

**Ruth Nettles**

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**From:** John\_Butler@fpl.com  
**Sent:** Wednesday, June 04, 2008 6:25 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** swright@yvlaw.net; Ralph Jaeger  
**Subject:** Electronic Filing for Docket No. 080244-EI/Florida Power & Light Company's Response to Petition to Intervene of the Municipal Underground Utilities Consortium  
**Attachments:** response to muuc petition to intervene FINAL.doc

**Electronic Filing**

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

John T. Butler, Esq.

700 Universe Boulevard

Juno Beach, FL 33408

561-304-5639

John\_Butler@fpl.com

**b.** Docket No. 080244-EI

In re: Florida Power & Light Company's Petition for Approval of Underground Conversion Tariff Revisions.

**c.** The document is being filed on behalf of Florida Power & Light Company.

**d.** There is a total of 4 pages.

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

*(See attached file: response to muuc petition to intervene FINAL.doc)*

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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for Approval of Underground Conversion Tariff Revisions. ) Docket No. 080244-EI  
 )  
 ) Filed: June 4, 2008

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

Florida Power & Light Company ("FPL") hereby responds to the Petition to Intervene that was filed on May 28, 2008 by the Municipal Underground Utilities Consortium ("MUUC").

FPL does not object to MUUC's intervention in this docket. However, pursuant to Rule 25-22.039, F.A.C., MUUC must take this proceeding as it finds it. Issues 3 and 5 in the Petition to Intervene are inconsistent with this requirement, because they purport to expand the proceeding beyond its proper scope. Accordingly, if MUUC is allowed to intervene, it should not be permitted to pursue those issues here.

This proceeding was initiated by FPL to seek approval of tariff sheet revisions that would implement the requirement of Rule 25-6.115(11)(a) that FPL "include the Net Present Value of operational costs including the average historical storm restoration costs for comparable facilities over the expected life of the facilities" in determining the Contribution in Aid of Construction ("CIAC") to be paid by applicants for conversion from overhead to underground distribution facilities. All of the tariff revisions that FPL has proposed are strictly related to implementation of that rule requirement.

MUUC has identified seven "potential issues of material fact that will be decided in this proceeding." Petition to Intervene, at 8. FPL has no objection to Issues 1, 2, 4, 6

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and 7. However, MUUC's Issues 3 and 5 do not reasonably relate to the inclusion of the Net Present Value of operational costs in the CIAC determination and should be rejected.

Issue 3: Will FPL's proposed ASRC [i.e., avoided storm restoration costs] credits provide appropriate incentives to municipalities to undertake OH-to-UG conversion projects? Rule 25-6.115(11)(a) does not require, or even contemplate, that the operational cost differential for storm restoration costs be evaluated on the basis of whether it provides "appropriate incentives." The rule requirement relates to the actual cost difference between restoring service following a storm for overhead versus underground distribution facilities. If FPL's proposed tariff sheet revisions appropriately reflect this cost differential, they satisfy the rule and should be approved. MUUC is improperly attempting to interject into that cost determination the separate and distinct issue of what constitutes appropriate incentives. FPL's proposed tariff revisions do not raise this issue, and Rule 25-6.115(11)(a) does not suggest any basis upon which the issue could or should be resolved. The purpose of this proceeding is to determine whether FPL's proposed tariff revisions properly implement Rule 25-6.115(11)(a). Issue 3 is irrelevant to that purpose.

Issue 5: Are the eligibility criteria set forth in FPL's proposed tariff fair, just, reasonable, and appropriate? Again, MUUC strays outside the ambit of this proceeding. With one narrow exception, nothing in FPL's proposed revisions to the underground conversion tariff affects the eligibility criteria contained in that tariff. The exception is FPL's proposed addition of three different tiers of ASRC credits, with the applicable tier depending upon the size of an underground conversion project. However, FPL believes that MUUC's Issues 1 and 2 adequately address any concerns MUUC might have over

the size thresholds that define eligibility for the three tiers.<sup>1</sup> FPL expects that MUUC would use Issue 5 instead to raise broader questions about the eligibility criteria in the underground conversion tariff, in particular those that define eligibility for the Governmental Adjustment Factor Waiver. Those questions would not be relevant to the Commission's determination of whether FPL's proposed tariff revisions properly implement Rule 25-6.115(11)(a), and MUUC should not be permitted to expand the scope of FPL's proceeding by raising them here.

WHEREFORE, FPL respectfully requests that the Commission, if it grants MUUC's Petition to Intervene, strictly limit MUUC's intervention to issues directly relevant to the tariff revisions that FPL has proposed to implement Rule 25-6.115(11)(a), and consistent therewith, reject MUUC's Issues 3 and 5 as unnecessary and inappropriate to this proceeding.

Respectfully submitted,

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

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

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<sup>1</sup> Issue 1 asks "Is the 25% credit for Avoided Storm Restoration Costs associated with large-scale UG conversions proposed by FPL fair, just and reasonable?" The Petition to Intervene states that this issue is not in dispute. Issue 2 asks "Are the smaller credits for Avoided Storm Restoration Costs associated with small-scale and medium-scale UG conversions proposed by FPL fair, just and reasonable?"

**CERTIFICATE OF SERVICE**  
**Docket No. 080244-EI**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by electronic delivery on the 4<sup>th</sup> day of June, 2008, to the following:

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

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

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