

ORIGINAL

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March 23, 2007

BY HAND DELIVERY

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07 MAR 23 PM 4:52
COMMISSION
CLERK

Blanca Bayo, Director
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. 060150-EI, Stipulation and Settlement

CMP _____
COM _____

Dear Ms. Bayo:

CTR _____ Enclosed for filing on behalf of the MUUC, the Town of Palm
ECR _____ Beach, the Town of Jupiter Island and Florida Power & Light are 16
GCL _____ copies of a Stipulation and Settlement between these four parties in
OPC _____ the above-referenced docket. Please confirm receipt of these by
RCA _____ date-stamping the accompanying copy provided for that purpose and
returning same with our runner.

SCR _____ As always, my thanks to you and to your professional Staff for
SGA _____ their kind and courteous assistance. If you have any questions,
please give me a call at (850)222-7206.

SEC _____
OTH _____

Cordially yours,

Robert Scheffel Wright
Robert Scheffel Wright

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FPSC-COMMISSION CLERK

Enclosures

ORIGINAL

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

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CLERK

STIPULATION AND SETTLEMENT

WHEREAS, on February 20, 2006, FPL filed a petition for approval of a revision to the definition of "Contribution-In-Aid-of-Construction" ("CIAC") in Section 12.1 of its general tariff rules (Tariff Sheet No. 6.300) that would offer a 25% reduction ("government adjustment factor," or "GAF") in the otherwise applicable CIAC for underground conversion projects undertaken by local government applicants, provided that FPL were permitted to include the GAF amounts in rate base to be recovered from FPL's general body of customers. FPL's purpose in filing the GAF tariff was to promote underground conversions by local governments, which was one of the components of FPL's Storm Secure Plan that was filed with the Commission and published on January 30, 2006.

WHEREAS, on April 4, 2006, the Commission suspended FPL's GAF tariff filing, but provided in its order doing so that "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-

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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.” Order No. PSC-06-0339-PCO-EI, dated April 24, 2006.

WHEREAS, on September 21, 2006, FPL filed an amended petition that revised and refined the GAF tariff proposal, to address concerns raised by the Commission Staff with respect to the original proposal (the September 21, 2006 revised tariff proposal is referred to herein as the “GAF Tariff,” and the 25% waiver of otherwise applicable CIAC for eligible local government underground conversion projects that would be applied under the GAF Tariff is referred to herein as the “GAF Waiver”).

WHEREAS, the Town of Jupiter Island, the Town of Palm Beach (collectively, the “Towns”) have intervened in this docket and the Municipal Underground Utilities Consortium (“MUUC”) has petitioned to intervene, all for the purpose of protecting local government interests with respect to the terms, conditions and application of the GAF Tariff.

WHEREAS, the Towns and MUUC generally support the concept of the GAF Tariff, but have concerns about certain of its terms and conditions, as well as its relationship to the revisions to the calculation of CIAC that were effected by the Commission’s recent revisions to Rule 25-6.115, F.A.C., and, unless those concerns are adequately addressed, may be required to protect their interests by protesting any proposed agency action by the Commission to approve the GAF Tariff.

WHEREAS, FPL, the Towns and MUUC believe that it would be in the best interests of all parties to this proceeding, as well as FPL’s general body of customers, for

the GAF Tariff to receive final approval as promptly as possible, without the further delay of a protest proceeding, if this can be achieved on mutually satisfactory terms.

NOW, THEREFORE, in consideration of the foregoing and the covenants contained herein, FPL, the Towns and MUUC (collectively, the "Parties") agree as follows:

1. Prompt approval of the GAF Waiver. The Parties jointly request the Commission to approve the GAF Waiver at the March 27, 2007 agenda conference, for immediate availability and with the express understanding that FPL would not be required to reduce net plant in service for the GAF Waiver amounts, thereby treating the GAF Waiver amounts as plant in service subject to normal ratemaking treatment. This joint request for approval applies to all of the eligibility criteria and other terms and conditions applicable to the GAF Waiver under the GAF Tariff, except as specifically stipulated in Sections 3, 4 and 5 below.

2. Bifurcation of Docket No. 060150-EI. The Parties jointly request that the Commission bifurcate the proceedings in this docket, with the first phase being a final order approving the application of the GAF Waiver on the agreed terms and eligibility criteria, and the second phase being resolution of remaining issues about calculation of the CIAC for underground conversions under amended Rule 25-6.115, F.A.C. This joint request is without waiver of, or prejudice to, the Parties' respective positions on whether the CIAC calculation issues that would be resolved in the second phase are presently at issue in this proceeding by virtue of the fact that the GAF Tariff filed with the Amended Petition sets forth the elements used in the CIAC calculation. The Parties intend to continue negotiating toward resolution of the issues that would be the subject of the

second phase.

3. "Relation Back." FPL will not object to a request by the Towns and MUUC to relate back all elements of the CIAC calculation that may be determined in the second phase of the bifurcated proceeding described in Section 2, with respect to all local government-sponsored conversion projects that qualify for the GAF Waiver, including projects for which contracts are entered into before the date when the GAF Waiver is approved but on or after April 4, 2006; provided that the Commission expressly determines that FPL would not be required to reduce net plant in service for any such CIAC calculation elements which it approves for relation back, thereby permitting FPL to treat the amounts of these elements as plant in service subject to normal ratemaking.

4. Eligibility Criteria. The Towns and MUUC have expressed concern that the current minimum project size criteria for the GAF Waiver contained in the GAF Tariff would appear to exclude the Towns' undergrounding projects, if those projects proceed in an order that does not result in contiguous phases meeting the size criteria within the first three phases, even though the projects as a whole ultimately will meet the criteria. FPL concurs that mutually agreed sequencing of phases should not interfere with a project's qualifying for the GAF Waiver, so long as (a) the initial three phases that are completed would satisfy the size criteria if they were contiguous; (b) the fourth phase is completed within one year of the immediately prior phase; and (c) when the fourth phase is complete, the project will include a single, contiguous area that meets the size criteria. To implement this exception, the Parties jointly request that the Commission approve adding the following Special Circumstance (iv) to the Underground Facilities Conversion Agreement – Governmental Adjustment Factor Waiver (Tariff Sheet Nos. 9.725 and

9.726):

When the aggregate size of the first 3 phases of a project would satisfy the minimum size criteria but, for mutually-agreed engineering or logistical reasons, those phases are non-contiguous; provided that (a) the next (4th) phase must be adjacent to one or more of the first 3 phases such that the combined contiguous area meets the minimum size criteria, and (b) this 4th phase begins within 1 year from completion of the 3rd phase.

The Parties do not propose any further changes to the eligibility criteria at this time, but recognize that additional special circumstances may present themselves once the GAF Waiver is approved and implementation proceeds. To the extent this occurs, the Parties contemplate that requests could be made to the Commission for further changes to the eligibility criteria when FPL submits its report within three years after the GAF Tariff is approved, as proposed by FPL in its Amended Petition, or at the end of any GAF Tariff pilot period, if the Commission chooses to approve the GAF Tariff on a “pilot” basis.

5. Clarification of the GAF Tariff. The Parties jointly request that the Commission approve the following clarifications of the GAF Tariff:

a. *Applicant-performed work.* These modifications to the GAF Tariff clarify that the GAF Waiver applies to both FPL-performed and applicant-performed work:

- (Tariff Sheet 6.300) For Applicants entering into an Underground Facilities Conversion Agreement – Governmental Adjustment Factor Waiver with the Company, the otherwise applicable CIAC amount, as calculated above, shall be reduced by the GAF Waiver. If the Applicant elects to construct and install all or part of the underground facilities, then for purposes of calculating the GAF Waiver amount only, the otherwise applicable CIAC shall be adjusted to add FPL’s estimated cost for the Applicant-performed work. The amount of the GAF Waiver shall be calculated as follows:
- (Tariff Sheet 6.330, 12.2.11.d) the Applicant agrees to pay FPL’s current applicable hourly rate for engineering personnel for all time spent for (i) reviewing and inspecting the Applicant’s work done, and (ii) developing any separate cost estimate(s) that are either requested by the Applicant to

reflect only FPL's portion of the work or are required by FPL to reflect both the Applicant's and FPL's portions of the work for the purpose of a GAF Waiver calculation pursuant to an Underground Facilities Conversion Agreement – Governmental Adjustment Factor Waiver; and

....

b. *“Grandfathering” of projects commenced before subsequent revisions or termination of the GAF Tariff.* The following “grandfathering” language would be included in the Commission’s order:

- o “If the Commission modifies or terminates the GAF Waiver during the period in which an eligible multi-phase project is being implemented, the GAF Waiver percentage and calculation, as originally approved, shall still apply to any phases begun after such modification or termination; provided, that the Applicant continues to make timely progress on all future phases (i.e., that each subsequent phase begins within a 1-year period from completion of the prior phase). If the Applicant fails to make timely progress, the CIAC will be calculated in accordance with the prevailing tariff terms in effect at the time future phases are commenced.”

FPL supports this clarification only if the Commission agrees to reflect all GAF Waiver amounts in rate base even if, due to “grandfathering,” the then-current GAF Tariff would provide for a different GAF Waiver amount or if the GAF Tariff were terminated.

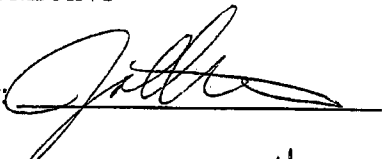
6. Amended Tariff Sheet Nos. 6.300, 6.330, 9.725 and 9.726 reflecting the clarifying changes described in Sections 4 and 5 above are attached hereto as Appendix 1. Both proposed and legislative format versions of the amended tariff sheets are included in Appendix 1. The Parties jointly request that Staff approve these amended tariff sheets at the March 27 agenda conference, in lieu of the corresponding tariff sheets that were included in Exhibit 1 to FPL’s September 21, 2006 amended petition.

7. This Stipulation and Settlement represents a negotiated compromise of the Parties’ respective positions and interests. If it is not approved by the Commission in its entirety, the Stipulation and Settlement will be null and void, none of the Parties will be


bound by any portions of it, and all Parties will retain all otherwise available rights, remedies and defenses.

IN WITNESS WHEREOF, FPL, the Towns and MUUC evidence their acceptance and agreement with the provisions of this Stipulation and Settlement by the signature of their representatives below.


FLORIDA POWER & LIGHT
COMPANY

By: 
Title: Senior Attorney
Date: 3/22/07


TOWN OF JUPITER ISLAND

By: 
Title: Attorney
Date: March 22, 2007

TOWN OF PALM BEACH

By: 
Title: Attorney
Date: March 22, 2007

MUNICIPAL UNDERGROUND
UTILITIES CONSORTIUM

By: 
Title: Attorney
Date: March 22, 2007

PROPOSED

**UNDERGROUND FACILITIES CONVERSION AGREEMENT –
GOVERNMENTAL ADJUSTMENT FACTOR WAIVER**

This Agreement, made and entered into this _____ day of _____, 20____, by and between _____ (“Local Government Applicant”), a Florida municipal corporation or county with an address of _____ and FLORIDA POWER & LIGHT COMPANY (“FPL”), a Florida corporation with an address of P.O. Box 14000, 700 Universe Boulevard, Juno Beach, FL 33408-0429.

WHEREAS, the Local Government Applicant has requested that FPL convert certain overhead electric distribution facilities located within the following boundaries (the “Conversion”):

(collectively, the “Existing Overhead Facilities”) to underground facilities, including transformers, switch cabinets and other appurtenant facilities installed above ground as set forth in Attachment A hereof (collectively, the “Underground Facilities”).

NOW THEREFORE, in consideration of the foregoing premises and the covenants and agreements set forth herein, and other consideration the sufficiency of which is hereby acknowledged, the parties intending to be legally bound, hereby covenant and agree as follows:

1. **Governmental Adjustment Factor Waiver (“GAF Waiver”) Eligibility Criteria.** The Local Government Applicant represents and warrants that it meets the following eligibility criteria for the Conversion:
 - a. In order for the Conversion to incorporate a sufficient amount of overhead facilities to provide electrical continuity, the Conversion must include a minimum of approximately 3 pole line miles or approximately 200 detached dwelling units within contiguous or closely proximate geographic areas (the “Conversion Area”). The Conversion may be completed in mutually agreed upon phases, with the project size minimums applying to the aggregate project – provided that any necessary subsequent phase begins within a 1 year period from completion of the prior phase and the minimums are met within, at most, 3 phases; and
 - b. The Local Government Applicant must require all customers within the Conversion Area who currently have overhead service directly from the Existing Overhead Facilities to convert their service entrances to underground within 6 months of completion of the Underground Facilities installation or each phase thereof; and
 - c. The Local Government Applicant must be willing and able to execute a right of way (“ROW”) agreement with FPL if the Local Government Applicant requests that facilities be placed in the ROW; and
 - d. For any affected laterals, the complete lateral must be converted, including all stages of any multi-stage lateral; and
 - e. There are no state or federal funds available to the Local Government Applicant to cover any portion of the cost of the Conversion.

Special Circumstances. Conversions which do not meet the project size minimums described in section 1.a are eligible for the GAF Waiver in the following special circumstances:

 - i. 100% of the Existing Overhead Facilities within the Local Government Applicant’s corporate limits are to be converted, but are less than the pole line mileage or dwelling unit minimums; or
 - ii. A single lateral that serves at least one Critical Infrastructure Facility as determined by the appropriate local agency with the mutual agreement of FPL; or
 - iii. An island or peninsula where 100% of the Existing Overhead Facilities are to be converted; or

(Continued on Sheet No. 9.726)

(Continued from Sheet No. 9.725)

iv. When the aggregate size of the first 3 phases of a project would satisfy the minimum size criteria but, for mutually-agreed engineering or logistical reasons, those phases are non-contiguous; provided that (a) the next (4th) phase must be adjacent to one or more of the first 3 phases such that the combined contiguous area meets the minimum size criteria, and (b) this 4th phase begins within 1 year from completion of the 3rd phase.

2. **Contribution-in-Aid-of-Construction (CIAC).** The Local Government Applicant shall pay FPL a CIAC as required by FPL's Electric Tariff and Section 25-6.115 of the Florida Administrative Code with the Otherwise Applicable CIAC amount reduced by the GAF Waiver.
- i. Otherwise Applicable CIAC \$ _____
 - ii. GAF Waiver \$ _____
 - iii. **CIAC Due** \$

In the event the actual cost of the Conversion exceeds the estimate, the Otherwise Applicable CIAC shall be adjusted by the lesser of (a) the difference between the actual cost of the Conversion and the estimate, or (b) 10% of the Otherwise Applicable CIAC identified above. The GAF Waiver shall also be adjusted accordingly and the Local Government Applicant shall pay FPL the resulting difference in the amount of the CIAC Due.

3. **Applicant-Installed Facilities.** The Local Government Applicant may, upon entering into an applicant-installed facilities agreement satisfactory to FPL, construct and install all or a portion of the Underground Facilities. Such work must meet FPL's construction standards and FPL will own and maintain the completed facilities. The Local Government Applicant agrees to rectify any deficiencies, found by FPL, prior to the connection of any customers to the Underground Facilities and the removal of the Existing Overhead Facilities.
4. **Compliance with Tariff.** The Local Government Applicant agrees to comply with and abide by the requirements, terms, and conditions of FPL's Electric Tariff.
5. **Timing of Conversion.** Upon compliance by the Local Government Applicant with the requirements, terms, and conditions of FPL's Electric Tariff, this Agreement and any other applicable agreements, FPL will proceed in a timely manner with the Conversion in accordance with the construction drawings and specifications set forth in Attachment A hereof.
6. **Relocation.** In the event that the Underground Facilities are part of, or are for the purposes of, relocation, then this Agreement shall be an addendum to the relocation agreement between FPL and the Local Government Applicant. In the event of any conflict between the relocation agreement and this Agreement or the Electric Tariff, this Agreement and the Electric Tariff shall control.
7. **Term.** This Agreement shall remain in effect for as long as FPL or any successor or assign owns or operates the Underground Facilities.
8. **GAF Waiver Repayment.** If the Local Government Applicant does not satisfy the relevant eligibility criteria, the Local Government Applicant shall repay the GAF Waiver within 30 days of written notice from FPL of such failure. Additionally, if at any point within 30 years of completion of the Underground Facilities installation, the Local Government Applicant elects to have electric service within the Conversion Area supplied by a provider other than FPL, the Local Government Applicant shall repay FPL a pro-rata share of the GAF Waiver. The pro-rata share (which shall reflect partial years) shall be determined as follows:

$$\text{GAF Waiver} * [(30 - \text{years since the Underground Facilities completion date}) / 30]$$

(Continued on Sheet No. 9.727)

**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 that 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 the result of the following formula:

- CIAC =
- The estimated cost to install the requested underground facilities;
 - + The estimated cost to remove the existing overhead facilities;
 - + The net book value of the existing overhead facilities;
 - + The net present value of the estimated operational costs of underground facilities over 30 years;
 - + The net present value of the estimated average storm restoration costs of underground facilities over 30 years;
 - The estimated cost that would be incurred to install new overhead facilities, in lieu of underground, to replace the existing overhead facilities (the "Hypothetical Overhead Facilities");
 - The estimated salvage value of the existing overhead facilities to be removed;
 - The net present value of the estimated operational costs of the overhead facilities over 30 years;
 - The net present value of the estimated average storm restoration costs of overhead facilities over 30 years.

GAF Waiver

For Applicants entering into an Underground Facilities Conversion Agreement - Governmental Adjustment Factor Waiver with the Company, the otherwise applicable CIAC amount, as calculated above, shall be reduced by the GAF Waiver. If the Applicant elects to construct and install all or part of the underground facilities, then for purposes of calculating the GAF Waiver amount only, the otherwise applicable CIAC shall be adjusted to add FPL's estimated cost for the Applicant-performed work. The amount of the GAF Waiver shall be calculated as follows:

- GAF Waiver =
- 25% x the otherwise applicable CIAC;
 - + 75% x (the net present value of the estimated average storm restoration costs of underground facilities over 30 years less the net present value of the estimated average storm restoration costs of overhead facilities over 30 years).
- Note: The final term avoids double-counting the estimated average storm restoration costs embedded in the otherwise applicable CIAC.

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.

(Continued on Sheet No. 6.301)

(Continued from Sheet No. 6.320)

12.2.10 Type of System Provided

An underground distribution system will be provided in accordance with FPL's current design and construction standards.

12.2.11 Design and Ownership

FPL will design, install, own, and maintain the electric distribution facilities up to the designated point of delivery except as otherwise noted. The Applicant may, subject to a contractual agreement with FPL, construct and install all or a portion of the underground distribution facilities provided that:

- a) such work meets FPL's construction standards;
- b) FPL will own and maintain the completed distribution facilities;
- c) the construction and installation of underground distribution facilities by the Applicant is not expected to cause the general body of ratepayers to incur greater costs;
- d) the Applicant agrees to pay FPL's current applicable hourly rate for engineering personnel for all time spent for (i) reviewing and inspecting the Applicant's work done, and (ii) developing any separate cost estimate(s) that are either requested by the Applicant to reflect only FPL's portion of the work or are required by FPL to reflect both the Applicant's and FPL's portions of the work for the purpose of a GAF Waiver calculation pursuant to an Underground Facilities Conversion Agreement – Governmental Adjustment Factor Waiver; and
- e) the Applicant agrees to rectify any deficiencies found by FPL prior to the connection of any Customers to the underground electric distribution system and the removal of the overhead electric distribution facilities.

12.2.12 Relocation

Where underground electric facilities are requested as part of, or for the purpose of, relocation, the requirements of this tariff shall apply. As applicable, the Underground Facilities Conversion Agreement or the Underground Facilities Conversion Agreement - Governmental Adjustment Factor Waiver shall be executed as an addendum to the relocation agreement between FPL and the Applicant. In the event of any conflict between the relocation agreement and this tariff, the tariff shall control. Furthermore, where the regulations of the Federal or State Department of Transportation (DOT) prevent pre-payment of deposits and other conversion costs, the Federal or State DOT may pay the CIAC after the work has been performed.

LEGISLATIVE

RESERVED FOR FUTURE USE
UNDERGROUND FACILITIES CONVERSION AGREEMENT -
GOVERNMENTAL ADJUSTMENT FACTOR WAIVER

This Agreement, made and entered into this _____ day of _____, 20____, by and between _____ (“Local Government Applicant”), a Florida municipal corporation or county with an address of _____ and FLORIDA POWER & LIGHT COMPANY (“FPL”), a Florida corporation with an address of P.O. Box 14000, 700 Universe Boulevard, Juno Beach, FL 33408-0429.

WHEREAS, the Local Government Applicant has requested that FPL convert certain overhead electric distribution facilities located within the following boundaries (the “Conversion”):

(collectively, the “Existing Overhead Facilities”) to underground facilities, including transformers, switch cabinets and other appurtenant facilities installed above ground as set forth in Attachment A hereof (collectively, the “Underground Facilities”).

NOW THEREFORE, in consideration of the foregoing premises and the covenants and agreements set forth herein, and other consideration the sufficiency of which is hereby acknowledged, the parties intending to be legally bound, hereby covenant and agree as follows:

1. **Governmental Adjustment Factor Waiver (“GAF Waiver”) Eligibility Criteria. The Local Government Applicant represents and warrants that it meets the following eligibility criteria for the Conversion:**
 - a. In order for the Conversion to incorporate a sufficient amount of overhead facilities to provide electrical continuity, the Conversion must include a minimum of approximately 3 pole line miles or approximately 200 detached dwelling units within contiguous or closely proximate geographic areas (the “Conversion Area”). The Conversion may be completed in mutually agreed upon phases, with the project size minimums applying to the aggregate project – provided that any necessary subsequent phase begins within a 1 year period from completion of the prior phase and the minimums are met within, at most, 3 phases; and
 - b. The Local Government Applicant must require all customers within the Conversion Area who currently have overhead service directly from the Existing Overhead Facilities to convert their service entrances to underground within 6 months of completion of the Underground Facilities installation or each phase thereof; and
 - c. The Local Government Applicant must be willing and able to execute a right of way (“ROW”) agreement with FPL if the Local Government Applicant requests that facilities be placed in the ROW; and
 - d. For any affected laterals, the complete lateral must be converted, including all stages of any multi-stage lateral; and
 - e. There are no state or federal funds available to the Local Government Applicant to cover any portion of the cost of the Conversion.

Special Circumstances. Conversions which do not meet the project size minimums described in section 1.a are eligible for the GAF Waiver in the following special circumstances:

 - i. 100% of the Existing Overhead Facilities within the Local Government Applicant’s corporate limits are to be converted, but are less than the pole line mileage or dwelling unit minimums; or
 - ii. A single lateral that serves at least one Critical Infrastructure Facility as determined by the appropriate local agency with the mutual agreement of FPL; or
 - iii. An island or peninsula where 100% of the Existing Overhead Facilities are to be converted; or

(Continued on Sheet No. 9.726)

RESERVED FOR FUTURE USE

(Continued from Sheet No. 9.725)

iv. When the aggregate size of the first 3 phases of a project would satisfy the minimum size criteria but, for mutually-agreed engineering or logistical reasons, those phases are non-contiguous; provided that (a) the next (4th) phase must be adjacent to one or more of the first 3 phases such that the combined contiguous area meets the minimum size criteria, and (b) this 4th phase begins within 1 year from completion of the 3rd phase.

2. **Contribution-in-Aid-of-Construction (CIAC).** The Local Government Applicant shall pay FPL a CIAC as required by FPL's Electric Tariff and Section 25-6.115 of the Florida Administrative Code with the Otherwise Applicable CIAC amount reduced by the GAF Waiver.

i. <u>Otherwise Applicable CIAC</u>	\$ _____
ii. <u>GAF Waiver</u>	\$ _____
iii. <u>CIAC Due</u>	\$ _____

In the event the actual cost of the Conversion exceeds the estimate, the Otherwise Applicable CIAC shall be adjusted by the lesser of (a) the difference between the actual cost of the Conversion and the estimate, or (b) 10% of the Otherwise Applicable CIAC identified above. The GAF Waiver shall also be adjusted accordingly and the Local Government Applicant shall pay FPL the resulting difference in the amount of the CIAC Due.

3. **Applicant-Installed Facilities.** The Local Government Applicant may, upon entering into an applicant-installed facilities agreement satisfactory to FPL, construct and install all or a portion of the Underground Facilities. Such work must meet FPL's construction standards and FPL will own and maintain the completed facilities. The Local Government Applicant agrees to rectify any deficiencies, found by FPL, prior to the connection of any customers to the Underground Facilities and the removal of the Existing Overhead Facilities.

4. **Compliance with Tariff.** The Local Government Applicant agrees to comply with and abide by the requirements, terms, and conditions of FPL's Electric Tariff.

5. **Timing of Conversion.** Upon compliance by the Local Government Applicant with the requirements, terms, and conditions of FPL's Electric Tariff, this Agreement and any other applicable agreements, FPL will proceed in a timely manner with the Conversion in accordance with the construction drawings and specifications set forth in Attachment A hereof.

6. **Relocation.** In the event that the Underground Facilities are part of, or are for the purposes of, relocation, then this Agreement shall be an addendum to the relocation agreement between FPL and the Local Government Applicant. In the event of any conflict between the relocation agreement and this Agreement or the Electric Tariff, this Agreement and the Electric Tariff shall control.

7. **Term.** This Agreement shall remain in effect for as long as FPL or any successor or assign owns or operates the Underground Facilities.

8. **GAF Waiver Repayment.** If the Local Government Applicant does not satisfy the relevant eligibility criteria, the Local Government Applicant shall repay the GAF Waiver within 30 days of written notice from FPL of such failure. Additionally, if at any point within 30 years of completion of the Underground Facilities installation, the Local Government Applicant elects to have electric service within the Conversion Area supplied by a provider other than FPL, the Local Government Applicant shall repay FPL a pro-rata share of the GAF Waiver. The pro-rata share (which shall reflect partial years) shall be determined as follows:

$$\text{GAF Waiver} * [(30 - \text{years since the Underground Facilities completion date}) / 30]$$

(Continued on Sheet No. 9.727)

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~~that 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 result of the~~ following formula:

$$CIAC = (UG + NBV + R) - (OH + SV)$$

~~where UG is the~~ The estimated cost to install the requested 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;

- + The estimated cost to remove the existing overhead facilities;
- + The net book value of the existing overhead facilities;
- + The net present value of the estimated operational costs of underground facilities over 30 years;
- + The net present value of the estimated average storm restoration costs of underground facilities over 30 years;
- The estimated cost that would be incurred to install new overhead facilities, in lieu of underground, to replace the existing overhead facilities (the "Hypothetical Overhead Facilities");
- The estimated salvage value of the existing overhead facilities to be removed;
- The net present value of the estimated operational costs of the overhead facilities over 30 years;
- The net present value of the estimated average storm restoration costs of overhead facilities over 30 years.

GAF Waiver

For Applicants entering into an Underground Facilities Conversion Agreement – Governmental Adjustment Factor Waiver with the Company, the otherwise applicable CIAC amount, as calculated above, shall be reduced by the GAF Waiver. If the Applicant elects to construct and install all or part of the underground facilities, then for purposes of calculating the GAF Waiver amount only, the otherwise applicable CIAC shall be adjusted to add FPL's estimated cost for the Applicant-performed work. The amount of the GAF Waiver shall be calculated as follows:

GAF Waiver =

- 25% x the otherwise applicable CIAC;
- + 75% x (the net present value of the estimated average storm restoration costs of underground facilities over 30 years less the net present value of the estimated average storm restoration costs of overhead facilities over 30 years).

Note: The final term avoids double-counting the estimated average storm restoration costs embedded in the otherwise applicable CIAC.

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

FLORIDA POWER & LIGHT COMPANY

First~~Second~~ Revised Sheet No. 6.300
Cancels ~~Original~~**First Revised** Sheet No. 6.300

~~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. 6.340)301)

(Continued from Sheet No. 6.320)

12.2.10 Type of System Provided

An underground distribution system will be provided in accordance with FPL's current design and construction standards.

12.2.11 Design and Ownership

FPL will design, install, own, and maintain the electric distribution facilities up to the designated point of delivery except as otherwise noted. The Applicant may, subject to a contractual agreement with FPL, construct and install all or a portion of the underground distribution facilities provided that:

- a) such work meets FPL's construction standards;
- b) FPL will own and maintain the completed distribution facilities;
- c) the construction and installation of underground distribution facilities by the Applicant is not expected to cause the general body of ratepayers to incur greater costs;
- d) the Applicant agrees to pay FPL's current applicable hourly rate for engineering personnel for all time spent for (i) reviewing and inspecting the Applicant's work done, and (ii) developing any separate cost estimate(s) that are either requested by the Applicant to reflect only FPL's portion of the work or are required by FPL to reflect both the Applicant's and FPL's portions of the work for the purpose of a GAF Waiver calculation pursuant to an Underground Facilities Conversion Agreement - Governmental Adjustment Factor Waiver; and
- e) the Applicant agrees to rectify any deficiencies found by FPL prior to the connection of any Customers to the underground electric distribution system and the removal of the overhead electric distribution facilities.

12.2.12 Relocation

Where underground electric facilities are requested as part of, or for the purpose of, relocation, the requirements of this tariff shall apply. ~~The As applicable, the~~ Underground Facilities Conversion Agreement or the Underground Facilities Conversion Agreement - Governmental Adjustment Factor Waiver shall be executed as an addendum to the relocation agreement between FPL and the Applicant. In the event of any conflict between the relocation agreement and this tariff, the tariff shall control. Furthermore, where the regulations of the Federal or State Department of Transportation (DOT) prevent pre-payment of deposits and other conversion costs, the Federal or State DOT may pay the CIAC after the work has been performed.