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State of Florida



# Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

COMMISSION  
CLERK

## -M-E-M-O-R-A-N-D-U-M-

**DATE:** March 23, 2006

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

**FROM:** Office of the General Counsel (Harris, Moore) *DDH- GJM DES*  
Division of Economic Regulation (Trapp, Kummer) *TRT 198*

**RE:** Docket No. 060147-EI – Petition to initiate rulemaking to amend Rule 25-6.034, F.A.C., Standard of Construction, by Florida Power & Light Company.

Docket No. 060148-EI – Petition to initiate rulemaking to amend Rule 25-6.0345, F.A.C., Safety Standards for Construction of New Transmission and Distribution Facilities, by Florida Power & Light Company.

Docket No. 060149-EI – Petition to initiate rulemaking to amend Rule 25-6.115, F.A.C., Facility Charges for Providing Underground Facilities of Public Distribution Facilities Excluding New Residential Subdivisions, by Florida Power & Light Company.

**AGENDA:** 04/04/06 – Regular Agenda – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All

**PREHEARING OFFICER:** Arriaga

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\GCL\WP\060147.RCM.DOC

### Case Background

On February 20, 2006, Florida Power & Light Company (FPL) filed three Petitions to Initiate Rulemaking. All three petitions relate to the same general subject area, which is strengthening or “hardening” FPL’s electric transmission and distribution infrastructure. Docket No. 060147-EI was opened for FPL’s petition to amend Rule 25-6.034, F.A.C., Standards of

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Docket Nos. 060147-EI, 060148-EI, 060149-EI

Date: March 23, 2006

Construction; Docket No. 060148-EI was opened for FPL's petition to amend Rule 25-6.0345, F.A.C., Safety Standards of Construction for New Transmission and Distribution Facilities; and Docket No. 060149-EI was opened for FPL's petition to amend Rule 25-6.115, F.A.C., Facility Charges for Providing Underground Facilities of Public Distribution Facilities Excluding New Residential Subdivisions.

At the February 27, 2006, Internal Affairs meeting, staff presented a series of proposed actions the Commission might take to enhance the reliability of Florida's transmission and distribution grids during extreme weather events. One of the proposed actions, approved by the Commission, was to initiate rulemaking to address strengthening of overhead infrastructure and issues surrounding the conversion of overhead infrastructure to underground facilities. Accordingly, on March 1, 2006, staff opened Dockets Nos. 060172-EU and 060173-EU. Notices of Proposed Rule Development were issued on March 21, 2006, and will be published in the Florida Administrative Weekly on March 31, 2006.

### Discussion of Issues

**ISSUE 1:** Should the Commission grant Florida Power & Light Company's Petitions to Initiate Rulemaking to amend Rules 25-6.034, 25-6.0345 and 25-6.115?

**RECOMMENDATION:** No. (HARRIS, MOORE, TRAPP, KUMMER)

**STAFF ANALYSIS:** Florida Power & Light Company (FPL) filed three separate but related petitions to initiate rulemaking. In Docket No. 060147-EI, FPL proposes that the Commission initiate rulemaking to amend Rule 25-6.034, F.A.C., as follows:

#### **25-6.034 Standard of Construction.**

(1) The facilities of the utility shall be constructed, installed, maintained and operated in accordance with generally accepted engineering practices to assure, as far as is reasonably possible, continuity of service and uniformity in the quality of service furnished. In support of the public interest in strengthening electrical facilities to enhance their ability to withstand extreme weather events, a utility may exceed the minimum requirements of generally accepted engineering practices.

(2) The Commission has reviewed the American National Standard Code for Electricity Metering, 6<sup>th</sup> edition, ANSI C-12, 1975, and the American National Standard Requirements, Terminology and Test Code for Instrument Transformers, ANSI-57.13, and has found them to contain reasonable standards of good practice. A utility that is in compliance with the applicable provisions of these publications, and any variations approved by the Commission, shall be deemed by the Commission to have facilities constructed and installed in accordance with generally accepted engineering practices.

In Docket No. 060148-EI, FPL proposes that the Commission initiate rulemaking to amend Rule 25-6.0345, F.A.C., as follows:

#### **25-6.0345 Safety Standards for Construction of New Transmission and Distribution Facilities.**

(1) In compliance with Section 366.04(6)(b), F.S., 1991, the Commission adopts and incorporates by reference the 2002 edition of the National Electrical Safety Code (ANSI C-2), published August 1, 2001, as the applicable safety standards for transmission and distribution facilities subject to the Commission's safety jurisdiction. Each public electric utility, rural electric cooperative, and municipal electric system shall comply with the standards in these provisions. Standards contained in the 2002 edition shall be applicable to new construction for which a work order number is assigned on or after the effective date of this rule. In support of the public interest in strengthening electrical facilities to enhance their ability to withstand extreme weather events, a utility may exceed the minimum requirements of the applicable safety standards

for distribution facilities up to and including adopting the National Electrical Safety Code (NESC) extreme wind standards for (i) new construction, (ii) major expansion, maintenance/rebuild and relocation projects, and (iii) targeted top critical infrastructure facilities and major thoroughfares, as determined by NESC extreme wind velocity zones, taking into account political and geographic boundaries and other operational considerations.

In Docket No. 060148-EI, FPL proposes that the Commission initiate rulemaking to amend Rule 25-6.115, F.A.C., to add a new subsection (10), as follows:

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

(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.

The three rules FPL proposes the Commission amend all deal with electric infrastructure. In the first two petitions, FPL is essentially asking the Commission to amend its rules to allow for "hardening", that is, building facilities to more stringent standards than required by the current National Electric Safety Code. In the third docket, FPL is asking the Commission to facilitate the conversion of overhead facilities to underground facilities by reducing the cost paid by the customer requesting the conversion.

At the February 27, 2006, Internal Affairs meeting, the Commission directed staff to open rulemaking dockets to address electrical infrastructure strengthening. Staff has opened two dockets, Docket Nos. 060172-EU and 060173-EU. Docket No. 060172-EU is intended to address underground facilities, while 060173-EU is intended to address overhead facilities. It is staff's intent that this rulemaking be comprehensive, and include all electric utilities in the state, including investor-owned, municipal, and cooperative utilities. By its terms, rules contained in Chapter 25-6, F.A.C., only apply to "public utilities", which are defined in Florida Statutes as investor-owned electric utilities.<sup>1</sup> Staff believes that the intent of the Commission was to address electrical infrastructure strengthening for all electric utilities, not just the investor-owned utilities.

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<sup>1</sup> Rule 25-6.003(2)(h), F.A.C., defines "Utility: Unless a different intent clearly appears from the context, the word or words "utility" or "electric utility" as used in these rules shall have the same meaning as set out for "public utility" in Section 366.02, F.S., and shall include all such utilities subject to Commission Jurisdiction." Section 366.02, Florida Statutes, specifically excludes from the definition of "public utility" cooperatives and municipalities.

Because staff has opened dockets to address the issue of strengthening Florida's electric infrastructure in a comprehensive manner, which will include the specific rules that FPL proposes be amended, staff recommends that the Commission deny FPL's Petitions to Initiate Rulemaking. FPL will have an opportunity to address these specific rule amendments during the course of the staff-initiated rulemaking dockets.

**ISSUE 2:** Should these Dockets be closed?

**RECOMMENDATION:** Yes. If the Commission accepts staff's recommendation and denies Florida Power and Light Company's Petitions to Initiate Rulemaking, the dockets should be closed.

**STAFF ANALYSIS:** If the Commission accepts staff's recommendation and denies Florida Power & Light Company's Petitions to Initiate Rulemaking, no further action needs to be taken on the Petitions and the dockets should be closed.