



Public Service Commission

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JUN - 3 1998

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FPSC - Records/Reporting

DATE: JUNE 4, 1998

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF APPEALS (MOORE) *CTM*
DIVISION OF ELECTRIC AND GAS (GING) *9/28 JDJ*

RE: DOCKET NO. 980658-EI - PETITION BY FLORIDA POWER & LIGHT COMPANY TO AMEND RULE 25-6.097, F.A.C., TO REMOVE REQUIREMENT THAT GUARANTORS OF BILLS OF NON-RESIDENTIAL CUSTOMERS BE CUSTOMERS OF UTILITY.

AGENDA: 06/16/98 - REGULAR AGENDA - RULE PROPOSAL - INTERESTED PERSONS MAY PARTICIPATE

RULE STATUS: PROPOSAL MAY NOT BE DEFERRED

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\EAG\WP\980658.RCM

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant Florida Power & Light Company's Petition to Amend Rule 25-6.097, Florida Administrative Code.

RECOMMENDATION: Yes, the Commission should grant the petition in part. A notice of rule development should be published and a workshop held if requested before the Commission decides whether to propose the amendment in the form suggested by the petitioner.

STAFF ANALYSIS: Rule 25-6.097, Florida Administrative Code, currently requires any party designated as a guarantor for payment of bills to be a customer of the utility. This provision was originally designed to insure that the utility had reasonable recourse to collect unpaid bills. Florida Power & Light Company (FPL) has proposed a modification to the existing rule to eliminate the requirement for non-residential customers that the guarantor

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also be a customer. This would allow, for example, Florida businesses that are part of a national chain to use the parent company as a guarantor of bills, even if the parent company is not located in Florida.

Branches of large national businesses utilize the parent company for many services. While the logic underlying the current rule language is reasonable for residential or small commercial customers, the credit-worthiness of a nationally recognized parent organization of a Florida-based business may be sufficient protection for payment of utility bills. Staff recommends that rulemaking be initiated to address FPL's proposed change.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No.

STAFF ANALYSIS: If the Commission approves staff's recommendation to initiate rulemaking, this docket should remain open.

Attachment:
Petition

CTM/

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Florida Power &)
 Light Company to Amend Fla. Admin.)
 Code Rule 25-6.097)
 _____)

Docket No. 980658-ET

Filed: May 15, 1998

**PETITION OF FLORIDA POWER & LIGHT COMPANY
 TO AMEND RULE 25-6.097,
FLORIDA ADMINISTRATIVE CODE**

Pursuant to Section 120.54(7), Florida Statutes (1997) and Rule 25-22.012, Florida Administrative Code, Florida Power & Light Company ("FPL") petitions the Florida Public Service Commission ("Commission") to amend Rule 25-6.097, Florida Administrative Code, to remove the requirement that guarantors of bills of non-residential customers be customers of the utility. In support of this petition, FPL states:

1. FPL is a public utility subject to the jurisdiction of the Commission pursuant to Chapter 366, Florida Statutes. The exact name of FPL and the address of its General Office is

Florida Power & Light Company
 9250 West Flagler Street
 Miami, Florida 33174

2. Any pleading, motion, notice, order or other documents required to be served in this proceeding should be served on the following persons on behalf of FPL

W. G. Walker, III
 Vice President
 Regulatory Affairs
 Florida Power & Light Company
 P. O. Box 029100
 Miami, Florida 33102-9100

Kenneth A. Hoffman, Esq.
 Rutledge, Ecken, Underwood, Purnell &
 Hoffman, P.A.
 P. O. Box 551
 Tallahassee, FL 32302
 (850) 681-6788

REASONS FOR THE PROPOSED RULE AMENDMENT

3 For many non-residential customers of public utilities (as that term is defined in Section 366.02(1), Florida Statutes), payment of a cash security deposit or the posting of a surety bond or letter of credit in an amount based upon two months' average billings constitutes at minimum, a customer inconvenience, and at maximum, a financial hardship. Many non-residential customers have parent or affiliated companies outside the utility's service territory. Often, the parent or affiliated companies are large, viable and profitable concerns with the financial wherewithal to secure the payment of the bills of the non-residential customer.

4 From time to time, non-residential customers of FPL have requested that their respective parent or affiliated companies located outside FPL's service territory be permitted to act as guarantors to secure the payment of their electric bills. In an effort to be responsive to its customers' needs, FPL has filed this petition.

5 Attached to this petition as Exhibit A is FPL's proposed amendment to Rule 25-6.097, Florida Administrative Code. The proposed amendment will benefit businesses in Florida by enabling them to commence or continue business operations without the added expense of a cash security deposit, surety bond, or letter of credit, often in significant dollar amounts.

6 Existing customers of public utilities will not be harmed by the proposed amendment to Rule 25-6.097, Florida Administrative Code, because the new rule would require each utility to develop criteria and implement a process for the screening of potential guarantors of non-residential customers. The screening process would ensure that a guarantor meets minimum financial criteria established by the utility in its reasonable discretion.

7. The proposed amendment will benefit existing customers because it will more likely assure full recovery by a utility of any amount owed on a non-residential account. This is because a financially viable guarantor assumes full responsibility for any potential uncollectible amounts of its subsidiary or affiliate as compared to a deposit which would be fixed in amount at the time of delinquency.

SPECIFIC ACTION REQUESTED

8. To address the problems and concerns addressed in the preceding paragraph, FPL proposes that Rule 25-6.097(1)(a), Florida Administrative Code, be amended as follows:

(1) **Deposit required: establishment of credit.** Each company's tariff shall contain their specific criteria for determining the amount of initial deposit. Each utility may require an applicant for service to satisfactorily establish credit, but such establishment of credit shall not relieve the customer from complying with the utilities' rules for prompt payment of bills. Credit will be deemed so established if:

(a) The applicant for service furnishes a satisfactory guarantor to secure payment of bills for the service requested. For residential customers, a satisfactory guarantor shall, at the minimum, be a customer of the utility with a satisfactory payment record. For non-residential customers, a satisfactory guarantor need not be a customer of the utility. Each utility in its reasonable discretion shall develop minimum financial criteria that a proposed guarantor must meet or exceed to qualify as a satisfactory guarantor. A guarantor's liability shall be terminated when a residential customer whose payment of bills is secured by the guarantor meets the requirements of subsection (2) of this rule. Guarantors providing security for payment of residential customers' bills shall only be liable for bills contracted at the service address contained in the contract of guaranty.

FPL's proposed amended Rule 25-6.097, in legislative format, is attached to this Petition as Exhibit

A and incorporated herein by reference.

Customer Deposits.

(1) Deposit required; establishment of credit. Each company's tariff shall contain their specific criteria for determining the amount of initial deposit. Each utility may require an applicant for service to satisfactorily establish credit, but such establishment of credit shall not relieve the customer from complying with the utilities' rules for prompt payment of bills. Credit will be deemed so established if:

(a) The applicant for service furnishes a satisfactory guarantor to secure payment of bills for the service requested. For residential customers, a satisfactory guarantor shall, at the minimum, be a customer of the utility with a satisfactory payment record. For non-residential customers, a satisfactory guarantor need not be a customer of the utility. Each utility in its reasonable discretion shall develop minimum financial criteria that a proposed guarantor must meet or exceed to qualify as a satisfactory guarantor. A guarantor's liability shall be terminated when a residential customer whose payment of bills is secured by the guarantor meets the requirements of subsection (2) of this rule. Guarantors providing security for payment of residential customers' bills shall only be liable for bills contracted at the service address contained in the contract of guaranty.

(b) The applicant pays a cash deposit.

(c) The applicant for service furnishes an irrevocable letter of credit from a bank or a surety bond.

(2) Refunds of deposits. After a customer has established a satisfactory payment record and has had continuous service for a period of 23 months, the utility shall refund the residential customer's deposits and shall, at its option, either refund or pay the higher rate of interest specified below for nonresidential deposits, providing the customer has not, in the preceding 12 months, (a) made more than one late payment of a bill (after the expiration of 20 days from the date of mailing or delivery by the utility), (b) paid with a check refused by a bank, (c) been disconnected for nonpayment, or at any time, (d) tampered with the electric meter, or (e) used service in a fraudulent or unauthorized manner.

(3) New or additional deposits. A utility may require, upon reasonable written notice of not less than thirty (30) days, a new deposit, where previously waived or returned, or additional deposit, in order to secure payment of current bills. Such request shall be separate and apart from any bill for service and shall explain the reason for such new or additional deposit, provided, however, that a total amount of the required deposit shall not exceed an amount equal to twice the average charges for actual usage of electric service for the twelve month period immediately prior to the date of notice. In the event the customer has had service less than twelve months, then the utility shall base its new or additional deposit upon the average actual monthly usage available.

(4) Interest on deposits.

(a) Each electric utility which requires deposits to be made by its customers shall pay a minimum interest on such deposits of 6 percent per annum. The utility shall pay an interest rate of



7 percent per annum on deposits of nonresidential customers qualifying under subsection (2) when the utility elects not to refund such deposit after 23 months.

(b) The deposit interest shall be simple interest in all cases and settlement shall be made annually, either in cash or by credit on the current bill. This does not prohibit any utility paying a higher rate of interest than required by this rule. No customer depositor shall be entitled to receive interest on his deposit until and unless a customer relationship and the deposit have been in existence for a continuous period of six months, then he shall be entitled to receive interest from the day of commencement of the customer relationship and the placement of deposit. Nothing in this rule shall prohibit a utility from refunding at any time a deposit with any accrued interest.

(5) Record of deposits. Each utility having on hand deposits from a customer or hereafter receiving deposits from them shall keep records to show:

- (a) The name of each customer making the deposit;
- (b) The premises occupied by the customer;
- (c) The date and amount of deposit; and
- (d) Each transaction concerning the deposits such as interest payments, interest credited or similar transactions.

(6) Receipt for deposit. A non-transferable certificate of deposit shall be issued to each customer and means provided so that the customer may claim the deposit if the certificate is lost. Where a new or additional deposit is required under subsection (3) of this rule, a customer's cancelled check or validated bill coupon may serve as a deposit receipt.

(7) Refund of deposit when service is discontinued. Upon termination of service, the deposit and accrued interest may be credited against the final account and the balance, if any, shall be returned promptly to the customer by in no event later than fifteen (15) days after service is discontinued.