

State of Florida



Public Service Commission

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COMMISSION
CLERK

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DATE: June 17, 2004

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Economic Regulation (Wheeler, Kummer) *ca* *H*
Office of the General Counsel (Brown) *MCB* *max* *JNS*

RE: Docket No. 040252-EI – Petition for approval of revisions to Tariff Sheet No. 9.930, application form for Medically Essential Service, by Florida Power & Light Company.

AGENDA: 06/29/04 – Regular Agenda – Tariff Filing – Interested Persons May Participate

CRITICAL DATES: 8-Month Effective Date: 11/21/04

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\040252A.RCM.DOC

Case Background

On March 22, 2004, Florida Power & Light Company (FPL) filed a petition for approval of proposed revisions to its Application Form for Medically Essential Service. FPL's proposed tariff revisions were suspended by the Commission at its May 18, 2004, Agenda Conference.

The Commission has jurisdiction over this matter pursuant to Sections 366.03, 366.04, 366.05 and 366.06, Florida Statutes.

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Discussion of Issues

Issue 1: Should the Commission approve FPL's proposed changes to its Application Form for Medically Essential Service Tariff?

Recommendation: Yes. (Wheeler, Kummer, Brown)

Staff Analysis: To obtain Medically Essential Service (MES) certification of their electric service, customers must meet the requirements that are contained in Section 366.15, Florida Statutes. A copy of this statute is contained in Attachment 1. MES customers must demonstrate that they or a permanent occupant of their home is dependent upon electric-powered equipment that must be operated continuously or as circumstances require as specified by a physician to avoid the loss of life or immediate hospitalization. The statute requires that customers renew their MES certification once every 12 months.

The statute requires the customer to complete a form supplied by the utility and to submit a form completed by a licensed physician that states why the electric service is medically essential. The form used by FPL to fulfill this requirement is contained in its approved tariff Sheet No. 9.930. Customers must complete Part A of the form and a licensed Florida physician must complete Part B. FPL has proposed several changes to the form, as discussed below.

FPL has proposed to amend Part A of the form to reflect the fact that the customer of record and the patient who is reliant on the electric-powered medical equipment may not be the same person. The existing form has only one signature line for the customer. The proposed revision requires a signature for both the customer of record and the patient, if the customer and the patient or the patient's guardian are not the same person.

FPL has proposed to add language to Part A of the form that authorizes FPL to release, upon request, limited MES customer information to state, federal, or local governmental authorities charged with emergency response or disaster relief or prevention, or to private entities authorized to assist in disaster relief, such as the Red Cross. The purpose of these requests is to allow the requesting agencies to better identify individuals who may need special assistance in the event of an emergency. The information released by FPL would include only the name and address of the customer of record. FPL normally treats such individual customer information as proprietary. For those customers who do not wish this information to be released, FPL has filed a proposed Notice of Exclusion from Disclosure form that must be completed and returned to FPL. The proposed form requires a signature for both the customer of record and the patient, if they are not the same person. The form was submitted as proposed original tariff sheet No. 9.932.

In Part B of the form, the physician must describe the electric equipment that the patient is dependent upon, and indicate how many hours each day the equipment must be operated. In addition, the physician must explain in both medical and non-medical terms why the specified equipment is needed in order to avoid loss of life or serious medical complications requiring immediate hospitalization. FPL has proposed to amend Part B to include a notification that FPL may contact the physician who completes Part B of the application in order to verify the physician's signature, the equipment description, and the explanation as to why the specified

equipment is necessary to avoid loss of life or serious medical complications requiring immediate hospitalization.

FPL has also proposed to amend Part B of the application to require the physician to certify that they have seen or consulted with the patient within the last 12 months. Currently, the form only requires the physician to certify that the patient is under their care. In its petition, FPL cited an instance in which a physician completing the form for a patient had not seen the patient in several years. FPL believes that it is reasonable to expect the physician to examine or consult with the patient at least once in the past 12 months in order to be able to provide meaningful and relatively current information on Part B of the form.

Finally, FPL has proposed to add notices to Parts A and B of the form to remind those who complete the form of the importance of providing true and correct information. The notice at the bottom of Part A states that if the applicant knowingly makes a false or misleading statement in completing the form, it could result in the denial or termination of MES certification. The notice at the bottom of Part B states that false certification of medically essential service by a physician constitutes grounds for discipline, penalties and enforcement under Florida Statutes, as Section 366.15(3)(a), Florida Statutes, provides.

Staff has reviewed the proposed modifications to the MES form, and has discussed them with FPL. Staff believes that the proposed tariff revisions are reasonable, and will allow FPL to more efficiently administer its MES program without placing undue burdens upon customers who apply for MES certification. Staff therefore recommends that the proposed revisions be approved.

Docket No. 040252-EI

Date: June 17, 2004

Issue 2: Should this docket be closed?

Recommendation: Yes. If Issue 1 is approved, this tariff should become effective on June 29, 2004. If a protest is filed within 21 days of the issuance of the order, this tariff should remain in effect pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order. (Brown)

Staff Analysis: Yes. If Issue 1 is approved, this tariff should become effective on June 29, 2004. If a protest is filed within 21 days of the issuance of the order, this tariff should remain in effect pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.

The 2003 Florida Statutes

Title XXVII Chapter 366 View Entire Chapter
RAILROADS AND OTHER REGULATED UTILITIES PUBLIC UTILITIES

366.15 Medically essential electric public utility service.--

(1) As used in this section, the term "medically essential" means the medical dependence on electric-powered equipment that must be operated continuously or as circumstances require as specified by a physician to avoid the loss of life or immediate hospitalization of the customer or another permanent resident at the residential service address.

(2) Each public utility shall designate employees who are authorized to direct an ordered continuation or restoration of medically essential electric service. A public utility shall not impose upon any customer any additional deposit to continue or restore medically essential electric service.

(3)(a) Each public utility shall annually provide a written explanation of the certification procedure for medically essential electric service to each utility customer. Certification of a customer's electricity needs as medically essential requires the customer to complete forms supplied by the public utility and to submit a form completed by a physician licensed in this state pursuant to chapter 458 or chapter 459 which states in medical and nonmedical terms why the electric service is medically essential. False certification of medically essential service by a physician is a violation of s. 458.331(1)(h) or s. 459.015(1)(i).

(b) Medically essential service shall be recertified once every 12 months. The public utility shall send the certified customer by regular mail a package of recertification materials, including recertification forms, at least 30 days prior to the expiration of the customer's certification. The materials shall advise the certified customer that he or she must complete and submit the recertification forms within 30 days after the expiration of customer's existing certification. If recertification forms are not received within this 30-day period, the public utility may terminate the customer's certification.

(4) Each public utility shall certify a customer's electric service as medically essential if the customer completes the requirements of subsection (3).

(5) Notwithstanding any other provision of this section, a public utility may disconnect service at a residence whenever an emergency may threaten the health or safety of a person, the surrounding area, or the public utility's distribution system. The public utility shall act promptly to restore service as soon as feasible.

(6) No later than 24 hours before any scheduled disconnection of service for nonpayment of bills by a customer who requires medically essential service, a public utility shall attempt to contact the customer by telephone in order to provide notice of the scheduled disconnection. If the customer does not have a telephone number listed on the account or if the public utility cannot reach the customer or other adult resident of the premises by telephone by the specified time, the public utility shall send a representative to the customer's residence to attempt to contact the customer no later than 4 p.m. of the day before scheduled disconnection. If contact is not made, however, the public utility may leave written notification at the residence advising the customer of the scheduled disconnection. Thereafter, the public utility may disconnect service on the specified date.

(7) Each public utility customer who requires medically essential service is responsible for mal

satisfactory arrangements with the public utility to ensure payment for such service, and such arrangements must be consistent with the requirements of the utility's tariff.

(8) Each public utility customer who requires medically essential service is solely responsible for any backup equipment or power supply and a planned course of action in the event of a power outage or interruption of service.

(9) Each public utility that provides electric service to any customer who requires medically essential service shall call, contact, or otherwise advise such customer of scheduled service interruptions.

(10)(a) Each public utility shall provide information on sources of state or local agency funding which may provide financial assistance to the public utility's customers who require medically essential service and who notify the public utility of their need for financial assistance.

(b)1. Each public utility that operates a program to receive voluntary financial contributions from the public utility's customers to provide assistance to persons who are unable to pay for the public utility's services shall maintain a list of all agencies to which the public utility distributes such funds for such purposes and shall make the list available to any such person who requests the list.

2. Each public utility that operates such a program shall:

a. Maintain a system of accounting for the specific amounts distributed to each such agency, and the public utility and such agencies shall maintain a system of accounting for the specific amounts distributed to persons under such respective programs.

b. Train its customer service representatives to assist any person who possesses a medically essential certification as provided in this section in identifying such agencies and programs.

(11) Nothing in this act shall form the basis for any cause of action against a public utility. Failure to comply with any obligation created by this act does not constitute evidence of negligence on the part of the public utility.

History.--ss. 1, 2, ch. 2001-49.

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