restoration costs of overhead facilities over 30 years (new per rule)	<u>(1,000)</u>	
11	CIAC	<u>5,500</u>	sum of lines 2 thru 10
12	<u>GAF Waiver:</u>		
13	CIAC * 25%	1,375	line 11 * 25%
14	+ (The net present value of the estimated average storm restoration costs of underground facilities over 30 years	700	line 6
15	- The net present value of the estimated average storm restoration costs of overhead facilities over 30 years);	<u>(1,000)</u>	line 10
16	Subtotal - Estimated average storm restoration costs differential	(300)	line 14 + line 15
17	* 75%	<u>(225)</u>	line 16 * 75%
18	GAF Waiver	<u>1,150</u>	line 13 + line 17