

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for approval of revisions to contribution-in-aid-of-construction definition in Section 12.1 of First Revised Tariff Sheet No. 6.300, by Florida Power & Light Company.

DOCKET NO. 060150-EI
ORDER NO. PSC-06-0339-PCO-EI
ISSUED: April 24, 2006

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
J. TERRY DEASON
ISILIO ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW

ORDER SUSPENDING TARIFF AND
APPLYING DISCOUNT ON OR AFTER APRIL 4, 2006

BY THE COMMISSION:

Background

On February 20, 2006, Florida Power & Light Company (FPL or utility) filed a petition for approval of revisions to the Contribution-In-Aid of Construction (CIAC) definition in Section 21.1 of its First Revised Tariff Sheet No. 6.300. Concurrent with the filing of the petition, FPL filed a petition to initiate rulemaking to amend Rule 25-6.115, Florida Administrative Code, entitled "Facility Charges for Providing Underground Facilities of Public Distribution Facilities Excluding New Residential Subdivisions." FPL's proposal to initiate rulemaking is addressed in Docket No. 060149-EI (rulemaking docket).

Both Rule 25-6.115 and FPL's tariff sheet No. 6.300 provide the general provisions and terms under which FPL and an applicant (e.g., customer, developer, or local government) may enter into a contract to convert existing overhead electric facilities to underground facilities. The applicant is required to pay FPL a CIAC, which represents the conversion costs incurred by FPL. Currently, the applicant is responsible for the full conversion cost. In the instant docket and in the rulemaking docket, FPL has proposed to invest 25 percent of the cost of local government-sponsored conversion projects that would be otherwise borne by the requesting municipality.

FPL is requesting that its investment be recognized as new plant-in-service. FPL states that the requested reduction in CIAC would facilitate conversions requested by cities and counties and is consistent with FPL's Storm Secure Plan as filed on February 20, 2006. Since plant-in-service is a component of the utility's rate base, the inclusion of the 25 percent foregone CIAC would increase rate base for all regulatory purposes, including rate cases and earnings

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surveillance. In future rate cases, the 25 percent foregone CIAC would be included as an investment to be recovered from the general body of ratepayers.

On March 17, 2006, the Towns of Palm Beach and Jupiter Island filed Petitions to Intervene and Petitions for Tariff Amendment in this docket.

We have jurisdiction pursuant to Sections 366.03, 366.04, 366.05, and 366.06, Florida Statutes.

Tariff Suspension

Pursuant to Section 366.06(3), Florida Statutes, we may withhold consent to the operation of all or any portion of a new rate schedule, delivering to the utility making the request a reason or written statement of good cause for doing so within 60 days. We have decided to suspend our approval of this proposed tariff to allow time for full and careful review of its provisions.

Additionally, we note that FPL requested the proposed tariff revision be approved at the earliest opportunity, but not earlier than adoption by this Commission of FPL's proposed amendments to Rule 25-6.115, Florida Administrative Code. We agree with FPL that this proposed tariff revision should not be approved before Rule 25-6.115 is amended. Absent a companion rule change, we are concerned that the language proposed in the tariff may be in conflict with existing rule language on the treatment of CIAC.

We further note that on March 17, 2006, the Towns of Palm Beach and Jupiter Island (Towns) filed Petitions to Intervene and Petitions for Tariff Amendment in this docket. Among other things, the Towns argue that FPL's proposed 25 percent credit is a step in the right direction but does not go far enough to provide sufficient or appropriate incentives to local governments to undertake underground conversion projects. Suspension of FPL's proposed tariff revisions will afford us time to analyze these Petitions which relate to FPL's proposed tariff. For the reasons discussed above, we hereby suspend FPL's proposed tariff filing.

Application of Discount On or After April 4, 2006

Although we suspend the tariff, we are keenly aware of the importance of hardening electric distribution facilities in a expeditious manner to prevent or mitigate potential storm related outages. We have opened two rulemaking dockets to address, among many other related topics, the appropriateness of the type of discount proposed by FPL in this docket. Moreover, we do not wish to discourage cities or counties who are willing to pursue undergrounding of their existing facilities at this time. Accordingly, in the event we decide it is appropriate for all ratepayers to share in the cost of converting existing overhead facilities to underground and we ultimately approve a tariff revision for FPL in this docket, FPL shall be permitted to apply any such later-approved discount to the cost of undergrounding facilities for local governments that proceed with underground conversion projects prior to our final decision on the issue. Any such later-approved discount for local government-sponsored conversion projects shall apply to

undergrounding contracts entered into with local governments on or after April 4, 2006, the date of our vote on the matter.

Based on the foregoing, it is

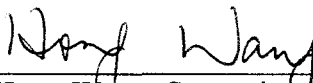
ORDERED by the Florida Public Service Commission that FPL's request for approval of revisions to the CIAC definition in Section 21.1 of its First Revised Tariff Sheet No. 6.300 is suspended pending further review. It is further

ORDERED that in the event a tariff revision is ultimately approved for FPL in this docket, FPL shall be permitted to apply any such later-approved discount to the cost of undergrounding facilities for local governments that proceed with underground conversion projects prior to our final decision on the issue. Any such later-approved discount for local government-sponsored conversion projects shall apply to undergrounding contracts entered into with local governments on or after April 4, 2006. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission this 24th day of April, 2006.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: 

Hong Wang, Supervisor
Case Management Review Section

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.