

## Ruth Nettles

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**From:** John\_Butler@fpl.com  
**Sent:** Friday, February 15, 2008 11:57 AM  
**To:** Filings@psc.state.fl.us  
**Cc:** Ralph Jaeger; swright@yvlaw.net; jlavie@yvlaw.net; jrandolph@jones-foster.com; kelly.jr@leg.state.fl.us; Richard Bellak; Mary Anne Helton  
**Subject:** Electronic Filing for Docket No. 080035-EI / FPL's Response to Petition for Declaratory Statement Concerning Rule 25-6.115, Florida Administrative Code  
**Attachments:** Response to Towns' Petition (DKT 080035) FINAL.doc; 080035 Exhibit 1.pdf; 080035 Exhibit 2.pdf

### Electronic Filing

**a. Person responsible for this electronic filing:**

John T. Butler, Esq.

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John\_Butler@fpl.com

**b. Docket No. 080035-EI**

In re: Petition for Declaratory Statement before the Public Service Commission by the Town of Palm Beach, the Town of Jupiter Island and the Town of Jupiter Inlet Colony, Florida Concerning Their Rights Under Rule 25-6.115, F.A.C.

**c. The documents are being filed on behalf of Florida Power & Light Company.**

**d. There are a total of 20 pages, consisting of FPL's response including an attached certificate of service (8 pages), Exhibit 1 to the response (7 pages), and Exhibit 2 to the response (5 pages).**

**e. The documents attached for electronic filing are Florida Power & Light Company's Response to Petition for Declaratory Statement Concerning Rule 25-6.115, Florida Administrative Code, and Exhibits 1 and 2 thereto.**

*(See attached file: Response to Towns' Petition (DKT 080035) FINAL.doc)(See attached file: 080035 Exhibit 1.pdf)(See attached file: 080035 Exhibit 2.pdf)*

DOCUMENT NUMBER-DATE

01192 FEB 15 08

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for Declaratory Statement )  
Before the Florida Public Service ) DOCKET NO. 080035-EI  
Commission by the Town of Palm Beach, )  
the Town of Jupiter Island, and the Town )  
Jupiter Inlet Colony, Florida Concerning ) FILED: February 15, 2008  
Rights Under Rule 25-6.115, F.A.C. )

**FLORIDA POWER & LIGHT COMPANY'S  
RESPONSE TO PETITION FOR DECLARATORY STATEMENT  
CONCERNING RULE 25-6.115, FLORIDA ADMINISTRATIVE CODE**

Florida Power & Light Company ("FPL") hereby responds to the Petition for Declaratory Statement Concerning Rule 25-6.115, Florida Administrative Code, that was filed on January 10, 2008 by the Town of Palm Beach ("TPB"), the Town of Jupiter Island ("TJI") and the Town of Jupiter Inlet Colony ("TJIC"; collectively, the "Towns"). The Petition seeks four separate declarations regarding Rule 25-6.115, each of which is addressed separately below.

1. *Where a Town, as a proper and eligible "Local Government Applicant" under FPL's tariffs, commits to perform all construction and installation of the underground facilities with its own staff and contractors, and where the town pays FPL for preparing the Binding Cost Estimate for the UG project, FPL may not impose on or collect from the Town any corporate overhead costs or so-called "direct engineering, supervision, and support" costs, either directly or indirectly, except (a) such direct costs as the Town pays FPL for the Binding Cost Estimate, which includes engineering design work and preparing engineering drawings for a proposed UG conversion project, and (b) the Town's payments to FPL, pursuant to FPL's Tariff Section No. 12.2.11.d, at "FPL's current applicable hourly rate for specific engineering personnel time spent for (i) reviewing and inspecting Applicant's work done, and (ii) developing any separate cost estimate(s) that are either requested by the Applicant ... 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 ...."*

**FPL's Response:**

FPL disagrees with the Towns' requested interpretation, because it is inconsistent with the guiding principles for calculating underground conversion CIAC under Rule 25-6.115. Subsection (11)(b) of Rule 25-6.115 focuses on identifying and removing elements of cost that

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are avoided if an Applicant does work rather than the utility: “If the applicant chooses to construct or install all or a part of the requested facilities, *all utility costs, including overhead assignments, avoided by the utility due to the applicant assuming responsibility for construction shall be excluded* from the costs charged to the customer ....” (Emphasis added) Further, subsection (3)(c) makes it clear that a utility may permit an Applicant to construct and install “all or a portion of the underground distribution facilities” but only to the extent that “[s]uch agreement is not expected to cause the general body of ratepayers to incur additional costs.”

Thus, in calculating the CIAC that is owed by an Applicant, the Rule takes as a starting point the cost for the utility to perform the underground conversion work itself, and then reduces that amount by the identifiable cost savings resulting from the Applicant doing the work. This ensures that the general body of customers are not harmed by Applicants performing all or a portion of underground conversion work, because the amount that is recorded as Plant in Service for that work (and which the general body of customers ultimately will support through base rates) stays the same regardless of who does the work.<sup>1</sup>

The Towns’ approach would turn this formulation on its head. Under their approach, an Applicant that performs some of the conversion work would only be charged for specific enumerated utility costs even if there are other utility costs that are not avoided and that, therefore, the general body of customers would have to bear. Clearly, this would be attractive to the Towns and other Applicants, but it would represent an unfair and unwarranted subsidy with

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<sup>1</sup> In broad terms, Plant in Service is increased for an underground conversion by (i) the actual costs incurred by the utility, less (ii) the CIAC paid by the Applicant. Thus, when an Applicant performs some of the work, it is important to the general body of customers that the amount collected as CIAC does not decrease by any more than the reduction in the costs actually incurred by the utility. FPL’s interpretation of Rule 25-6.115 ensures this result; the Towns’ interpretation does not.

no offsetting benefits to the utility or its other customers.<sup>2</sup> While it is not possible to know in advance the exact extent of this subsidy, FPL estimates that, based on potential conversion projects from about 30 municipalities where “ballpark” or “binding” estimates have been requested, the Towns’ interpretation would increase the associated plant-in-service supported by the general body of customers by approximately \$20 million.

FPL has demonstrated its willingness to evaluate carefully all direct engineering, supervision and support (“DSS”) costs associated with an underground conversion project and to remove all such costs that actually would be avoided if an Applicant does the work. For example, FPL provided TJI a Binding Cost Estimate for Phase A of TJI’s underground conversion project in October 2007. At the request of TJI, FPL then reviewed each element of its estimate to determine how much the associated DSS would be reduced if TJI rather than FPL installs the concrete and conduit products associated with Phase A. This review resulted in a reduction in the estimate of approximately \$77,000, or 12%. Attached hereto as Exhibit 1 is FPL’s November 20, 2007 letter to TJI explaining how FPL reviewed and revised the DSS component of the Binding Cost Estimate.

Ultimately, however, there is a limit to how much of the DSS costs FPL can actually avoid. As FPL has previously explained to the Towns’ counsel, FPL needs to be actively involved in the engineering, inspection and approval of any work that is to become part of its electric distribution system, for obvious safety and reliability reasons. This is true regardless of whether the work is performed by FPL or others; in fact, it may be especially true if others

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<sup>2</sup> The benefits to the general body of customers from underground conversions are not affected by who does the conversion work, so there is no cost justification for requiring those customers to support additional conversion costs in Plant in Service if the Applicant does the work.

perform the work because FPL needs to take particular care to ensure that such work meets FPL's standards. See FPL's December 28, 2007 letter to the Towns' counsel, page 2, attached hereto as Exhibit 2. Thus, it is simply unrealistic to expect that FPL would not incur DSS expenses, and hence would not need to charge for DSS, in circumstances where an applicant performs all direct work.<sup>3</sup>

FPL's Tariff Section 12.2.11.d. does not, and cannot, override the cost-recovery principles embodied in Rule 25-6.115. FPL has neither sought nor received the waiver or variance from the terms of the Rule that would be necessary to do so. See §120.542, Fla. Stat.; Rule 28-104.001, F.A.C. The language quoted by the Towns from the Tariff enumerates particular costs that are to be recovered when an Applicant does its own work, but that enumeration is not intended to be exhaustive.

Finally, the Towns inaccurately assert in their Petition that the DSS costs FPL reflects in its CIAC calculations represent general overhead that would be incurred even if no conversion project were undertaken at all. To the contrary, the size and cost of FPL's distribution engineering work force depends upon the amount of work it must perform. If there were no conversion projects, there would be less engineering work and hence a smaller work force would suffice. On the other hand, if underground conversions are performed – regardless of who

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<sup>3</sup> FPL notes that the Towns' wording of Declaration Request No. 1 apparently infers that FPL's engineering costs are recovered by the engineering deposit provided to FPL in order to create the Binding Cost Estimate. This is only true if an Applicant does *not* proceed with its underground conversion project; in that event, FPL keeps the deposit to offset the cost of the engineering. If, however, an Applicant proceeds with its project, the deposit is applied towards the CIAC owed, thus reducing the CIAC by the amount of the engineering costs for the Binding Cost Estimate. Thus, the engineering costs must be included initially in calculating the CIAC charges, or else or they will end up not being recovered by FPL (*i.e.*, if FPL removes the engineering charges from the CIAC calculation and then apply the deposit towards the CIAC, they will have been removed twice and FPL will receive no payment for them).

performs the direct labor – there is added engineering work load that FPL must staff to handle. This is not merely a theoretical point: FPL presently employs four distribution engineers who are working full time on underground conversions. Unless FPL collects the costs for these engineers and their associated support and overhead through CIAC, those costs will fall unfairly upon FPL’s general body of customers.

2. *Where a Town proposes to perform all construction and installation of the underground facilities itself, FPL must allow the Local Government Applicant to perform the work involved in removing the existing OH facilities.*

**FPL Response:**

FPL disagrees with the Towns’ interpretation, because it is not supported by anything in Rule 25-6.115. Subsection (3) of the Rule contemplates an applicant’s “*constructing and installing* all or a portion of the *underground* distribution facilities.” (Emphasis added). On its face, this language does not apply to the removal of existing overhead facilities. Nonetheless, FPL has advised the Towns’ counsel that it is prepared to explore this issue further, in order to determine whether mutually acceptable procedures can be established to coordinate FPL’s de-energizing of overhead facilities with an applicant’s removal and proper disposal of those facilities. *See Ex. 2, page 3.*

3. *Where a Town proposes to perform all construction and installation of the underground facilities itself, FPL must offer to provide the necessary materials to the Town at a reasonable cost, which the Towns believe would be the cost of such materials stated by FPL in its Binding Cost Estimate.*

**FPL Response:**

FPL does not believe that this constitutes a legitimate request for interpretation of Rule 25-6.115. There is no mention in the Rule of utilities selling materials to Applicants, much less

the price that would be charged for such sales. The Towns are improperly seeking what amounts to a rule amendment under the guise of a declaratory statement.

In any event, FPL does not believe that there is an actual dispute between it and the Towns on this point that would warrant a declaratory statement by the Commission. On December 28, 2007, FPL advised the Towns' counsel that, if FPL sold project materials to underground conversion applicants, it would be on the same "material cost plus handling" basis at which FPL would include the cost of the materials in its CIAC calculation. *See Ex. 2, page 3.* This appears to be the position that the Towns are asking the Commission to approve. As FPL pointed out to the Towns' counsel, however, FPL is going to have to own the materials ultimately, because FPL retains ownership of the electric system. Therefore, assuming that materials are sold to an Applicant, the Applicant would then have to turn around and transfer ownership back to FPL. Whether FPL sells the materials to an Applicant and then has them transferred back or simply provides them as part of the underground conversion project and then collects their cost through the CIAC that is charged to the Applicant, the economic result for the Applicant should be the same. Because the economic result is the same, FPL believes it would be simpler and more straightforward for the materials simply to be provided as part of the project, with their cost collected via the CIAC charged to the Applicant.

4. *Where a Town proposes to perform all construction and installation of the underground facilities itself, FPL will, upon transfer of the facilities to FPL, pay the Town an amount equal to the Overhead Credit, plus the GAF Waiver Credit, plus the Other O&M Differential Cost Credit, less materials costs and any engineering services costs directly incurred with work on the project over and above the work performed in preparation of the Binding Cost Estimate.*

**FPL Response:**

If the Towns are contending that Rule 25-6.115 should be interpreted to require net payments be made *to* an Applicant in the event that the itemized credits exceed the itemized costs, then that contention is directly contrary to Rule 25-6.115(11)(b), which provides that “[a]t no time will the costs to the customer be less than zero.” Accordingly, that interpretation should be rejected. Declaration Request No. 4 apparently implies acceptance of the Towns’ position in Declaration Request No. 1 regarding the nature and extent of the charges for a utility’s service that may be included in CIAC when the Applicant performs some or all of the underground conversion work. If that is the Towns’ intent, then Declaration Request No. 4 should also be rejected for the reasons stated above in response to Declaration Request No. 1.

WHEREFORE, for the reasons stated herein, the Towns’ Petition for Declaratory Statement Concerning Rule 25-6.115, Florida Administrative Code should be denied and the interpretations sought therein should be rejected.

Respectfully submitted,

John T. Butler, Esquire  
Senior Attorney  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, FL 33408-0420  
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. 080035-EI**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished electronically this 15<sup>th</sup> day of February, 2008, to the following:

Richard C. Bellak, Esquire  
Mary Anne Helton, Esquire  
Ralph Jaeger, Esquire  
Office of the General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399

J.R. Kelly, Esquire  
Public Counsel  
Office of the Public Counsel  
111 West Madison Street  
Room 812  
Tallahassee, FL 32399-1400

John C. Randolph, Esquire  
Jones, Foster, Johnston & Stubbs, P.A.  
Flagler Center Tower, Suite 1100  
505 South Flagler Drive  
West Palm Beach, FL 33401

Robert Scheffel Wright, Esquire  
John T. LaVia, III  
Young van Assenderp  
225 South Adams Street, Suite 200  
Tallahassee, FL 32301

By: /s/ John T. Butler  
John T. Butler  
Senior Attorney  
Florida Bar No. 283479

# EXHIBIT 1

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Miami, FL 33174  
305-552-3880 Telephone  
305-552-4402 Fax  
jeff\_bartel@fpl.com E-mail

Jeffrey S. Bartel  
Vice President, External Affairs

November 20, 2007

**VIA ELECTRONIC MAIL & U.S. MAIL**

The Honorable Charles Falcone  
Mayor, Town of Jupiter Island  
P.O. Box 7  
Hobe Sound, FL 33475

Dear Charles:

I wrote you on November 9 to respond to issues that you presented on behalf of the Town at our luncheon meeting on October 23 and in subsequent e-mail exchanges, concerning FPL's October 2, 2007 binding cost estimate (the "October 2 Estimate") for the Town's Phase A project (the "Project"). My November 9th letter explained that FPL's response was partial, because we had not fully addressed the Town's issues because you had asked FPL to respond to the extent possible before the November 13th Town Council meeting. This letter follows up with additional information and provides a revised binding cost estimate reflecting FPL's responses to the Town's issues (the "Revised Estimate").

In order to put this letter in context, I'd like to summarize the issues discussed in my November 9th letter. At our luncheon meeting in October you raised concerns on behalf of the Town about the salvage value of copper conductor wire and overhead (OH) transformers to be removed as part of the Project. My November 9th letter advised that FPL could not offer a salvage credit for the copper wire because the scrap value of wire is largely offset by FPL's processing costs, but I committed that FPL would transfer the wire to the Town if you are in a better position to realize net scrap value. As to OH transformers, I advised that they have little or no salvage value because they are at or near the end of their useful lives, but that FPL would revise its binding cost estimate to remove the Net Book Value for all OH transformers.

My November 9th letter also noted two issues that FPL was not in a position to resolve at that time: the overhead-to-underground (OH - UG) operational cost differential to be used in calculating Contribution In Aid of Construction (CIAC); and the calculation of engineering and overhead costs for the Project if the Town performs the conduit and concrete work. As to the operational cost differential, I advised that FPL is completing its calculation and will be filing it with the Florida Public Service Commission (FPSC) by the end of this calendar year, with application retroactively to February 2007. That remains FPL's plan.

This letter addresses the second issue left open in my November 9th letter: the engineering and overhead costs. It also addresses another issue that had not been discussed previously with the Town: the appropriate level of Maintenance of Traffic (MOT) charges to reflect in the binding cost estimate. Each of those issues is addressed below, followed by a summary of the changes to the binding cost estimate.

an FPL Group company

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### Engineering and Overhead Charges

As the Town has pointed out previously, FPL's charge for Direct Engineering, Supervision and Support ("E/O") is determined as a percentage adder to FPL's Labor/Vehicle and Material charges for work on the Project. The Town has taken the position that, because the E/O is determined as a percentage adder to FPL's Labor/Vehicle and Material charges, the E/O charge should be reduced in proportion to the reduction in FPL's Labor/Vehicle and Material charges if the Town installs the conduit and concrete products. FPL cannot agree. We do not believe that a proportionate reduction in the E/O would be justified, because most of FPL's work activities that are reflected in the E/O charge are necessary regardless of whether FPL or the Town installs the conduit and concrete products.

However, in order to ensure that FPL is in compliance with the revisions to the FPSC's underground (UG) conversion rule (25-6.115) that were adopted in February of this year, and in response to the Town's inquiry, we have broken the E/O down into its components, then assessed the percentages associated with each one and the sensitivity of each component to who installs the conduit and concrete products. FPL has determined that approximately 12% of those charges are sensitive to who installs the conduit and concrete products. Therefore, if the Town wishes to install the conduit and concrete products for the Project, FPL agrees to reduce the E/O charge associated with the revised MOT estimate for new UG facilities by twelve percent (12%).

### Maintenance of Traffic (MOT)

Maintenance of Traffic costs can vary substantially from project to project, based on factors beyond FPL's control. When FPL prepared the October 2<sup>nd</sup> Binding Cost Estimate, we assumed a very active level of traffic control and hence higher MOT costs. This assumption was based on our expectation about the Town's requirements, including the fact that much of the work will have to take place along the one major through road on Jupiter Island. Upon further review, we believe that it may be possible to conduct the Project work using only a normal level of traffic control and have accordingly revised the binding cost estimate to reflect standard MOT charges. Because the MOT requirements are not within FPL's control, however, FPL can only justify taking this approach if the Town agrees to reimburse FPL for additional MOT costs beyond the standard charges reflected in the Revised Estimate that FPL reasonably and necessarily incurs to respond to directions from the Town or any other body having authority over traffic and/or public safety on roads within the Town. If this arrangement is satisfactory to the Town, FPL will prepare a short addendum to the Revised Estimate which the Town will sign confirming its agreement to pay the additional MOT costs if and when they are incurred. Otherwise, FPL will need to re-insert the original, higher level of MOT costs into the Revised Estimate.

### Revised Binding Cost Estimate

Based on resolution of the issues addressed in this and my November 9th letter, FPL has made the following revisions to the October 2 Binding Cost Estimate. Copies of both the October 2<sup>nd</sup> and Revised Estimates are enclosed. Please note that each estimate consists of two alternatives, showing the cost if FPL performs all work (the "FPL Work Alternative") and the cost if the Town installs the conduit and concrete products (the "Town Work Alternative").

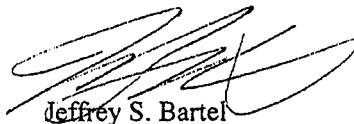
1. In both alternatives, FPL has removed the transformer portion of the Net Book Value because our field engineers have determined that the transformers are, generally, at or near their end of life. This results in a \$5,543 reduction to the Net Book Value of the existing OH facilities for which the Town is responsible.
2. FPL has revised the MOT costs to a standard MOT package, which has the following impacts on both alternatives:
  - a. The net change to the subtotal is a reduction of \$409,432.
  - b. As the overall cost decreases, the GAF Waiver is also reduced. The GAF reduction associated with the MOT changes is \$128,268.
3. In the Town Work Alternative, FPL has reduced the E/O charge for the new UG facilities by twelve percent (12%) based on the component level review discussed above. This reduces the E/O charge for the new UG facilities from \$638,018 in the FPL Work Alternative to \$561,456 in the Town Work Alternative.

As a result of these revisions, the net due to FPL for the FPL Work Alternative has decreased from \$2,676,033 in the October 2 Estimate to \$2,291,229 in the Revised Estimate; and under the Town Work Alternative the net due has decreased from \$741,134 to \$377,865. Of course, these figures are subject to retroactive adjustment based on the operational cost differential that is ultimately approved by the FPSC and to adjustments based on the actual costs of the work.

I hope that the Town will find the Revised Estimate to be satisfactory. Of course, if you have any questions about the Revised Estimate, please do not hesitate to call or e-mail Nick Blount or me at any time.

Best regards for the holiday season.

Sincerely yours,



Jeffrey S. Bartel

cc: Nick Blount, FPL  
Barbara Quinones, FPL  
John Lehr, FPL  
Bret Beck, FPL  
✓ John T. Butler, Esq., FPL

## Overhead to Underground Conversion - Customer Cost Sheet

Project: Jupiter Island - Phase A

Date Estimate Provided to Customer: Oct. 2, 2007

Cust. to Install Conduit & Concrete

### Underground Cost

|                                |             |   |
|--------------------------------|-------------|---|
| New UG Installation (+)        | \$2,119,598 | Cost for FPL to install new underground facilities                |
| Equivalent OH Installation (-) | (\$828,712) | Cost to install an overhead system at current hardening standard: |

### Existing Overhead Cost

|                                  |                    |   |
|----------------------------------|--------------------|---|
| OH Removal Cost & Make ready (+) | \$357,326          | Cost for FPL to remove existing overhead facilities       |
| Existing OH Value (+)            | \$15,867           | Net Book Value of existing OH facilities to be removed    |
| Salvage Value (-)                | \$0                | Credit for salvaged, re-usable items                      |
| <b>Subtotal</b>                  | <b>\$1,664,079</b> | Total customer contribution as specified in Tariff 12.2.3 |
| <b>GAF</b>                       | <b>(\$899,745)</b> |   |
| <b>CIAC</b>                      | <b>\$764,334</b>   |   |
| Engineering Deposit (-)          | (\$23,200)         | Engineering deposit previously collected                  |
| <b>Net Due FPL</b>               | <b>\$741,134</b>   | Total customer contribution owed                          |

### Cost Breakdowns for Customer Contributions

|                                  | Total              | Labor/Vehicle    | Material         | Direct Engineering,<br>Supervision, and<br>Support |
|----------------------------------|--------------------|------------------|------------------|--|
| New UG Facilities (+)            | \$2,119,598        | \$684,500        | \$694,811        | \$740,287  |
| Credit for equivalent OH (-)     | (\$828,712)        | (\$441,146)      | (\$248,157)      | (\$139,409)  |
| OH Removal Cost & Make ready (+) | \$357,326          | \$319,832        | \$6,877          | \$30,617   |
| <b>Total</b>                     | <b>\$1,648,212</b> | <b>\$563,186</b> | <b>\$453,531</b> | <b>\$631,496</b>                                   |
| Net Book Value (+)               | \$15,867           |                  |                  |  |
| Salvage Value (-)                | \$0                |                  |                  |  |
| <b>Subtotal</b>                  | <b>\$1,664,079</b> |                  |                  |  |
| <b>GAF</b>                       | <b>(\$899,745)</b> |                  |                  |  |
| <b>CIAC</b>                      | <b>\$764,334</b>   |                  |                  |  |
| Engineering Deposit (-)          | (\$23,200)         |                  |                  |  |
| <b>Net Due FPL</b>               | <b>\$741,134</b>   |                  |                  |  |

### Major Material Breakdown

|         | Quantity | Item                               |
|---------|----------|------------------------------------|
| Install | 104,286  | Primary UG Cable (feet)            |
|         | 2        | UG Switch Cabinet (each, PM Vista) |
|         | 49       | UG Transformer (each)              |
|         | 13       | Splice box for UG feeder (each)    |
| Remove  | 42,577   | OH Primary Conductor (feet)        |
|         | 75       | Poles (each)                       |
|         | 37       | OH Transformer (each)              |
|         | 7,197    | Primary UG Cable (feet)            |

## Overhead to Underground Conversion - Customer Cost Sheet

Project: Jupiter Island - Phase A (MOT revised)

Date Estimate Provided to Customer: Nov. 26, 2007

**FPL Performs All Work**

**Underground Cost**

|                                |             |   |
|--------------------------------|-------------|---|
| New UG Installation (+)        | \$3,441,115 | Cost for FPL to install new underground facilities                |
| Equivalent OH Installation (-) | (\$558,648) | Cost to install an overhead system at current hardening standards |

**Existing Overhead Cost**

|                                  |                    |   |
|----------------------------------|--------------------|---|
| OH Removal Cost & Make ready (+) | \$193,115          | Cost for FPL to remove existing overhead facilities       |
| Existing OH Value (+)            | \$10,324           | Net Book Value of existing OH facilities to be removed    |
| Salvage Value (-)                | \$0                | Credit for re-usable items                                |
| <b>Subtotal</b>                  | <b>\$3,085,906</b> | Total customer contribution as specified in Tariff 12.2.3 |
| <b>GAF</b>                       | <b>(\$771,477)</b> |   |
| <b>CIAC</b>                      | <b>\$2,314,429</b> |   |
| Engineering Deposit (-)          | (\$23,200)         | Engineering deposit previously collected                  |
| <b>Net Due FPL</b>               | <b>\$2,291,229</b> | Total customer contribution owed                          |

### Cost Breakdowns for Customer Contributions

|                                  | Total              | Labor/Vehicle      | Material         | Direct Engineering,<br>Supervision, and<br>Support |
|----------------------------------|--------------------|--------------------|------------------|--|
| New UG Facilities (+)            | \$3,441,115        | \$2,118,308        | \$684,789        | \$638,018  |
| Credit for equivalent OH (-)     | (\$558,648)        | (\$235,520)        | (\$228,424)      | (\$94,704)   |
| OH Removal Cost & Make ready (+) | \$193,115          | \$165,725          | \$4,662          | \$22,728   |
| <b>Total</b>                     | <b>\$3,075,582</b> | <b>\$2,048,513</b> | <b>\$461,027</b> | <b>\$566,042</b>                                   |
| Net Book Value (+)               | \$10,324           |                    |                  |  |
| Salvage Value (-)                | \$0                |                    |                  |  |
| <b>Subtotal</b>                  | <b>\$3,085,906</b> |                    |                  |  |
| <b>GAF</b>                       | <b>(\$771,477)</b> |                    |                  |  |
| <b>CIAC</b>                      | <b>\$2,314,429</b> |                    |                  |  |
| Engineering Deposit (-)          | (\$23,200)         |                    |                  |  |
| <b>Net Due FPL</b>               | <b>\$2,291,229</b> |                    |                  |  |

### Major Material Breakdown

|                | Quantity | Item                                |
|----------------|----------|-------------------------------------|
| <b>Install</b> | 104,286  | Primary UG Cable (feet)             |
|                | 2        | UG Switch Cabinet (each, PM Vista ) |
|                | 49       | UG Transformer (each)               |
|                | 13       | Splice box for UG feeder (each)     |
| <b>Remove</b>  | 42,577   | OH Primary Conductor (feet)         |
|                | 75       | Poles (each)                        |
|                | 37       | OH Transformer (each)               |
|                | 7,197    | Primary UG Cable (feet)             |

## Overhead to Underground Conversion - Customer Cost Sheet

Project: Jupiter Island - Phase A (revision 2)

Date Estimate Provided to Customer: Nov. 26, 2007

**Customer Performs Work - Conduit & Concrete Products**

**Underground Cost**

|                                |             |   |
|--------------------------------|-------------|---|
| New UG Installation (+)        | \$1,527,751 | Cost for FPL to install new underground facilities                |
| Equivalent OH Installation (-) | (\$558,648) | Cost to install an overhead system at current hardening standards |

**Existing Overhead Cost**

|                                  |                    |   |
|----------------------------------|--------------------|---|
| OH Removal Cost & Make ready (+) | \$193,115          | Cost for FPL to remove existing overhead facilities       |
| Existing OH Value (+)            | \$10,324           | Net Book Value of existing OH facilities to be removed    |
| Salvage Value (-)                | \$0                | Credit for re-usable items                                |
| <b>Subtotal *</b>                | <b>\$1,172,542</b> | Total customer contribution as specified in Tariff 12.2.3 |
| <b>GAF</b>                       | <b>(\$771,477)</b> |   |
| <b>CIAC</b>                      | <b>\$401,065</b>   |   |
| Engineering Deposit (-)          | (\$23,200)         | Engineering deposit previously collected                  |
| <b>Net Due FPL</b>               | <b>\$377,865</b>   | Total customer contribution owed                          |

### Cost Breakdowns for Customer Contributions

|                                  | Total              | Labor/Vehicle    | Material         | Direct Engineering,<br>Supervision, and<br>Support |
|----------------------------------|--------------------|------------------|------------------|--|
| New UG Facilities (+)            | \$1,527,751        | \$281,506        | \$684,789        | \$561,456  |
| Credit for equivalent OH (-)     | (\$558,648)        | (\$235,520)      | (\$228,424)      | (\$94,704)   |
| OH Removal Cost & Make ready (+) | \$193,115          | \$165,725        | \$4,662          | \$22,728   |
| <b>Total</b>                     | <b>\$1,162,218</b> | <b>\$211,711</b> | <b>\$461,027</b> | <b>\$489,480</b>                                   |
| Net Book Value (+)               | \$10,324           |                  |                  |  |
| Salvage Value (-)                | \$0                |                  |                  |  |
| <b>Subtotal *</b>                | <b>\$1,172,542</b> |                  |                  |  |
| <b>GAF</b>                       | <b>(\$771,477)</b> |                  |                  |  |
| <b>CIAC</b>                      | <b>\$401,065</b>   |                  |                  |  |
| Engineering Deposit (-)          | (\$23,200)         |                  |                  |  |
| <b>Net Due FPL</b>               | <b>\$377,865</b>   |                  |                  |  |

### Major Material Breakdown

|                | Quantity | Item                                |
|----------------|----------|-------------------------------------|
| <b>Install</b> | 104,286  | Primary UG Cable (feet)             |
|                | 2        | UG Switch Cabinet (each, PM Vista ) |
|                | 49       | UG Transformer (each)               |
|                | 13       | Splice box for UG feeder (each)     |
| <b>Remove</b>  | 42,577   | OH Primary Conductor (feet)         |
|                | 75       | Poles (each)                        |
|                | 37       | OH Transformer (each)               |
|                | 7,197    | Primary UG Cable (feet)             |



## **EXHIBIT 2**

DOCUMENT NUMBER-DATE

01192 FEB 15 8

FPSC-COMMISSION CLERK



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December 28, 2007

- VIA ELECTRONIC DELIVERY -

R. Scheffel Wright, Esq.  
Young van Assenderp, P.A.  
225 South Adams Street, Suite 200  
Tallahassee, FL 32301

**Re: Underground Distribution Issues Raised by the Municipal  
Underground Utilities Consortium ("MUUC")**

Dear Schef:

I am writing in response to your letter dated December 12, 2007 raising issues about underground conversions on behalf of your client, MUUC. For convenient reference, I will use the captions for those issues that appear in your letter, but this does not necessarily mean that FPL accepts the characterization of the issues in your captions.

**Ensuring Eligibility of UG Projects for the GAF Credit**

You have asked FPL to join MUUC in supporting a "revisitation" by the Florida Public Service Commission of the October 2008 deadline that the Commission set for reviewing the GAF Tariff, which it approved on a pilot basis. Specifically, MUUC envisions asking that the deadline be extended to December 31, 2009. At this point in time, FPL has not taken a position on a potential request to extend the October 2008 "revisitation." FPL appreciates the complex process that an underground conversion process can entail, but we do have concerns about seeking a lengthy extension of the review deadline. As the Commission observed in its order approving the GAF Tariff, the 25% GAF Waiver is based upon limited data that was available at the time and may need to be fine-tuned as more information on costs and benefits becomes available.

FPL is also unsure whether an extension of the "revisitation" date is truly necessary. As you know, the Commission approved the "grandfathering" provision for the GAF Tariff that FPL and MUUC proposed, which provides protection for multi-phase undergrounding projects that are commenced under the current GAF Tariff but may not

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be completed until well after the tariff is subsequently modified. You have noted that many of the MUUC members have been involved in pursuing undergrounding projects for several years now, so it seems reasonable to expect in general that they could at least get started before October 2008 and thus would be protected by the "grandfathering" provision. Of course, if there are special circumstances in which particular projects have been especially delayed but are now firmly on track toward commencement, we would be happy to discuss how to seek special treatment for them from the Commission.

**Corporate Overheads or "Direct Engineering, Supervision, and Support"  
Costs Where a Local Government Does All UG Work**

First, let me say that I am disappointed in your comments on FPL's response to Mayor Falcone's questions about impact on Direct Engineering, Supervision, and Support ("DSS") charges in the event that the Town of Jupiter Island performs underground conduit and concrete work for its conversion project. FPL undertook a careful evaluation of every component of its DSS charges, and we then revised the Town's binding cost estimate to give full credit for reductions in all DSS components that would actually be affected by the Town's performing the underground conduit and concrete work rather than FPL.

FPL intends to apply that same good-faith approach to all underground conversion projects in which the applicant performs a portion of the direct work. FPL's position on your current issue – what reduction in DSS charges would result from an applicant's performing all of the direct work – would be guided by that approach. FPL expects that the DSS charges would be lower in the event that an applicant performed all direct work than if FPL performed the work. However, your comments on the issue seem to be predicated on an incorrect assumption that, if an applicant performs all direct work for a project, then there is no role for FPL in that project. This is clearly not the case. For obvious safety and reliability reasons, FPL needs to be actively involved in the engineering, inspection and approval of any work that is to become part of its electric distribution system. This is true regardless of whether the work is performed by FPL or others; in fact, it may be especially true if others perform the work because FPL needs to take particular care to ensure that such work meets FPL's standards. Thus, it is simply unrealistic to expect that FPL would not incur DSS expenses, and hence need to charge for DSS, in circumstances where an applicant performs all direct work.

I note that Rule 25-6.115(3), which you cited in your letter, directly supports FPL's position: subsection (c) provides that a utility and applicant may agree to have the applicant perform some or all of the conversion work when such "agreement is not expected to cause the general body of ratepayers to incur additional costs." If FPL were not reimbursed for its DSS expenses when an applicant performs the direct work, then FPL's other customers would end up improperly bearing that cost.

### **Removal Work**

Rule 25-6.115(3) contemplates an applicant's "*constructing and installing* all or a portion of the *underground* distribution facilities." (Emphasis added). On its face, this language does not apply to the removal of existing overhead facilities. FPL is prepared, however, to explore this issue with MUUC, in order to determine whether we can agree on mutually acceptable procedures to coordinate FPL's de-energizing of overhead facilities for an applicant's subsequent removal and proper disposal of those facilities.

### **Town/City Purchase of Materials**

FPL does not see the economic significance of this issue to MUUC. If FPL sold project materials to underground conversion applicants, it would be on the same "material cost plus handling" basis at which FPL would include the cost of the materials in its CIAC calculation. Ultimately, FPL is going to have to own the materials, because FPL retains ownership of the electric system. Therefore, assuming that materials are sold to an applicant, the applicant would then have to turn around and transfer ownership back to FPL. Whether FPL sells the materials to the applicant and then has them transferred back or simply provides them and then collects their cost through the CIAC that is charged to the applicant, the economic result for the applicant should be the same. Because the economic result is the same, FPL would prefer to provide the materials to applicants and then collect the cost for the materials through the CIAC, rather than selling them and having to get ownership transferred back by the applicant.

As to an applicant's buying the required project materials from other sources, FPL does not object in principle to that approach but notes that the Town of Palm Beach investigated privately purchasing materials meeting FPL's specifications for its proposed conversion and found that FPL's charges for material costs were *much* lower than the prices they were quoted from outside vendors. This was because FPL's large quantity purchases provide a significant discount in comparison to the relatively small purchases required for a single project.

### **Salvage Credits**

Consistent with the discussion of the subject of salvage in the letter to Mayor Falcone, FPL is prepared in both of the instances you describe (*i.e.*, FPL performs the removal work, or the applicant performs that work) to transfer ownership and possession of removed copper wire to an applicant at no charge, so long as the applicant agrees to take full responsibility for its disposal. FPL's position with respect to copper wire is based in part on what we view as a relatively low likelihood that its disposal by an applicant could create environmental or other liabilities for FPL. FPL is less comfortable

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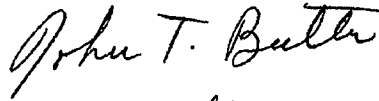
about taking this approach for some of the other types of materials and equipment that would be removed. As I am sure you can appreciate, FPL's remedies against an applicant (especially a governmental applicant) for improper disposal may be limited. Therefore, FPL would have to review on a case-by-case basis the subject of what other types of material or equipment, if any, FPL would be prepared to transfer to an applicant for disposal.

#### **Local Governments as Applicants for New UG Construction Projects**

FPL does not restrict municipalities from being applicants for new underground service under the URD or UCD tariffs if they otherwise meet the tariffs' eligibility requirements. However, FPL's GAF Tariff applies only to underground conversions, not to new underground service. The 25% GAF Waiver that is available to qualifying governmental underground conversion projects under the GAF Tariff is simply inapplicable to new underground work under the URD and UCD tariffs, regardless of who is the applicant. As you know, FPL is presently finalizing its response to the requirements of Rule 25-6.078(4) and 25-6.115(11), F.A.C. for reflecting the net present value of the operational cost differential between overhead and underground systems into its CIAC calculations for those rules.

I trust that I have responded fully to your questions, but please feel free to call me at 561-304-5639 if you would like to discuss them further.

Sincerely,



John T. Butler

cc: Jeffrey S. Bartel