



January 25, 2001

Richard C. Bellak, Esquire  
Division of Appeals  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

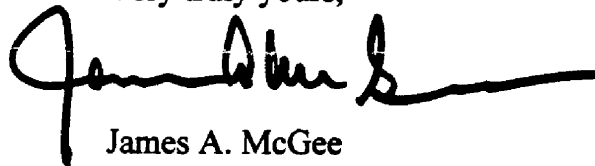
Re: Proposed Rule Development; Rule 25-6.116,  
Utility Collection of Underground Fees.

Dear Mr. Bellack:

As requested by Staff at the conclusion of the Rule Development Workshop, held January 8, 2001 in the subject matter, enclosed is Florida Power Corporation's Post-Workshop Comments. As the comments explain, Florida Power believes no further action in this proposed rule development is warranted until local governments, the intended beneficiaries of the draft rule, demonstrate a heretofore undisputed interest in adoption of such a rule and a likelihood that, if adopted, the rule will actually be implemented by them. Absent such a demonstration, further time and effort devoted to this matter by Staff and the utilities would be premature and inefficiently expended.

Please feel free to contact me if you or other Staff members assigned to this rule development should have any questions regarding the enclosed comments.

Very truly yours,



James A. McGee

APP \_\_\_\_\_ JAM/scc  
CAF \_\_\_\_\_ Enclosure  
CMP \_\_\_\_\_  
COM \_\_\_\_\_  
CTR \_\_\_\_\_ cc: Mr. Robert Trapp, Division of Policy  
ECR \_\_\_\_\_ Analysis & Intergovernmental Liason  
LEG \_\_\_\_\_  
OPC \_\_\_\_\_ Division of Records and Reporting  
PAI \_\_\_\_\_  
RGO \_\_\_\_\_  
SEC \_\_\_\_\_  
SER \_\_\_\_\_  
OTH \_\_\_\_\_

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FPSC-RECORDS/REPORTING

PRELIMINARY DRAFT OF RULE 25-6.116;  
UTILITY COLLECTION OF UNDERGROUND FEES

**FLORIDA POWER CORPORATION'S  
POST-WORKSHOP COMMENTS**

Apart from the significant legal, policy, implementation, and cost considerations associated with the draft rule, a threshold issue that must be addressed is whether a bona fide need for the rule exists. Or, to focus on the specific question at hand, whether there is any genuine basis for concluding that the rule would actually be utilized by the local governments the rule is intended to benefit. Unfortunately, neither current or past experience discloses a sufficiently serious interest on the part of local governments to warrant expending the considerable time and resources needed for the attempt to develop a fair, lawful and workable rule on their behalf.

The interest of the local governments in a Commission rule for the collection of underground fees is noteworthy only for its absence. No local governments or associations thereof have petitioned the Commission for the adoption of an underground rule, nor have they written the Commission to express an interest in such a rule. Moreover, despite publication of a notice for the rule development workshop on Staff's draft proposal, which was written entirely for their benefit, not a single local government representative attended the January 8th workshop, or even sent a letter acknowledging support of or interest in the matter.

This current lack of interest on the part of local governments is consistent with Florida Power's prior experience in attempting to assist them in the collection of underground fees. At the request of several local governments in the mid-90's, Florida Power filed and the Commission approved a tariff providing for the establishment of municipal underground areas and authorizing Florida Power to collect the municipality's undergrounding costs from customers residing in these areas. After several years in effect without being implemented by any local government, the Commission approved Florida Power's request to withdraw the tariff. During this period, the only local government that even attempted to implement the tariff, which required advance notification to affected customers, abandoned its attempt in the face of overwhelming customer opposition.

A number of important and complex questions were raised at the January 8th workshop that Staff asked the utilities to address in their post-workshop comments. With respect, Florida Power suggests that devoting the time and effort to a thoughtful response to these questions puts the cart before the horse. Until the local governments demonstrate a likelihood that a Commission-sanctioned mechanism to assist them in collecting underground fees will be met with greater acceptance than they have previously displayed, no further action by Staff or the utilities on their behalf can or should be expected.