

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-09-0397-CO-EI
ISSUED: June 2, 2009

CONSUMMATING ORDER

BY THE COMMISSION:

By Order No. PSC-07-0835-TRF-EI, issued October 16, 2007, the Commission proposed to take certain action, subject to a Petition for Formal Proceeding as provided in Rule 25-22.029, Florida Administrative Code (F.A.C.), approving Florida Power & Light Company's (FPL's) underground residential differential (URD) and underground commercial/industrial differential (UCD) tariffs filed on April 2, 2007. However, on November 6, 2007, the Municipal Underground Utilities Consortium (MUUC) and the City of Coconut Creek (Coconut Creek) filed their timely joint protest of that order. In MUUC's and Coconut Creek's protest, they purported to protest both the URD and UCD tariffs set forth in that Order. Also, the City of South Daytona (South Daytona) was granted intervention by Order No. PSC-08-0486-PCO-EI, issued August 1, 2008. Although the Order proposing to approve the tariffs was protested, the tariff rates in that Order remained in effect with any charges collected held subject to refund. A formal hearing was scheduled, but was continued to allow FPL to file revised tariff sheets to reflect the changes in Rule 25-6.078, F.A.C., which require certain additional operating costs to be taken into consideration.

On April 1, 2008, FPL filed revised URD and UCD tariffs which, according to FPL, reflected the changes in Rule 25-6.078, F.A.C. By Order No. PSC-08-0774-TRF-EI, issued November 24, 2008, the Commission proposed to take certain action, subject to a Petition for Formal Proceeding as provided in Rule 25-22.029, F.A.C., approving the revised URD and UCD tariffs filed by FPL. On December 15, 2008, MUUC timely protested Order No. PSC-08-0774-TRF-EI, requesting this matter be set for a formal hearing. On December 16, 2008, South Daytona filed an untimely protest. In both protests, the protestors asserted that they were protesting both the URD and UCD tariffs. Pending resolution of the protests, the April 1, 2008, tariffs replaced the April 2, 2007, tariffs and have remained in effect with any charges collected held subject to refund.

On May 15, 2009, South Daytona, which had protested only Order No. PSC-08-0774-TRF-EI, filed its notice of withdrawal of its protest to the portion of that Order concerning the UCD tariffs, and stated that it had no objection to approval of the UCD tariffs. Further, on June

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2, 2009, MUUC and Coconut Creek, which had protested both tariff orders, filed their notice of withdrawal of their protests to the UCD tariffs.

Accordingly, the portions of Orders Nos. PSC-07-0835-TRF-EI and PSC-08-0774-TRF EI, issued October 16, 2007, and November 24, 2008, respectively, concerning the appropriate UCD tariffs shall be considered effective and final.

It is therefore,

ORDERED by the Florida Public Service Commission that the portions of Orders Nos. PSC-07-0835-TRF-EI and PSC-08-0774-TRF EI, issued October 16, 2007, and November 24, 2008, respectively, concerning the appropriate underground commercial/industrial differential tariffs have become effective and final. It is further

ORDERED that Docket No. 070231-EI shall remain open pending resolution of the protests to the underground residential differential tariffs proposed in Orders Nos. PSC-07-0835-TRF-EI and PSC-08-0774-TRF EI.

By ORDER of the Florida Public Service Commission this 2nd day of June, 2009.



ANN COLE
Commission Clerk

(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 judicial review of Commission orders that is available pursuant to Section 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 judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request 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.