

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Petition and Complaint of)
the Municipal Underground Utilities)
Consortium for Relief from Unfair)
Charges and Practices of)
Florida Power & Light Company.)

DOCKET NO. 080522-EI
FILED: August 13, 2008

**FLORIDA POWER & LIGHT COMPANY’S RESPONSE TO MOTION
OF THE MUNICIPAL UNDERGROUND UTILITIES CONSORTIUM
FOR LEAVE TO PROPOUND ADDITIONAL INTERROGATORIES**

Florida Power & Light Company (“FPL”) hereby responds to the Motion for Leave to Propound Additional Interrogatories (the “Interrogatory Motion”) that was filed on August 6, 2008 by the Municipal Underground Utilities Consortium (“MUUC”). The Interrogatory Motion seeks leave for MUUC to propound up to 400 interrogatories on FPL in this docket, up from the 30 interrogatories ordinarily permitted by Florida Rule of Civil Procedure 1.340(a). Not waiting for this motion to be ruled on by the Commission, MUUC has already served interrogatories on FPL that, by MUUC’s own admission, total 230 including subparts. Interrogatory Motion at 2. FPL opposes MUUC’s attempt to expand radically the normal scope of discovery, because it is unwarranted and burdensome.

This docket was initiated by MUUC to complain about and seek changes in a single, narrow aspect of how FPL determines the contribution-in-aid-of-construction (“CIAC”) that must be paid by an applicant that wants existing FPL overhead distribution facilities to be converted to underground. Specifically, FPL charges such applicants for the cost of engineering and supervision associated with the conversion work, as well as related corporate overheads (these costs are referred to as Direct Engineering, Supervision and Support, or “DESS”). MUUC disputes how FPL determines the

reduction in DESS when the applicant performs some of the direct field work and/or supplies materials required for the conversion work. FPL has already provided MUUC substantial information about this straightforward calculation in informal discussions between the parties. Now, however, MUUC has rewarded FPL's openness by propounding a punishing litany of interrogatories that take each line item in the DESS spreadsheet that FPL had previously provided to MUUC and heedlessly spin out all possible permutations in a series of detailed separate questions for each line on the spreadsheet. As a result of this tactic, MUUC has served as many interrogatories on the narrow issue of how DESS is calculated as might typically be propounded by a rate case intervenor covering the entire scope of FPL's business. And MUUC wants more – 170 *additional* interrogatories to wrap up discovery on this single topic once FPL answers the 230 interrogatories already propounded. While the Commission often permits parties to propound significantly more than 30 interrogatories in complex proceedings, MUUC has cited to (and FPL is aware of) no precedent for permitting so many interrogatories on a single issue.

Responding to MUUC's multiplicity of interrogatories would be extremely burdensome to FPL. Although many of the interrogatories served to date follow a repetitious pattern, answering them would require FPL to engage in time-consuming research separately for each interrogatory. The burden of responding to MUUC's interrogatories is compounded by the fact that MUUC served simultaneously a series of 27 document production requests, many of which will require substantial effort to respond that is independent of the research done to answer the interrogatories.

In summary, Florida Rule of Civil Procedure 1.340(a) permits a party to exceed 30 interrogatories only for good cause shown. MUUC has not shown good cause for its

over-reaching request to propound up to 400 interrogatories and accordingly its motion should be denied. Because MUUC has already propounded interrogatories far in excess of the number ordinarily permitted by Rule 1.340(a), FPL intends to move for a protective order concerning the 230 existing interrogatories unless it can reach agreement with MUUC on reducing and streamlining the scope and complexity of those interrogatories.

WHEREFORE, FPL respectfully requests that the Commission deny MUUC's Motion for Leave to Propound Additional Interrogatories.

Respectfully submitted,

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CERTIFICATE OF SERVICE
Docket No. 080522-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic delivery on the 13th day of August, 2008, to the following:

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