

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for extension of governmental adjustment factor tariff and approval of seventh revised tariff sheet No. 9.725 by Florida Power & Light Company.

DOCKET NO. 090422-EI
ORDER NO. PSC-09-0755-TRF-EI
ISSUED: November 17, 2009

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman
LISA POLAK EDGAR
NANCY ARGENZIANO
NATHAN A. SKOP
DAVID E. KLEMENT

ORDER APPROVING EXTENSION OF
GOVERNMENTAL ADJUSTMENT FACTOR TARIFF

BY THE COMMISSION:

Background

Rule 25-6.115, Florida Administrative Code (F.A.C.), and Florida Power & Light Company's (FPL) tariff provide the general provisions and terms under which FPL and an applicant (i.e., customer) may enter into a contract for the purpose of converting existing overhead electric distribution facilities to underground. The applicant is required to pay FPL a contribution-in-aid-of-construction (CIAC), which represents the conversion costs incurred by FPL.

In January 2007, the Commission amended Rule 25-6.115, F.A.C., to require investor-owned electric utilities to include the net present value of operational costs including the average historical storm restorations costs over the expected life of the facilities in a CIAC calculation.¹

In Docket No. 060150-EI, FPL received approval 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 meeting specified criteria.² The GAF waiver is based on expected savings in storm restoration costs when large contiguous areas are converted from overhead to underground service and is designed to encourage the installation of underground facilities by reducing the CIAC the customer is required to pay FPL. The 25 percent reduction is based on

¹ See Order No. PSC-07-0043-FOF-EU, issued January 16, 2007, in Docket No. 060172-EU, In re: Proposed rules governing placement of new electric distribution facilities underground, and conversion of existing overhead distribution facilities to underground facilities, to address effects of extreme weather events.

² See Order No. PSC-07-0442-TRF-EI, issued May 22, 2007, in Docket No. 060150-EI, 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.

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FPL's analysis of the 2004 and 2005 hurricane season. Based on the fewer interruptions experienced by underground facilities than overhead facilities, FPL concluded 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 benefits 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 repair. In the order approving the GAF tariff, we found that the 25 percent represents an average, and that some projects may provide greater or lesser savings to ratepayers.

FPL also received approval to charge the 25 percent not borne by the requesting municipalities as new plant-in-service. In future rate cases, the 25 percent forgone CIAC would be included as an investment to be recovered from the general body of ratepayers.

The GAF tariff is optional, i.e., local governments are not required to utilize the GAF tariff for conversion projects. The GAF tariff is restricted to local governments because 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 areas. The GAF tariff is limited to large, contiguous areas because the storm restoration savings are likely to be less than 25 percent for small-scale isolated conversions.

We approved the GAF and associated tariffs as a pilot program to be available for customers that sign undergrounding contracts on or before October 30, 2008. The GAF approval order also directed FPL to file a report with this Commission providing an updated quantification of storm restoration benefits based on any new storm restoration data. In Docket No. 080223-EI, we approved an extension of the GAF tariff for an additional year until October 20, 2009, and FPL's report regarding storm restoration costs and benefits.³ The order in Docket No. 080223-EI directed FPL to file a report with us providing an updated quantification of storm restoration benefits based on any new storm restoration data prior to the expiration of the GAF tariff in October 2009. FPL was also directed to petition this Commission to continue, modify, or discontinue the tariff at that time.

Several municipalities known as the Municipal Underground Utilities Consortium (MUUC) intervened in Docket No. 060150-EI.⁴ MUUC members have ongoing interests in converting the existing overhead electric distribution lines in their jurisdictions to underground service, and the majority of these members qualify as "local government applicants" within the scope of FPL's GAF tariff.

In June 2009, the parties to Docket No. 070231-EI⁵ and Docket No. 080244-EI⁶ reached a settlement which, subject to approval by the participating local governmental entities and this

³ See Order No. PSC-08-0414-TRF-EI, issued June 23, 2008, in Docket No. 080223-EI, In re: Petition for extension of governmental adjustment factor tariff and approval of sixth revised tariff sheet No. 9.725 by Florida Power & Light Company.

⁴ The intervention was granted in Order No. PSC-07-0442-TRF-EI, p 7.

⁵ Docket No. 070231-EI is FPL's Petition for approval of 2007 revisions to underground residential and commercial distribution tariff.

⁶ Docket No. 080244-EI is FPL's petition for approval of underground conversion tariff revisions.

Commission, would among other things make the GAF tariff a permanent tariff. The various participating member of MUUC have consented to the settlement. However, FPL states that the City of South Daytona⁷ (CDS) has not taken a position yet regarding the settlement, and thus FPL must now file this petition in compliance with the order in Docket No. 080223-EI.

On August 28, 2009, FPL filed a petition for an extension of the GAF tariff until October 30, 2010, and a report regarding the status of FPL's continuing efforts to quantify storm restoration costs and benefits. This order addresses this petition. We have jurisdiction pursuant to Sections 366.03, 366.04, 366.05, and 366.06, Florida Statutes.

Decision Approving Extension of GAF Tariff

FPL requests that we: (1) extend the effective period of the GAF tariff so that it will be available to eligible applicants for an additional year beyond our approval in Docket No. 080223-EI, i.e., until October 30, 2010, and (2) accept the report attached to the petition regarding the status of FPL's continuing efforts to quantify storm restoration costs and benefits in fulfillment of our requirements in the GAF approval order. The report is attached to this order as Attachment A.

In support of its petition, FPL states that the principal source of additional data with which to quantify storm restoration benefits is experience in actual storm restoration. Since the GAF tariff was approved in May 2007, there have been no substantial storms impacting FPL's service territory. Therefore, FPL has no additional data with which to update the quantification of storm restoration benefits that it provided in support of the GAF tariff.

Extending the availability period of the GAF tariff will also benefit local governments by providing them additional time to implement conversion projects. FPL states that the report shown in Attachment A shows that many planned governmental underground projects are in the preliminary planning stages. FPL states that large conversion projects require substantial lead times for local governments, and that the extension will result in more conversion projects being implemented. This in turn will enable FPL to gather additional cost and benefit information from actual conversion projects.

We hereby approve FPL's petition to extend the GAF tariff to be available to eligible customers that sign the agreement on or before October 30, 2010. Extending the tariff will allow additional local governments to enter into undergrounding agreements with FPL. The absence of hurricanes or tropical storms since the approval of the GAF tariff kept FPL from obtaining additional data to quantify the storm restoration savings due to undergrounding. In the GAF approval order, we found, based on the analysis FPL provided, that the 25 percent is a reasonable percentage. Therefore, at this point, we have no basis to modify the 25 percent reduction in the otherwise applicable CIAC to recognize the estimated avoided storm restoration costs when large contiguous areas are converted.

⁷ The City of South Daytona was granted intervention in Docket No. 070231-EI in Order No. PSC-08-0486-PCO-EI, and in Docket No. 080244-EI, in Order No. PSC-08-0461-PCO-EI.

An extension will also allow the parties to Docket Nos. 070231-EI and 080244-EI to take a position on the settlement. FPL states that in light of the fact that the City of South Daytona has not yet taken a position on the settlement, FPL is not prepared to request that the GAF tariff be made a permanent tariff.

Similarly, as required by the GAF approving order, FPL shall at least 60 days prior to the expiration of the GAF tariff in October 2010 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 us at that time to continue, modify, or discontinue the tariff.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the eligibility period for Florida Power & Light Company's Governmental Adjustment Factor tariff is hereby extended for an additional year until October 30, 2010, with an effective date of October 31, 2009. It is further

ORDERED that the report attached to this Order as Attachment A satisfies the report requirement of Order No. PSC-08-0414-TRF-EI. FPL shall, at least 60 days prior to the expiration of the GAF tariff in October 2010, 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 at that time to continue, modify, or discontinue the tariff. It is further

ORDERED if a protest is filed within 21 days of the issuance of the Order, the tariff shall remain in effect pending resolution of the protest. If no timely protest is filed, this docket shall be closed upon the issuance of a Consummating Order.

By ORDER of the Florida Public Service Commission this 17th day of November, 2009.



ANN COLE
Commission Clerk

(S E A L)

JSB

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.

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 December 8, 2009.

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 AND LIGHT COMPANY

Additional Storm Restoration Data

Due to the lack of any additional major storms impacting FPL's service territory in 2006, 2007 and 2008, FPL has not been able to gather any additional storm restoration data.

Note: Since 2006, FPL has enhanced its forensics tools and processes, including gathering more information that will enable improved evaluation of its overhead vs. underground facilities' storm performance.

Overview/Status – Municipal Overhead vs. Underground Conversion Projects (2/06-7/09)

Ballpark cost estimates:	112
Binding cost estimates:	29
Projects completed:	6
Projects in engineering design:	25
Projects under construction:	9