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Sent: Friday, May 25, 2007 4:15 PM
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Subject: Electronic Filing - Docket 070301-EI
Attachments: Comments.FPLStormHardeningPlan.5-25-07.doc

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b. Docket No. 070301-EI

In Re: Approval of Florida Power & Light Company's Storm Hardening Plan Pursuant to Rule 25-6.0342, F.A.C.

c. Document being filed on behalf of the Municipal Underground Utilities Consortium, the Town of Palm Beach, Florida and the Town of Jupiter Island, Florida.

d. There are a total of 14 pages.

e. The document attached for electronic filing is Preliminary Comments of the Municipal Underground Utilities Consortium, the Town of Palm Beach, Florida, and the Town of Jupiter Island, Florida.

(see attached file: Comments.FPLStormHardeningPlan.5-25-07.doc)

Thank you for your attention and assistance in this matter.

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ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Approval of Florida Power)
 & Light Company's Storm Hardening) DOCKET NO. 070301-EI
 Plan Pursuant to Rule 25-6.0342, F.A.C.) FILED: MAY 25, 2007
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**PRELIMINARY COMMENTS OF THE MUNICIPAL UNDERGROUND UTILITIES
 CONSORTIUM, THE TOWN OF PALM BEACH, FLORIDA, AND
THE TOWN OF JUPITER ISLAND, FLORIDA**

Pursuant to the May 14, 2007 memorandum from the Commission's Staff Counsel and also pursuant to the case schedule established for this docket, the Municipal Underground Utilities Consortium, the Town of Palm Beach, Florida, and the Town of Jupiter Island, Florida submit these preliminary comments regarding Florida Power & Light Company's ("FPL") "Electric Infrastructure Storm Hardening Plan" (the "Plan") dated and filed in this docket on May 7, 2007.

BACKGROUND

Commission Rule 25-6.0342, Florida Administrative Code, requires each investor-owned utility to submit a storm hardening plan within 90 days of the effective date of the Rule and no less often than every three years thereafter. Pursuant to the Rule, FPL filed its Storm Hardening Plan on May 7.

The Municipal Underground Utilities Consortium is a consortium of cities and towns that was created by that certain "Interlocal Agreement to Promote Undergrounding of Utility Facilities and Related Implementation Activities" dated June 2006 (the "Interlocal Agreement"). In pertinent part, the

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Interlocal Agreement provides:

The purpose of this Agreement is to provide a means, pursuant to the provisions of Chapter 163, Florida Statutes, for the Local Governments who are Parties to this Agreement to mutually promote the installation of underground electric and other utility and utility-type facilities, in the public interest; to mutually promote the conversion of existing overhead electric and other utility and utility-type facilities to underground facilities, in the public interest; to promote and ensure, to the maximum extent feasible and practicable, that underground installations and conversions are paid for through appropriate, fair, just, equitable, and reasonable combinations of utility funding and funding by entities, such as the Local Governments, that apply for the installation and conversion of underground facilities; and to mutually participate in and support activities in furtherance of these and related efforts.

The MUUC's members own and operate numerous municipal facilities and utility equipment. The substantial majority of the MUUC's members purchase retail electric service directly from FPL. A substantial number of the MUUC's members are considering underground utility projects, and several have already undertaken undergrounding projects.

The Town of Palm Beach, Florida was incorporated in 1911 and has a year-round population of approximately 10,000 and a seasonal population of 30,000 persons. The Town employs approximately 400 people. The Town of Palm Beach owns and operates numerous municipal facilities and lighting equipment, for all of which the Town purchases electric service from FPL. For the past several years, the Town has been engaged in discussions and negotiations with FPL toward converting the

existing overhead ("OH") electric distribution facilities in the Town to underground ("UG") facilities. Since Palm Beach is a long-established community, much of FPL's distribution system in the Town consists of older, overhead facilities, and the Town is actively working toward the conversion of all OH utility facilities (including not only electric but also telecommunications and cable television facilities) in the Town to UG facilities. The Town is planning to solicit its citizens' interest in proceeding with the contemplated underground conversion project in an election to be held in February 2007. Additionally, the Town is a member of the MUUC.

The Town of Jupiter Island has approximately 625 residences, plus Town buildings and facilities and a private club. The Town is located on Jupiter Island, a barrier island approximately 10 miles long located adjacent to Hobe Sound, in Martin County, Florida. The Town of Jupiter Island owns and operates municipal facilities and lighting equipment, for all of which the Town purchases electric service from FPL. For the past few years, the Town has been engaged in discussions and negotiations with FPL toward converting the existing overhead ("OH") electric distribution facilities in the Town to underground ("UG") facilities. In fact, to the best of the Town's knowledge, the Town of Jupiter Island was the first municipality to request and pay for a "binding cost estimate" from FPL for the contemplated OH-to-UG conversion project, and

in 2006, the Town completed a pilot underground conversion project using new, submersible UG switch equipment. The Town is actively working toward the conversion of all OH facilities in the Town to UG facilities, and Jupiter Island is also a member of the MUUC.

COMMENTS

The following comments of the MUUC, Palm Beach, and Jupiter Island are, of course, preliminary, and the MUUC and the Towns look forward to continuing their dialogue with FPL on the questions raised and concerns articulated below. Bearing this in mind, the MUUC and the Towns offer the following comments and questions.

1. Clarification of Applicability of Storm Hardening Plan and Extreme Wind Loading Criteria to UG CIAC Calculations. One key interest of the MUUC and its members in FPL's Plan is what impact the implementation of the Plan will have on the calculation of Contributions in Aid of Construction ("CIACs") for OH-to-UG conversion projects.

FPL's Storm Hardening Plan states that the Plan will "implement system-wide FPL Design Guidelines containing criteria which will apply EWL [Extreme Wind Loading criteria] to the design and construction of all new overhead facilities, major planned work, relocation projects, as well as daily work activities." Plan at 3. The Towns and the MUUC's members have expected - and would understand the foregoing statement from

FPL's Plan to mean - that FPL's Plan would provide that the cost of hardened OH facilities, i.e., hardened to EWL criteria based on the regional EWL wind-speed standards that FPL has proposed on page 10 of its Plan, would be the "cost of equivalent OH facilities" in the UG CIAC calculation. However, the MUUC and the Towns cannot tell with certainty whether this is the case from FPL's Plan, and accordingly, the MUUC and the Towns ask that it be made clear that this is the way that the Plan will be implemented. Adding to the MUUC's and the Towns' uncertainty, based on limited communications with FPL and on other information, it appears that FPL has already incorporated the EWL design criteria into some new construction projects, but in other instances, there have been indications that the EWL criteria would not be incorporated into new construction CIAC calculations until some later date.

2. FPL Should Aggressively Pursue Undergrounding Opportunities. For well over a year, Palm Beach and Jupiter Island have advocated that the Commission should require Florida's public utilities to aggressively pursue undergrounding opportunities, especially as such opportunities may be identified in connection with road-widening, relocation, upgrade, and similar projects that would be undertaken anyway. (Since joining the undergrounding debate last summer, the MUUC's members have also supported this position.) To this end, the Towns have advocated - and even proposed rule language to the

Commission - that the IOUs should be required to notify cities, towns, and counties of such opportunities as early as practicable, so that local governments contemplating UG conversion projects can coordinate their conversion projects with other planned work in order to ensure efficiency and minimize cost to all concerned. This is particularly important because if facilities are being removed, relocated, or upgraded anyway, for example, as a result of a road improvement project or as part of an FPL-initiated hardening project, then there should be no charge in the CIAC for removal or for any remaining net book value of the facilities being removed.

In this context, it is also important to recognize that UG facilities provide more "hardening" value than "hardened" OH facilities. At page 23 of its Plan, FPL makes the following statement: "FPL has not historically been as severely impacted by storm surge from hurricanes as it has been by wind." FPL also recognizes, at page 25 of the Plan, that "For category 1, 2 and 3 hurricanes, FPL's storm hardening plan should result in less storm damage to the electrical infrastructure and therefore less restoration time and cost." One logical implication of this statement is that in category 4 or 5 storm conditions, even hardened OH will not be expected to result in less restoration time and cost. Of course, these facts support FPL's, and the MUUC's and the Towns', general pro-undergrounding position.

While the Commission declined to include the Towns' proposal in its rules, the Commission seemed to indicate in discussion that it saw some merit in this concept, and accordingly, the MUUC and the Towns have been awaiting FPL's Storm Hardening Plan in the hope that it would contain such an initiative. However, it does not appear that FPL's Plan contains any provision for such an initiative, and it likewise appears that FPL's 2006 "Storm Preparedness Initiatives" document, filed in Docket No. 060198-EI and incorporated by reference into FPL's Storm Hardening Plan (FPL's Petition at 5), contains no indication of any such initiative. Pages 43-48 of the 2006 document address FPL's coordination with local governments, but the description of FPL's activities doesn't appear to include anything toward promoting undergrounding or letting communities know about potential opportunities to underground facilities in lieu of other planned relocations or upgrades. Finally, in a recent MUUC conference call, 15 city and town representatives discussed this issue, and none of them could identify a single instance of FPL having contacted them to discuss such an opportunity.

Undergrounding or new electric facilities has already been mandated by many local governments or by their respective planning and zoning authorities. Additionally, as noted by FPL in Section 10 of its plan (page 22), over the past five years FPL has installed approximately 90% of new distribution

facilities in Miami-Dade, Broward, and Palm Beach Counties underground. The MUUC and the Towns believe that this demonstrates that underground is, in fact, the preferred standard for electric distribution service and that FPL's Plan can and should do more to encourage it.

The MUUC, Palm Beach, and Jupiter Island are not attempting to "bash" FPL. The MUUC and the Towns simply believe that undergrounding is a better hardening technology than even OH built to EWL criteria, because it will easily withstand Category 4 and 5 windspeeds, and accordingly, the MUUC and the Towns believe that it would be in the public interest for FPL's Plan to include an aggressive initiative to identify UG conversion opportunities early in its distribution construction planning process and to seek local governments' participation in such projects pursuant to FPL's UG CIAC tariffs and the Commission's rules.

3. FPL's Plan Should Provide for FPL to Support Submersible Underground Equipment. At page 23 of the Plan, FPL states that it does not presently use submersible equipment, although it goes on to mention that FPL has installed below-grade, submersible "Vista" switch equipment in Jupiter Island's pilot project. This equipment is already used by a number of utilities, including Gulf Power Company. Commission Rule 25-6.0342(3)(c), F.A.C., requires utilities' storm hardening plans to include a description of the extent to which the plans are

"designed to mitigate damage to underground . . . facilities due to flooding and storm surges." While FPL's Plan has technically complied with this requirement by stating that "FPL does not presently use submersible equipment," the MUUC and the Towns believe that FPL's Plan should go further, and that it should include support of this more robust UG technology.

4. FPL's Plan Should Encourage the Use of Rights-of-Way for Underground Facilities. Commission Rule 25-6.0341(1), F.A.C., requires electric distribution facilities to be located, to the extent feasible and cost-effective, adjacent to public roads, and subsection (4) of the same Rule encourages the placement of UG facilities installed in government-sponsored undergrounding projects in road rights-of-way (ROWS") in lieu of easements. This principle was also explicitly recognized by FPL in its Storm Secure Plan developed and filed with the Commission in January 2006. In many early discussions with FPL, the Towns understood FPL's main concern to be the allocation of costs if FPL should in the future be required to move facilities due to a road-widening project. The Towns' principles concerns with FPL's previous insistence on easements were that the easement requirement added significantly to the time, effort, logistical problems, and cost of UG conversion projects. To address FPL's concern, the Towns offered to include provisions in their undergrounding agreements by which they would pay for any such relocation costs if they should be incurred in the future.

The Towns - and other towns and cities considering UG conversion projects - were greatly heartened by FPL's indication in its Storm Secure Plan that it would allow the use of ROWs. More recently, however, the Towns' experience and discussions with FPL have been frustrating because of FPL's attempts to insist on an absolute indemnity clause with respect to any and all losses or claims associated with facilities located in ROWs. Based on the experience of the Towns' and the MUUC's engineering consultants, locating electric distribution facilities underground in ROWs carries much less risk than OH facilities anywhere.

The Towns and the MUUC believe that it is generally accepted - at least by FPL - that UG facilities are more resistant and resilient to wind damage and that storm restoration costs will be significantly reduced by UG placement of distribution facilities. The MUUC and the Towns further believe that locating UG facilities in ROWs should be the preferred standard installation, and that FPL's Plan should include an aggressive directive to utilize ROWs to the maximum extent feasible.

5. Measuring Cost-Effectiveness. FPL's petition asserts that FPL's Storm Hardening Plan is cost-effective (pages 3 and 8). Commission Rule 25-6.0342(4)(d), F.A.C., requires an estimate of the costs and benefits to the utility of making infrastructure improvements pursuant to its plan. FPL's

petition acknowledges that FPL's ability to identify and estimate benefits is necessarily incomplete and imprecise at this time. Thus, other than general and qualified assertions, which the Towns and the MUUC generally believe are reasonable (e.g., "For category 1, 2 and 3 hurricanes, FPL's storm hardening plan should result in less storm damage to the electrical infrastructure and therefore less restoration time and cost," Plan at 25), no measurement of benefits or cost-effectiveness is explained in FPL's Plan. The MUUC and the Towns believe that undergrounding is a highly cost-effective storm hardening measure and also believe that at least some OH hardening initiatives are likely to be cost-effective as well. However, nothing in FPL's Plan explains what the metric of cost-effectiveness in this context is, e.g., storm restoration costs avoided, other operational cost savings from OH hardening efforts, revenues preserved due to reduced outages realized through OH hardening efforts, or the general economic benefits of reduced outages produced by undergrounding or OH hardening efforts. The MUUC and the Towns are most interested in a side-by-side comparison of the cost-effectiveness of UG conversions as compared to OH hardening, especially in the context of stronger storms.

COMMENT REGARDING FUTURE PROCEEDINGS

The MUUC and the Towns look forward to participating in the Commission's proceedings on FPL's Storm Hardening Plan, and in

any related proceedings that affect the desires of the Towns and of many municipalities served by FPL to enhance the reliability of its electric system by undergrounding. The MUUC and the Towns participated in extensive, constructive, and productive negotiations with FPL in the recently concluded Docket No. 060150-EI, 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, wherein those negotiations produced a stipulation on most of the issues on which the parties initially disagreed. The undersigned counsel for the Towns and the MUUC is given to understand from preliminary discussions with the Commission Staff that the action contemplated for the Commission's June 19 agenda conference is likely to be predominantly procedural in nature, and that it may involve establishing a workshop process in which the cities and towns, FPL, and other affected entities will have the opportunity to discuss and negotiate toward resolution of issues. The Towns and the MUUC would support such an approach and look forward to participating in the process.

CONCLUSION

The Municipal Underground Utilities Consortium, the Town of Palm Beach, and the Town of Jupiter Island sincerely appreciate the opportunity to submit these comments for the Commission's consideration. The MUUC and the Towns again note that these comments are preliminary, as they are being submitted only 18

days after FPL's Plan was filed. The MUUC and the Towns look forward to participating in similarly constructive negotiations in connection with FPL's Storm Hardening Plan, in any workshops that the Commission may schedule in these proceedings, and also in connection with further activities relating to FPL's implementation of Commission Rule 25-6.115, F.A.C., as it applies to the calculation of CIACs for UG conversion projects.

Respectfully submitted this 25th day of May, 2007.

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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by electronic Mail and U.S. Mail this 25th day of May, 2007, to the following:

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