

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of 2007 revisions to underground residential and commercial distribution tariff, by Florida Power & Light Company.

DOCKET NO. 070231-EI
ORDER NO. PSC-08-0141-PCO-EI
ISSUED: March 6, 2008

ORDER GRANTING FPL'S AGREED MOTION FOR CONTINUANCE
AND
ORDER MODIFYING PROCEDURAL SCHEDULE

On April 2, 2007, Florida Power & Light Company (FPL) filed revisions to its underground residential distribution (URD) tariff and underground commercial/industrial distribution (UCD) tariff (April 2007 Tariffs). These tariffs were filed to comply with the "10% or more" filing requirement of Rule 25-6.078(3), Florida Administrative Code (F.A.C.).¹ On October 16, 2007, the Commission issued Order No. PSC-07-0835-TRF-EI, approving the April 2007 Tariffs.

The City of Coconut Creek (Coconut Creek) and the Municipal Underground Utilities Consortium (MUUC) timely filed their Joint Protest of Order No. PSC-07-0835-TRF-EI on November 6, 2007. On November 20, 2007, FPL moved to dismiss the Joint Protest. The Order Establishing Procedure (Order No. PSC-08-0011-PCO-EI), dated January 3, 2008, set dates for prefiled testimony, the prehearing conference, and the hearing.

FPL's Motion to Dismiss was scheduled to be considered by the Commission at the February 12, 2008, Agenda Conference. However, on February 11, 2008, FPL filed its Agreed Motion for Continuance of Protest and Request for Formal Proceeding of MUUC and Coconut Creek (Agreed Motion for Continuance). Based on the Agreed Motion for Continuance, the Commission deferred its consideration of FPL's Motion to Dismiss.

In its Agreed Motion for Continuance, FPL states that two of the principal bases for the MUUC Protest are that the calculation of the April 2007 Tariffs did not take into account: (a) differences in the net present value of operational costs between overhead and underground facilities, as contemplated by Rule 25-6.078(4), F.A.C., or (b) the added cost of building the hypothetical overhead system to hardening standards, as contemplated by Rule 25-6.078(2), F.A.C. Those requirements were added to Rule 25-6.078, F.A.C., by amendments that became effective February 1, 2007. According to FPL, when it filed its April 2007 Tariffs, it did not have the necessary information to adjust the tariff calculations for either the operational cost differential or the impact on overhead system costs of hardening standards. The Order approving FPL's storm hardening standards was not issued until December 28, 2007.

¹ If the cost differential for underground service varies from the Commission-approved differential in the URD tariff by plus or minus 10% or more, the utility must file a written policy and supporting data and analyses as prescribed in Sections (1), (4) and (5) of Rule 25-6.078, F.A.C., on or before April 1 of the following year.

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FPL states that it is now in a position to revise its URD and UCD 2007 Tariffs to address the operational cost differential and the impact of the hardening standards and is prepared to revise the April 2007 Tariffs accordingly. In order to file the revised tariffs by April 1, 2008, FPL requests that the hearing on the Joint Protest that is presently scheduled for June 11-12, 2008, together with all associated prehearing matters including, but not limited to, ruling on FPL's motion to dismiss, the filing of testimony, and the conduct of discovery, be continued, with such continuance to remain in effect until the Commission has ruled upon the newly revised tariffs and the period for protest thereof has passed.

MUUC and Coconut Creek have agreed to this continuance and further agree that their proposed Issue 4 should not be considered in this proceeding.² FPL states that it will not oppose MUUC's and/or Coconut Creek's seeking to initiate a separate proceeding where the relevant tariffs affected by the proposed expansion of the Governmental Adjustment Waiver credit to undergrounding in new developments and new construction would be addressed; however, FPL maintains that it does not waive any rights with respect to substantive positions it might take on that proposed expansion.

In consideration of the above, FPL's Agreed Motion for Continuance shall be granted. If another party then chooses to protest the newly revised tariffs, an updated procedural order will be issued at that time to reschedule the hearing and associated prehearing matters. Based on the granting of this Agreed Motion for Continuance, the hearing on Coconut Creek's and MUUC's Protest that is presently scheduled for June 11-12, 2008 is canceled, and all associated prehearing matters including, but not limited to, ruling on FPL's motion to dismiss, the filing of testimony, and the conduct of discovery are hereby continued. Accordingly, the controlling dates set forth in the Order Establishing Procedure shall be canceled and reset at a later date, if necessary.

Based on the foregoing, it is

ORDERED by Commissioner Katrina J. McMurrian, as Prehearing Officer, that Florida Power & Light Company's Agreed Motion for Continuance of Protest and Request for Formal Proceeding of the Municipal Underground Utilities Consortium and the City of Coconut Creek, Florida, is granted as set forth in the body of this Order. It is further

ORDERED that the controlling dates set forth in the Order Establishing Procedure shall be canceled and reset at a later date, if necessary.

² Issue 4 states as follows: Should new developments within a municipality qualify for the Governmental Adjustment Waiver credit, where the Local Government is willing to be the applicant for service in order to ensure that the wide-area benefits of undergrounding are realized, consistent with the purposes of the GAF tariff and FPL's Storm Secure Initiatives?

By ORDER of Commissioner Katrina J. McMurrin, as Prehearing Officer, this 6th day of March, 2008.



KATRINA J. McMURRIAN
Commissioner and Prehearing Officer

(S E A L)

RRJ

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 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.