

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

In re: Petition for approval of underground conversion tariff revisions, by Florida Power & Light Company.

DOCKET NO. 080244-EI

ORDER NO. PSC-10-0028-PCO-EI

ISSUED: January 13, 2010

The following Commissioners participated in the disposition of this matter:

NANCY ARGENZIANO, Chairman
LISA POLAK EDGAR
NATHAN A. SKOP
DAVID E. KLEMENT
BEN A. "STEVE" STEVENS III

ORDER SUSPENDING TARIFFS

BY THE COMMISSION:

Background

Docket No. 070231-EI

On April 2, 2007, Florida Power & Light Company (FPL) filed its underground residential distribution (URD) and underground commercial/industrial distribution (UCD) tariffs. By Order No. PSC-07-0835-TRF-EI, issued October 16, 2007, we proposed to approve these tariffs. However, on November 6, 2007, the Municipal Underground Utilities Consortium (MUUC) and the City of Coconut Creek (Coconut Creek) filed their timely protest of 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, Florida Administrative Code (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 it alleged reflected the changes in Rule 25-6.078, F.A.C. By Order No. PSC-08-0774-TRF-EI, issued November 24, 2008, we proposed to approve the April 1, 2008, tariffs in Docket No. 070231-EI. 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. Pending

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resolution of the protests, the April 1, 2008, tariffs have remained in effect with any charges collected held subject to refund.

On May 14, 2009, the protesters confirmed that they were withdrawing their objections to the UCD tariffs approved in this docket.

Docket No. 080244-EI

On April 30, 2008, FPL filed a petition requesting approval of its underground conversion tariffs, in order to implement the requirements of amended Rule 25-6.115, F.A.C. On May 28, 2008, MUUC filed a petition to intervene, which was granted by Order No. PSC-08-0460-PCO-EI, issued on July 17, 2008. On June 6, 2008, South Daytona filed a petition to intervene, which was granted by Order No. PSC-08-0461-PCO-EI, issued on July 17, 2008.

By Order No. PSC-08-0780-TRF-EI, issued November 26, 2008, we proposed to approve these tariffs. On December 17, 2008, MUUC, Coconut Creek, the Town of Palm Beach (Palm Beach), and Town of Jupiter Inlet (Jupiter Inlet) timely protested Order No. PSC-08-0780-TRF-EI, requesting this matter be set for a formal hearing. On December 22, 2008, South Daytona filed an untimely protest. The underground conversion tariffs approved by Order No. PSC-08-0780-TRF-EI remain in effect with any collections being held subject to refund.

Consolidation

By Order No. PSC-09-0114-PCO-EI, issued February 25, 2009, both dockets were consolidated and scheduled for a formal administrative hearing on June 3-4, 2009, with all subsequent filings to be filed in Docket No. 080244-EI.

Further proceedings

When the hearing was convened on June 3, 2009, the parties announced that they had reached philosophical agreement on a settlement of these two dockets along with Docket No. 080522-EI, In re: Petition and Complaint by Municipal Underground Utilities Consortium, Town of Palm Beach, Town of Jupiter Inlet Colony, and City of Coconut creek for relief from unfair charges and practices of Florida Power & Light Company. The parties requested that the hearing be held in abeyance until the parties could complete the actions contemplated under the proposed settlement. At a later date the parties indicated they would formally submit the settlement along with revised tariff sheets for Commission approval. The parties completed the necessary actions and submitted the settlement for approval on November 20, 2009. The City of South Daytona withdrew as an intervenor in these dockets on October 22, 2009.

We have jurisdiction over this matter pursuant to Sections 366.03, 366.04, 366.05, and 366.06, Florida Statutes (F.S.).

Suspension of Tariffs

The proposed settlement would resolve Docket Nos. 070231-EI and 080244-EI, as well as the complaint filed in Docket No. 080522-EI. As part of the settlement, revised tariff sheets


were filed. By statute, we have sixty days from the date of filing to approve, deny, or suspend a tariff. Pursuant to Section 366.06(3), F. S., we may withhold consent to the operation of all or any portion of a new rate schedule, delivering to the utility requesting such increase a reason or written statement of good cause for doing so within 60 days. Because of other rate case work load, our staff has not been able to adequately review the proposal to ensure that the settlement adequately addresses all the issues raised in the three dockets. We find that this is good cause for suspending the revised tariffs; therefore, the revised tariffs are suspended to allow our staff adequate time to review the settlement in its entirety.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the revised tariff sheets filed by Florida Power & Light Company are suspended. It is further

ORDERED that these dockets shall remain open so that we may address the substance of the settlement.

By ORDER of the Florida Public Service Commission this 13th day of January, 2010.



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 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 25-22.0376, 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.