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February 20, 2006

VIA HAND DELIVERY

Ms. Blanca S. Bayo
Director, Division of the Commission
Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard, Room 110
Tallahassee, FL 32399-0850

060149-E1

**Re: In re: Petition by Florida Power & Light Company to Initiate
Rulemaking to Amend Rule 25-6.115, Facility Charges for
Providing Underground Facilities of Public Distribution
Facilities Excluding New Residential Subdivisions**

Dear Ms. Bayo:

Enclosed for filing in the above-referenced matter, please find the original and seven (7) copies of Florida Power & Light Company's Petition to Initiate Rulemaking to Amend Rule 25-6.115, Facility Charges for Providing Underground Facilities of Public Distribution Facilities Excluding New Residential Subdivisions.

Please acknowledge receipt of this filing by stamping the extra copy of this letter "filed" and returning same to me. Also included herewith is a computer diskette containing FPL's Petition in Word.

Please do not hesitate to contact me at (561) 304-5134 should you have any questions regarding this filing.

Sincerely,

Patrick M. Bryan
Attorney
Florida Power & Light Company

PMB/bjw
Enclosures
cc: Harold A. McLean, Esquire (via U.S. Mail)
Office of Public Counsel

DOCUMENT NUMBER-DATE

01486 FEB 20 06

may petition an agency to adopt, amend, or repeal a rule. This Petition requests that the Florida Public Service Commission (the "Commission") initiate rulemaking to amend Rule 25-6.115, Florida Administrative Code, appended hereto as Exhibit A, relating to facility charges for providing underground facilities of public distribution facilities excluding new residential subdivisions for electric utilities in Florida. The amendments to the rule sought by FPL are attached to this Petition as Exhibit B. The Commission has authority to amend this rule pursuant to Florida Statutes Sections 366.04 and 366.05(1).

2. On January 30, 2006, FPL filed with the Commission and published "STORM SECURE: FPL's Five Point Plan to Build a Stronger Grid for the Future." The Storm Secure Plan explains the steps that, subject to Commission approval, FPL proposes to take to substantially increase the resistance of its distribution, transmission and substation network to severe weather impacts. One component of the Storm Secure Plan is the promotion of underground conversions by local governments. FPL has offered, subject to Commission approval, to invest 25% of the cost of local government-sponsored conversion projects otherwise borne by the requesting locality, with the Commission recognizing such investment as new plant in service. This request to amend Rule 25-6.115 is a necessary step to implementation of the Storm Secure Plan.

3. FPL has a substantial interest in the adoption of the proposed rule. FPL is a public utility subject to the jurisdiction of the Commission under Chapter 366, Florida Statutes (2005). FPL's General Offices are located at 9250 West Flagler Street, Miami, FL 33174.

4. Pursuant to the current rule related to underground conversions, Florida public utility customers are required to pay the differential cost (CIAC) between overhead and

underground facilities. The current rule does not permit a public utility to invest a portion of the differential cost in its rate base; rather, it imposes the full amount of the differential on the customer. In furtherance of the public interest in promoting the conversion of electric distribution facilities from overhead to underground, FPL proposes to amend Rule 25-6.115 to allow a utility to invest as new plant in service a portion of the cost of local government-sponsored conversion projects that otherwise would be borne by the requesting local government.

5. Two extraordinary hurricane seasons and the prospect of more active and intense storm seasons in the coming years have made it clear that significant changes are required in the way that Florida public utilities design, construct and operate their electrical systems. This is particularly true for FPL, whose service area has experienced the direct hit of five hurricanes as well as the impact of two others in 2004 and 2005. Standards that have worked well and provided customers with reliable service in the past will need to be enhanced going forward. Florida generally, and South Florida in particular, are much more heavily and densely populated than they were at the time of Hurricane Andrew; customers' expectations have changed; and there is good evidence that we are in a more active part of a multi-decade hurricane cycle and can expect more frequent and intense storm events. Certainly, this is the belief of most Floridians as well as that of state and local government at all levels.

6. On January 23, 2006, the Commission held an Electric Infrastructure Workshop in Tallahassee. The facilitation of undergrounding by local communities was a prominent issue discussed at the Workshop. Additionally, data from the 2004 and 2005 hurricanes which impacted FPL's service area indicated that underground facilities incurred fewer main line (feeder) interruptions than did overhead facilities during each hurricane. Through Storm Secure,

and subject to Commission approval of the steps to implement its plan, FPL intends to work to address the expectations discussed above, consistent with the public interest in a more resilient electric infrastructure.

7. Reasons for the amendments sought by FPL include the following:

(A) The promotion of underground conversions by local governments is a necessary step in mitigating severe weather impacts on electrical facilities.

(B) Long term benefits to all customers will result from the promotion of underground conversions by local governments. These benefits include the reduction in the number and duration of outages and the reduction of storm and hurricane restoration costs to the general body of customers.

(C) Many customers, local and state government officials, and communities have expressed an interest in pursuing the conversion from overhead to underground facilities.

(D) It is in the public interest to reduce long term outages caused by extreme weather events. It is also in the public interest to rapidly restore service and reduce restoration costs. An amendment to Rule 25-6.115 is required to permit public utilities to invest up to 25% of the CIAC for local government-sponsored conversion projects, with the Commission recognizing such investment as new plant in service. The percentage investment by each public utility shall be set by tariff. Concurrent with the filing of this petition, FPL has filed a petition to revise its tariff. FPL's proposed tariff revisions are attached to this petition as Exhibit C.

8. Although the additional investment in rate base and other costs that will be incurred by utilities that implement new standards in accordance with the proposed revisions to Rule 25-6.115 will not be insignificant, FPL submits that such measures and expenditures are prudent and reasonable considering the benefits described above and, in particular, from the

standpoint of public policy concerns that strongly favor a more storm-resilient electric infrastructure. Accordingly, FPL requests that the Commission acknowledge the public interest of and in the actions contemplated by the proposed amendment to Rule 25-6.115 as it relates to FPL's Storm Secure plan, by initiating the requested rulemaking and adopting the proposed amendment at the earliest possible date.


9. FPL respectfully requests that this petition be acted upon on an expedited basis.

WHEREFORE, Petitioner, Florida Power & Light Company respectfully requests that the Commission initiate rulemaking to amend Rule 25-6.115, Florida Administrative Code, as set forth in Exhibit B hereof, in accordance with Section 120.54, Florida Statutes.

Dated: February 20, 2006

Respectfully submitted,

Patrick M. Bryan, Esquire
Law Department
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420
Telephone: (561) 304-5134
Facsimile: (561) 691-7305

By  _____
Patrick M. Bryan
Fla. Bar No. 0457523

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing “Petition to Initiate Rulemaking to Amended Rule 25-6.115, Facility Charges for Providing Underground Facilities of Public Distribution Facilities Excluding New Residential Subdivisions” has been furnished by U.S. Mail on this 20th day of February, 2006, to the following:

Harold A. McLean, Esquire
Office of Public Counsel
c/o The Florida Legislature
111 W. Madison Street, Room 812
Tallahassee, FL 32399-1400

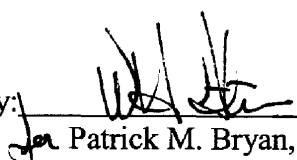
By: 
Patrick M. Bryan, Esquire
Fla. Bar No. 0457523

EXHIBIT A -- CURRENT VERSION

25-6.115 Facility Charges For Providing Underground Facilities of Public Distribution Facilities Excluding New Residential Subdivisions.

(1) Each public utility shall file a tariff showing the non-refundable deposit amounts for standard applications addressing new construction and the conversion of existing overhead to underground facilities excluding new residential subdivisions. The tariff shall include the general provisions and terms under which the public utility and applicant may enter into a contract for the purpose of new construction or conversion of existing overhead electric facilities to underground electric facilities. The non-refundable deposit amounts shall approximate the engineering costs for underground facilities serving each of the following scenarios: urban commercial, urban residential, rural residential, existing low-density single family home subdivision and existing high-density single family home subdivision service areas.

(2) For the purpose of this rule, the applicant is the person or entity seeking the Undergrounding of existing overhead electric distribution facilities. In the instance when a developer requests local government development approval, the local government shall not be deemed the applicant for purposes of this rule.

(3) Nothing in the tariff shall prevent the applicant from constructing and installing all or a portion of the underground distribution facilities provided:

(a) such work meets the public utility's construction standards;

(b) the public utility will own and maintain the completed distribution facilities; and

(c) such agreement is not expected to cause the general bode of ratepayers to incur greater costs.

(4) Nothing in the tariff shall prevent the applicant from requesting a non-binding cost estimate which shall be provided to the applicant free of any charge or fee.

(5) Upon an applicant's request and payment of the deposit amount, a public utility shall provide a binding cost estimate for providing underground electric service.

(6) An applicant shall have at least 180 days from the date the estimate is received, to enter into a contract with the public utility based on the binding cost estimate. The deposit amount shall be used to reduce the charge specified in section (7) only when the applicant enters into a contract with the public utility within 180 days from the date the estimate is received by the applicant.

(7) The charge paid by the applicant shall be the charge for the proposed underground facilities as indicated in section (8) minus the charge for overhead facilities as indicated in section (9) minus the non-refundable deposit amount. The applicant shall not be required to pay an additional amount which exceeds 10 percent of the binding cost estimate.

(8) For the purpose of this rule, the charge for the proposed underground facilities shall include:

(a) The estimated cost of construction of the underground distribution facilities including the construction cost of the underground service lateral(s) to the meter(s) of the customer(s);

(b) For conversions, the estimated remaining net book value of the existing facilities to be removed less the estimated net salvage value of the facilities to be removed.

(9) For the purpose of this rule, the charge for overhead facilities shall be the estimated construction cost to build new overhead facilities, including the service drop(s) to the meter(s) of the customer(s).

(10) An applicant to a public utility for construction of underground distribution facilities may petition the Commission pursuant to Rule 25-22.032, F.A.C.

(11) Nothing in this rule shall be construed to grant any electric utility any right, title or interest in real property owned by a local government.

*Specific Authority 366.04, 366.05(1) FS. Law Implemented 366.03, 366.04, 366.05 FS History-
New 9-21-92.*

EXHIBIT B – PROPOSED AMENDMENTS

25-6.115 Facility Charges For Providing Underground Facilities of Public Distribution Facilities Excluding New Residential Subdivisions.

(1) Each public utility shall file a tariff showing the non-refundable deposit amounts for standard applications addressing new construction and the conversion of existing overhead to underground facilities excluding new residential subdivisions. The tariff shall include the general provisions and terms under which the public utility and applicant may enter into a contract for the purpose of new construction or conversion of existing overhead electric facilities to underground electric facilities. The non-refundable deposit amounts shall approximate the engineering costs for underground facilities serving each of the following scenarios: urban commercial, urban residential, rural residential, existing low-density single family home subdivision and existing high-density single family home subdivision service areas.

(2) For the purpose of this rule, the applicant is the person or entity seeking the Undergrounding of existing overhead electric distribution facilities. In the instance when a developer requests local government development approval, the local government shall not be deemed the applicant for purposes of this rule.

(3) Nothing in the tariff shall prevent the applicant from constructing and installing all or a portion of the underground distribution facilities provided:

(a) such work meets the public utility's construction standards;

(b) the public utility will own and maintain the completed distribution facilities; and

(c) such agreement is not expected to cause the general bode of ratepayers to incur greater costs.

(4) Nothing in the tariff shall prevent the applicant from requesting a non-binding cost estimate which shall be provided to the applicant free of any charge or fee.

(5) Upon an applicant's request and payment of the deposit amount, a public utility shall provide a binding cost estimate for providing underground electric service.

(6) An applicant shall have at least 180 days from the date the estimate is received, to enter into a contract with the public utility based on the binding cost estimate. The deposit amount shall be used to reduce the charge specified in section (7) only when the applicant enters into a contract with the public utility within 180 days from the date the estimate is received by the applicant.

(7) The charge paid by the applicant shall be the charge for the proposed underground facilities as indicated in section (8) minus the charge for overhead facilities as indicated in section (9) minus the non-refundable deposit amount. The applicant shall not be required to pay an additional amount which exceeds 10 percent of the binding cost estimate.

(8) For the purpose of this rule, the charge for the proposed underground facilities shall include:

(a) The estimated cost of construction of the underground distribution facilities including the construction cost of the underground service lateral(s) to the meter(s) of the customer(s);

(b) For conversions, the estimated remaining net book value of the existing facilities to be removed less the estimated net salvage value of the facilities to be removed.

(9) For the purpose of this rule, the charge for overhead facilities shall be the estimated construction cost to build new overhead facilities, including the service drop(s) to the meter(s) of the customer(s);

(10) In those instances where the applicant is a local government, subject to the utility's tariff and upon mutual agreement between the applicant and the utility, the charge payable by the applicant as determined in paragraph (7) above may be reduced by up to 25%. The amount of such reduction in the applicant's charge shall be added to the utility's net plant in service. For purposes of any such application all existing overhead facilities within the area designated for conversion must be included by local government in the requested conversion project. The reduction shall not be available with respect to any road construction or improvement projects for which state or federal funds are available.

(11) An applicant to a public utility for construction of underground distribution facilities may petition the Commission pursuant to Rule 25-22.032, F.A.C.

(12) Nothing in this rule shall be construed to grant any electric utility any right, title or interest in real property owned by a local government.

*Specific Authority 366.04, 366.05(1) FS. Law Implemented 366.03, 366.04, 366.05 FS History-
New 9-21-92.*

EXHIBIT C – PROPOSED REVISIONS TO TARIFF SHEET NO. 6.300

**INSTALLATION OF UNDERGROUND ELECTRIC DISTRIBUTION FACILITIES
FOR THE CONVERSION OF OVERHEAD ELECTRIC DISTRIBUTION FACILITIES**

SECTION 12.1 DEFINITIONS

APPLICANT - Any person, corporation, or entity capable of complying with the requirements of this tariff who has made a written request for underground electric distribution facilities in accordance with this tariff.

CONVERSION - Any installation of underground electric distribution facilities where the underground facilities will be substituted for existing overhead electric distribution facilities, including relocations.

CONTRIBUTION-IN-AID-OF-CONSTRUCTION (CIAC) - The CIAC to be paid by an Applicant under this tariff section shall be determined according to the following formula:

$$CIAC = [(UG + NBV + R) - (OH + SV)] * (1 - GAF)$$

where UG is the estimated cost to install the underground electric distribution facilities requested, OH is the estimated cost to install new overhead electric distribution facilities as if the present facilities were to be completely replaced, NBV is the net book value (book value less accumulated depreciation) of the existing overhead electric distribution facilities to be removed from service after the installation of the underground facilities, R is the cost to remove the overhead electric distribution facilities for which the underground facilities will be substituted, and SV is the salvage value of the removed materials which constituted the overhead electric distribution facilities. and GAF is the government adjustment factor, if any, applicable to the Applicant. In those instances where the Applicant is a local government and upon mutual agreement between the Applicant and the utility, the government adjustment factor shall be set to 25%. In all other cases, the government adjustment factor shall be 0%. For the GAF to apply, all existing overhead facilities within the area designated for conversion must be included by the Applicant in the requested conversion project. The GAF shall not apply with respect to any road construction or improvement projects for which state or federal funds are available.

DISTRIBUTION SYSTEM - Electric service facilities consisting of primary and secondary conductors, service drops, service laterals, conduits, transformers and necessary accessories and appurtenances for the furnishing of electric power at utilization voltage.

SERVICE FACILITIES - The entire length of conductors between the distribution source, including any conduit and or risers at a pole or other structure or from transformers, from which only one point of service will result, and the first point of connection to the service entrance conductors at a weatherhead, in a terminal, or meter box outside the building wall; the terminal or meter box; and the meter.

SECTION 12.2 GENERAL

12.2.1 Application

This tariff section applies to all requests for underground electric distribution facilities where the facilities requested will be substituted for existing overhead electric distribution facilities. Any person, corporation, or entity capable of complying with the requirements of this tariff may submit a request as follows. Requests shall be in writing and must specify in detail the overhead electric distribution facilities to be converted or the area to be served by underground electric distribution facilities in lieu of presently existing overhead electric distribution facilities serving said area. Upon receipt of a written request, FPL will determine the feasibility of converting the existing facilities, any necessary revisions to this written request, and the non-refundable deposit amount necessary to secure a binding cost estimate and notify the applicant of said amount.

12.2.2 Contribution-in-Aid-Of-Construction (CIAC)

Upon the payment of a non-refundable deposit by an Applicant, FPL shall prepare a binding cost estimate specifying the contribution in aid of construction (CIAC) required for the installation of the requested underground distribution facilities, where the installation of such facilities is feasible, and provide said estimate to the Applicant upon completion of the estimate along with an Underground Facilities Conversion Agreement. The CIAC amount to be collected pursuant to a binding cost estimate from an Applicant shall not be increased by more than 10 percent of the binding cost estimate to account for actual costs incurred in excess of the binding cost estimate. However, the CIAC may be subject to increase or refund if the project scope is enlarged or reduced at the request of the Applicant, or the CIAC is found to have a material error prior to the commencement of construction.

The binding cost estimate provided to an Applicant shall be considered expired if the Applicant does not enter into an Underground Facilities Conversion Agreement and pay the CIAC amount specified for the installation of the requested underground electric distribution facilities within 180 days of delivery of the binding cost estimate to the Applicant by FPL.

(Continued on Sheet No. 6.310)