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May 26, 2000

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By Hand Delivery

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Blanca S. Bayó, Director
Records and Reporting
Florida Public Service Commission
4075 Esplanade Way, Room 110
Tallahassee, Florida 32399-0850

Re: **Comments of Florida Power & Light
Company in Docket No. 980643-EI**

Dear Ms. Bayó:

Enclosed for filing on behalf of Florida Power & Light Company (FPL) are the original and fifteen (15) copies of FPL's Comments in Docket No. 980643-EI.

If you or your Staff have any questions regarding this filing, please contact me.

Very truly yours,

Charles A. Guyton

Helton
CAG/ld

cc: Mary Anne Helton, Esq.
Parties of Record

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DOCUMENT NUMBER-DATE

06542 MAY 26 8

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**FLORIDA POWER & LIGHT COMPANY'S
COMMENTS ON PROPOSED AMENDMENTS
TO RULES 25-6.135, 25-6.1351 AND 25-6.0436
DOCKET NO. 980643-EI
MAY 26, 2000**

Florida Power & Light Company ("FPL") respectfully submits that there is no need for the proposed rule amendments. Experience has demonstrated that the existing rules are more than sufficient to protect utility customers from cross-subsidization. There has been no history of utility abuse that gives rise to a need for the rule amendments. Therefore, the Commission should reconsider whether any of the proposed amendments are necessary.

If the Commission proceeds with the proposed amendments, FPL has two concerns with Rule 25-6.1351(3)(b). This subsection was amended at the Agenda Conference where the rule was proposed, and as a result, it could use some clarifying amendments. More importantly, the rule presents a significant cost impact, some of which was not captured in the economic impact analysis because it is associated with a rule amendment made at the recent Agenda. To address these concerns, FPL offers several amendments to the proposed rule.

For ease of reference, FPL's comments suggesting specific language and related comments are attached in a two column format. The first column has the language of the proposed rule. FPL's suggested revisions are in legislative format with new language underlined and language to be removed with a strike through it. The second column has explanatory language addressing each of FPL's proposed changes.

DOCUMENT NUMBER-DATE
06542 MAY 26 8
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FPL'S SUGGESTED REVISIONS TO RULE 25-6.1351(3)(b)

Draft Rule

(b) Generally, a ~~A~~ utility should ~~must~~ charge an affiliate the higher of fully allocated costs or a readily determinable market price for all non-tariffed services and products purchased by the affiliate from the utility. Except, a utility may charge an affiliate less than fully allocated costs or a readily determinable market price if the charge is above incremental cost. If a utility charges less than fully allocated costs, the utility must maintain documentation to support and justify how doing so benefits regulated operations. If a utility charges less than a readily determinable market price, the utility must notify the Division of Auditing and Financial Analysis within 30 days of the transaction.

Comments

The first sentence sets forth a general rule that has several exceptions set forth in the three subsequent sentences. With the various exceptions, it would be clearer to make it less absolute.

In the second sentence it is noted that when a utility charges an affiliate less than fully allocated costs, it must at least charge incremental costs. That same minimum should be applicable when a utility charges less than market price. In other words, the utility should never charge an affiliate less than incremental costs.

In several sentences in the rule, there are references to "market price." FPL is concerned that for many transactions there is not a readily determinable market price, and FPL encourages the Commission not to create a requirement of seeking out or attempting to determine a market price where one is not readily apparent. If there is not a readily determinable market price for a product or service, then the rule could be construed as requiring FPL to undertake an effort to determine the market price. This would be costly and time consuming. For instance, bidding might be undertaken or a third party might be retained to provide a market assessment. The costs associated with such efforts are difficult to justify, particularly when the alternative of fully allocated costs assures customers that they are not subsidizing the offering of the product or service. Thus, FPL suggests that all

references in the rule to market price be changed to read "a readily determinable market price."

Finally, the last sentence added to the rule at the Agenda Conference adds a significant reporting requirement that was not addressed in the economic impact statement. There are a number of transactions between utilities and their affiliates. Some are difficult to even determine whether they are at or below market. For instance, FPL pays its employees wages or salaries based upon market prices. When it shares those employees with affiliates, it does so at fully allocated costs. Those fully allocated costs include labor costs at market prices, but it does not have a profit mark up for FPL. In that situation is the cost at or below market price? FPL would suggest that it is at market, but one might argue that the absence of a profit to FPL makes it below market. FPL should not have to report such a transaction. If the last sentence is modified to make the reporting requirement limited to instances where market price is "readily determinable," then this additional reporting requirement is not too onerous, but if it is left as requiring FPL to not only report but also determine every transaction potentially below market, this could be a very costly requirement.