

## Timolyn Henry

---

**From:** John\_Butler@fpl.com  
**Sent:** Tuesday, February 20, 2007 11:41 AM  
**To:** Filings@psc.state.fl.us  
**Cc:** Rosanne Gervasi; swright@yvlaw.net  
**Subject:** Electronic filing for Docket No. 060150-EI -- FPL's Response to Petition to Intervene of the Municipal Underground Utilities Consortium

**Attachments:** Response to MUUC petition to intervene FINAL.doc



Response to MUUC  
petition to i...

### Electronic Filing

a. Person responsible for this electronic filing:

John T. Butler  
Senior Attorney  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, FL 33408-0420  
(561) 304-5639  
john\_butler@fpl.com

b. Docket No. 060150-EI

c. Document is being filed on behalf of Florida Power & Light Company.

d. There is a total of 5 pages.

e. The document attached for electronic filing is Florida Power & Light Company's Response to Petition to Intervene of the Municipal Underground Utilities Consortium.

(See attached file: Response to MUUC petition to intervene FINAL.doc)

BEFORE THE FLORIDA 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  
FILED: February 20, 2007

**FLORIDA POWER & LIGHT COMPANY'S RESPONSE  
TO PETITION TO INTERVENE OF THE  
MUNICIPAL UNDERGROUND UTILITIES CONSORTIUM**

Florida Power & Light Company ("FPL") hereby responds to the Petition to Intervene that was filed on February 15, 2007 by the Municipal Underground Utilities Consortium ("MUUC").

FPL does not object to MUUC's intervention in this docket. However, pursuant to Rule 25-22.039, F.A.C., MUUC must take this proceeding as it finds it. Issues 5 through 8 in the Petition to Intervene are inconsistent with this requirement, because they purport to expand this proceeding beyond its proper scope. Accordingly, should MUUC be granted intervention, it should not be permitted to pursue those issues here.

This proceeding was initiated by FPL to seek approval of tariff sheet revisions that would implement FPL's proposed Governmental Adjustment Factor Waiver ("GAF"). Pursuant to the GAF, FPL proposes to waive 25% of the otherwise applicable Contribution-In-Aid-of-Construction ("CIAC") that a local government would pay for converting overhead electric distribution facilities to underground for projects that meet certain eligibility criteria (the "GAF Waiver") As part of its request, FPL asks the Commission to find that FPL is entitled, pursuant to Rule 25-6.115(12), F.A.C., to include the GAF Waiver amounts as Plant in Service, because there are quantifiable benefits to the general body of FPL's customers commensurate with the waived amounts.

The GAF Tariff is voluntary and optional. No local government is required to utilize the GAF Tariff for underground conversions. The Commission has recently amended Rule 25-6.115 to revise some of the elements in the calculation of CIAC. The GAF Tariff does not implement those revisions to the CIAC calculation, which will be the subject of a separate tariff filing by FPL in the near future. Stated another way, the GAF Tariff does not affect the calculation of CIAC; it would implement a proposed waiver of part of whatever CIAC amount has otherwise been calculated. FPL has petitioned the Commission in this proceeding only for approval of the GAF Tariff; it will petition separately for approval of the tariff revisions that implement the revised CIAC calculation.

The scope of this proceeding is thus properly limited to considering whether the GAF Tariff should be approved and FPL allowed to include the GAF Waiver amounts in Plant in Service. FPL does not dispute that MUUC's Issues 1 to 4 properly relate to the subject matter of this proceeding. However, as explained further below, MUUC's Issues 5 to 8 are clearly outside the proper scope of this proceeding. MUUC should not be permitted to hijack FPL's proceeding for its own, unrelated agenda.

Issue 5: What are the appropriate costs and benefits to be considered and reflected in the calculation of the OH-to-UG conversion CIACs? This issue clearly has nothing to do with the GAF Tariff. One could answer it without shedding any light on the propriety of the GAF Tariff and, conversely, approval of the GAF Tariff would not affect the resolution of this issue. As noted above, the GAF Tariff does not affect the calculation of CIAC, but rather would waive a portion of whatever CIAC amount has been calculated.

Because Issue 5 deals solely with what factors to consider in calculating the CIAC, it is irrelevant to determining whether to approve the GAF Tariff.

Issue 6: What is the appropriate level of credit to be applied against in [sic] calculating OH-to-UG conversion CIACs. This issue is irrelevant for the same reason as Issue 5.

Issue 7: How should the CIACs for OH-to-UG conversions be calculated when municipalities undertake OH-to-UG conversion projects themselves (either with municipal employees or with an FPL-approved contractor), as is their right pursuant to Ruel 25-6.115(3), F.A.C., and FPL's Tariff Section 12.2.11 on First Revised Sheet No. 6.330? Again, this issue is simply irrelevant to determining whether to approve the GAF Tariff. This mismatch is illustrated by the fact that the tariff provision central to Issue 7 (Section 12.2.11) is not modified or even affected by FPL's GAF Tariff filing.<sup>1</sup>

Issue 8: Is FPL's proposed City/County Right-of-Way Agreement for Underground Conversions fair, just, reasonable, and appropriate? This is perhaps MUUC's greatest stretch. FPL's GAF Tariff filing does not even include the referenced right-of-way agreement, and the GAF Tariff neither affects nor is affected by that agreement.

The mismatch between what FPL seeks in this proceeding and what MUUC wants to use this proceeding to accomplish is perhaps best illustrated by MUUC's own statement of relief requested. MUUC seeks "relief in the form of OH-to-UG CIACs that fully reflect the benefits provided by OH-to-UG conversions and that are fully compliant with the Commission's rules and regulations." Petition to Intervene, at page 11. As

---

<sup>1</sup> Tariff Sheet No. 6.330, on which Section 12.2.11 appears, is included with FPL's amended GAF Tariff petition, but this is only because changes on other tariff sheets to implement the GAF affect the pagination of Tariff Sheet No. 6.330.

discussed above, the GAF Tariff does not determine CIACs, for local governments or any other FPL customers. It proposes, rather, a waiver of otherwise applicable CIAC amounts for eligible projects. Granting the relief MUUC seeks is simply unnecessary and inappropriate to a decision on whether to approve the GAF Tariff.

WHEREFORE, FPL respectfully requests that the Commission, if it grants MUUC's Petition to Intervene, strictly limit MUUC's intervention to issues directly relevant to review and approval of the GAF Tariff and, consistent therewith, reject MUUC's Issues 5 to 8 as unnecessary and inappropriate to this proceeding.

Respectfully submitted,

John T. Butler, Esquire  
Senior Attorney  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, FL 33408  
Telephone: (561) 304-5639  
Facsimile: (561) 691-7135

By:           /s/ John T. Butler            
John T. Butler  
Fla. Bar No. 283479

**CERTIFICATE OF SERVICE**  
**Docket No. 060150-EI**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by electronic delivery on the 20<sup>th</sup> day of February, 2007, to the following:

Rosanne Gervasi, Esq.  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

Robert Scheffel Wright, Esq.  
Young van Assenderp, P.A.  
Attorneys for Florida Retail Federation  
225 South Adams Street, Suite 200  
Tallahassee, FL 32301

By: /s/ John T. Butler  
John T. Butler