

Ruth Nettles

From: Greene, Angela [agreene@ngn-tally.com]
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Subject: Petition of the City of South Daytona to Intervene - 080522-EI
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Angela Greene

Legal Assistant
Nabors, Giblin & Nickerson, P.A.
1500 Mahan Drive, Suite 200
Tallahassee, FL 32308
Phone: (850) 224-4070
Fax: (850) 224-4073
agreene@ngnlaw.com

Docket No.: 080522-EI

In Re: Petition and Complaint of the Municipal Underground Utilities Consortium for Relief from Unfair Charges and Practices of Florida Power & Light Company

Party: City of South Daytona

No. of Pages: 28

Name of Document: Petition of the City of South Daytona to Intervene

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: October 14, 2008

PETITION OF THE CITY OF SOUTH DAYTONA
TO INTERVENE

Petition of the City of South Daytona to Intervene

I. Introduction

The City of South Daytona (the "City"), by and through its undersigned Counsel, and pursuant to Chapter 120, Florida Statutes, Fla. Admin. Code Rules 25-22.039 and 28-106.201(2), hereby files this Petition of the City of South Daytona to Intervene (the "Petition") and petitions the Commission for leave to intervene in these proceedings. The nature of these proceedings is to explore whether Florida Power and Light ("FPL") exacts unfair, unjust and unreasonable charges from local governments when calculating Direct Engineering, Supervision, and Support ("DESS") costs to be assessed in computing a Contribution in Aid of Construction ("CIAC") where local government performs work itself to Overhead Electric Utility Lines ("OH") to Underground Electric Utility Lines ("UG"). For purposes of this Petition, a CIAC where a local government elects to perform some or all of the work itself shall be referred to as an "In-Kind CIAC" or "IKCIAC." As grounds therefor, the City shows and alleges:

II. Allegations as to the Affected Parties

1. The agency affected by this Petition is the Florida Public Service Commission ("PSC"), established pursuant to Chapter 350, Florida Statutes, and located

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FPSC-COMMISSION CLERK

as follows:

Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

2. The name, address, and telephone number of Petitioner, the City of South

Daytona, Florida, are as follows:

City of South Daytona
Attn: Joseph W. Yarbrough, City Manager
City of South Daytona
P.O. Box 214960
South Daytona, Florida 32121
Telephone: (386) 322-3010
Facsimile: (386) 322-3008
E-mail: jyarbrough@southdaytona.org

3. All pleadings, orders and correspondence should be directed to

Petitioner's representatives as follows:

David G. Tucker, Esq.
Brian P. Armstrong, Esq.
Nabors, Giblin & Nickerson, P.A.
1500 Mahan Drive, Suite 200
Tallahassee, Florida 32308
Telephone: (850) 224-4070
Facsimile: (850) 224-4073
E-Mail: dtucker@ngnlaw.com
E-Mail: barmstrong@ngnlaw.com

with a courtesy copy to:

Scott E. Simpson, Esq.
Korey, Sweet, McKinnon, Simpson and Vukelja
Granada Oaks Professional Building
595 West Granada Blvd., Suite A
Ormond Beach, FL 32174-9448
Telephone: (386) 677-3431
Facsimile: (386) 673-0748
E-Mail: simpson66@bellsouth.net

4. The original petitioning parties are the Municipal Underground Utilities

Consortium, the Town of Palm Beach, the Town of Jupiter Inlet Colony and the City of

Coconut Creek. The name, address, and telephone number of Petitioner, the Municipal Underground Utilities Consortium, are as follows:

Municipal Underground Utilities Consortium
Attention: Thomas G. Bradford, Deputy Town Manager
Town of Palm Beach
360 South County Road
Palm Beach, FL 33401
Telephone: (561) 838-5410
Facsimile: (561) 838-5411

Their counsel's address is:

Robert Scheffel Wright, Esq.
John T. LaVia, III, Esq.
Young van Assenderp, P.A.
225 South Adams Street, Suite 200
Tallahassee, FL 32301
Telephone: (850) 222-7206
Facsimile: (850) 561-6834
E-Mail: swright@yvlaw.net
E-Mail: jlavia@yvlaw.net

5. The other party whose interests will be affected by this Petition & Complaint is Florida Power & Light Company ("FPL"). FPL's address is as follows:

| | |
|--|---|
| Mr. Wade Litchfield, Esquire Vice President Wade_Litchfield@fpl.com Florida Power & Light Company 215 South Monroe Street, Suite 801 Tallahassee, FL 32301 Telephone: (850) 521-3900 Facsimile: (850) 521-3939 | John T. Butler, Esquire Senior Attorney John_Butler@fpl.com Florida Power & Light Co. 700 Universe Boulevard Juno Beach, FL 33408 Telephone: (561) 304-5137 Facsimile: (561) 691-7305 |
|--|---|

6. The Docket Number for these proceedings is 080522-EI.

7. Counsel for the City has contacted counsel for MUUC and FPL. Counsel for MUUC does not object to the City's Petition to Intervene. Counsel for FPL reserves the right to object to the City's Petition to Intervene until after review of the Petition.

III. Allegations as to the City's Substantial Interests

8. Petitioner, the City of South Daytona, is a city located in Volusia County, Florida. The City has a land area of approximately four square miles with approximately 13,000 residents and varied businesses. Housing is primarily single-family homes, condominiums, and townhouses. South Daytona has recently completed the first phase of converting OH electrical lines into UG electrical lines. The City has plans for development and redevelopment projects within the City that will include additional conversions of many miles of existing OH distribution lines into UG lines and also possibly the installation of new UG distribution lines. The City is a direct retail customer of FPL and an "Applicant" within the meaning of FPL's tariffs and the Commission's rules relating to CIACs for UG conversions. The City is attempting to partner with FPL to ensure that these projects are completed as cost-effectively as possible.

9. The City's substantial interests are of sufficient immediacy to entitle the City to participate in the proceeding and are the type of interests that the proceeding is designed to protect. To intervene, a petitioner must demonstrate that its substantial interests will be affected by the proceeding. Specifically, a petitioner must demonstrate that it will suffer a sufficiently immediate injury in fact that is of the type the proceeding is designed to protect. Ameristeel Corp. v. Clark, 691 So. 2d 473 (Fla. 1997); Agrico Chemical Co. v. Department of Environmental Regulation, 406 So. 2d 478 (Fla. 2d DCA 1981), rev. denied, 415 So. 2d 1359 (Fla. 1982).

10. The City's substantial interests here are affected because it plans, in the near future, to convert OH to UG facilities with appropriate CIACs calculated consistently with the Commission's rules. In the near past, the City has paid FPL a

monetary CIAC to convert OH to UG. The City is also considering constructing facilities itself. FPL is required to credit the local government electing the IKCIAC for all costs actually avoided by virtue of the IKCIAC. FPL tariffs currently in force require the City to pay for engineering personnel to review and inspect the work the City might do for its IKCIAC. In practice, however, FPL also includes additional engineering-related and other costs through its claimed DESS costs. These additional costs are nowhere set out, explained, justified or scrutinized. Based on information and belief provided as part of this docket, the City believes that FPL is overcharging for DESS by collecting and attempting to collect from Applicants such as the City unauthorized costs that have been avoided by the utility due to the IKCIAC or are not caused by or otherwise related to the specific project. The City thus would subsidize FPL and other FPL customers by paying for costs not caused by or incurred by FPL as a result of the City's OH/UG conversions. Paying such overages and subsidizing FPL in this manner directly impacts the City.

11. The City is subject to FPL's tariffs and possesses an ongoing interest in reliable electric service, in converting existing OH lines within its jurisdiction to UG service, and ensuring that areas within the City, including new construction and re-development within its jurisdiction are served by UG electric facilities. The charges for both new UG service and for UG conversions are established (and limited) by FPL's tariffs.

12. The City believes that FPL's practices regarding the allocation, assignment, and imposition of (a) what FPL calls DESS costs, and also of (b) general corporate office overhead costs, in the computation of net CIACs for UG conversion

projects, for IKC,¹ are unfair, unjust, unreasonable, and unduly discriminatory against such Applicants who desire to perform the work themselves. Nor are such allocations specified in the applicable FPL tariff. Accordingly, the Petitioner asks the PSC to conduct a formal proceeding to determine the fair, just, reasonable, and non-discriminatory charges and practices that FPL must follow and apply in determining and calculating the net CIACs to be paid by, or the credits due to, local governments where those governments undertake IKCIAC.

IV. Allegations Entitling the City to Relief

13. Fla. Stat. section 366.06(1) prevents FPL from charging, “directly or indirectly,” a rate not on file with the Public Service Commission (“PSC”).

14. Fla. Admin. Code Rule 25-6.033(2) requires each utility to file with the PSC “tariffs containing schedules for *all rates and charges* and copies of all rules and regulations governing the relation of customer and utility” (italics added).

15. Specifically, Fla. Admin. Code Rule 25-6.033(2)(a)10 requires FPL to file with the PSC “Rules covering a special type of construction commonly requested by customers which the utility allows to be connected and terms upon which such construction will be permitted. *This applies, for example, to a case where a customer desires underground service in overhead territory*” (italics added).

16. Fla. Admin. Code Rule 25-6.064 provides the general methodology for an electric utility to charge CIACs for installation of New or Upgrade Facilities, including

¹ Commission Rule 25-6.115(3), F.A.C. specifically authorizes Applicants to construct and install all or part of the desired UG distribution facilities, subject to certain conditions. Section 12.2.11 of FPL's Electric Tariff similarly provides that Applicants may construct and install all or a portion of the desired UG facilities subject to certain conditions.

new OH facilities and upgrades to UG facilities.

17. Fla. Admin. Code Rule 25-6.115 provides more detailed standards for CIACs applicable to conversions of existing OH to UG distribution facilities. Rule 25-6.115(11)(b) requires FPL to exclude from costs imposed upon an applicant that provides an IKCIAC, all costs, including overhead, that FPL avoids by virtue of the applicant's decision. This rule prevents an applicant from having to pay twice for the same service.

This Rule provides, in pertinent part:

(11) For purposes of computing the charges required in subsections (8) and (9):

* * *

(b) 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, or if the full cost has already been paid, credited to the customer. At no time will the costs to the customer be less than zero (italics added).*

18. Pursuant to the requirements of these rules, FPL has adopted its tariffs setting forth its fee and charges in its "General Rules and Regulations For Electric Service," (the "Tariff").

19. The City hereby adopts and incorporates by reference, as though fully set out herein, paragraphs 22-23, and 25-27 of the "Petition and Complaint of the Municipal Underground Utilities Consortium, the Town of Palm Beach, the Town of Jupiter Inlet Colony, and the City of Coconut Creek for Relief from Unfair Charges and Practices of Florida Power & Light Company," (the "MUUC Petition") filed in this cause on August 5, 2008, which paragraphs generally describe the process under which a CIAC is calculated where a local government itself wished to perform UG conversion work.

20. FPL calculates the CIAC to convert OH to UG electrical lines pursuant to its Tariff, section 12.1 (Second Revised Sheet No. 6.300, dated April 4, 2006). That page in the Tariff defines a CIAC and its components.

21. FPL Tariff section 12.2.11 (Second Revised Sheet 6.330, dated April 4, 2006) provides conditions under which an Applicant may itself perform OH to UG conversion work. Section 12.2.11(d) provides in pertinent part the condition that:

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 (italics added).

22. This section is the only provision in the Tariff to set conditions imposed on an applicant who chooses to perform the work to convert OH to UG facilities. Thus, an applicant choosing to perform the OH to UG conversion work would only be assessed the FPL current applicable hourly rate for engineering personnel for review and inspection of the applicant's work and for preparing certain cost estimates if any are required. The "engineering personnel" are the only potential DESS costs identified or specified in the Tariff for an applicant desiring to perform the OH to UG conversion work itself.

23. The MUUC Petition alleges, in paragraphs 28-30, that even where an applicant provides an IKCIAC, FPL itself imposes DESS costs that are the equivalent to the DESS costs assigned when FPL does the work. In addition, the MUUC Petition further alleges that FPL charges an applicant corporate overhead expenses that would

otherwise be avoided because of the IKCIAC. Petitioner adopts these allegations by reference and incorporates them herein.

24. Exhibit "A" to the MUUC Petition is an FPL example that shows the types and magnitudes of the DESS costs imposed by FPL upon an applicant who chooses to perform OH to UG conversion work itself. A copy of this table is attached hereto and incorporated by reference herein as Appendix 1.

25. FPL, in its "Florida Power & Light Company's Answer to Petition and Complaint of the Municipal Underground Utilities Consortium, the Town of Palm Beach, the Town of Jupiter Inlet Colony, and the City of Coconut Creek," filed in this docket on August 28, 2008 ("FPL Answer"), admits that it imposes the charges as alleged by MUUC but argues that such charges are authorized pursuant to Electric Plant Instructions of the Uniform System of Accounts ("USOA"), 18 C.F.R. Part 101, as implemented in Fla. Admin. Code Rule 25-6.014(1). See, FPL Answer at 1-5. A copy of the USOA is attached hereto as Appendix 2 and incorporated by reference herein. In particular, FPL relies on Instruction 3, "Components of Construction Cost."

26. FPL alleges that it calculates a CIAC where an applicant wishes to perform the work itself by taking the following steps:

When an applicant wants to perform certain direct field work for an underground conversion project, FPL implements Rule 25-6.115 (3) and (11) by starting with the DESS that FPL has determined, consistent with the USOA's Electric Plant Instructions, it would need to charge the applicant if FPL were to perform all of the work itself, and then backing out the portion of the DESS that FPL determines it could avoid with the applicant instead performing the work in question.

FPL Answer at 4.

27. The USOA Plant Instruction does not define “engineering personnel.”

28. USOA Plant Instruction 3.A.(11) defines “Engineering and supervision” to mean “the portion of the pay and expenses of engineers, surveyors, draftsmen, inspectors, superintendents and their assistants applicable to construction work.”

29. USOA Plant Instruction 3.A.(13) defines “Engineering services” to include “amounts paid to other companies, firms, or individuals engaged by the utility to plan, design, prepare estimates, supervise, inspect, or give general advice and assistance in connection with construction work.”

30. USOA Plant Instruction 3.A.(1) defines “Contract work” to include “amounts paid for work performed under contract by other companies, firms, or individuals, costs incident to the award of such contracts, and the inspection of such work.”

31. USOA Plant Instruction 3.A.(12) defines “General administration capitalized” to mean “the portion of the pay and expenses of the general officers and administrative and general expenses applicable to construction work.”

32. USOA Plant Instruction 4 applies to “Overhead Construction Costs.” Specifically, USOA Plant Instruction 4.A. provides:

All overhead construction costs, such as engineering, supervision, general office salaries and expenses, construction engineering and supervision by others than the accounting utility, law expenses, insurance, injuries and damages, relief and pensions, taxes and interest, shall be charged to particular jobs or units on the basis of the amounts of such overheads reasonably applicable thereto, to the end that each job or unit shall bear its equitable proportion of such costs and that the entire cost of the unit, both direct and overhead, shall be deducted from the plant accounts at the time the property is retired. (italics added).

33. The hourly rate for “engineering time” for FPL is seventy dollars per hour, which includes, not only engineering time, but also “allocated overhead-type costs added onto the engineer’s basic hourly salary or wage rate.”

34. The USOA Plant Instructions do not include all the costs identified as DESS in Appendix 1. The DESS identified in Appendix 1 are engineering, contract crew oversight, service center support, operations supervisors, restoration coverage, other service center, drafting, CCR support, engineering staff, distribution business services, technology support, other support, and survey.

35. Contrary to USOA Plant Instruction 4, FPL calculates and allocates overhead on fixed percentage and not an equitable per unit basis.

DISPUTED ISSUES OF MATERIAL FACT

36. The City hereby adopts and restates MUUC’s list of disputed issues of material fact in this proceeding that may include, but will not necessarily be limited to, the following.

(a) Whether the rates demanded, charged, or collected by FPL for UG conversion projects, where a Local Government Applicant performs all or part of the UG conversion work itself are fair, just, reasonable, and not unjustly discriminatory against such Local Government Applicants.

(b) Whether FPL's tariff rules, regulations, and practices applicable to UG conversion projects in instances where a Local Government Applicant performs all or part of the UG conversion work itself are fair, just, reasonable, and not unjustly discriminatory against such Local Government Applicants.

(c) Whether FPL's “direct engineering, supervision, and support” costs are excessive.

(d) Whether FPL's allocation of and proposed charges for DESS costs applied to UG conversion projects in instances where an Applicant performs all or part of the UG conversion work itself

are fair, just, reasonable, and not unjustly discriminatory against such Applicant.

(e) Whether FPL's allocation of "Corporate" overhead-type costs to UG conversion projects in instances where a Local Government Applicant performs all or part of the UG conversion work itself are fair, just, reasonable, and not unjustly discriminatory against such Local Government Applicants.

(f) Whether FPL's "general corporate office overhead costs" vary depending on whether FPL performs the work associated with a UG conversion project or on whether a Local Government Applicant performs all or part of the UG conversion work itself.

The City reserves all rights to raise additional issues in accordance with the Commission's rules and any procedural order that may be issued in this case.

STATEMENT OF ULTIMATE FACTS ALLEGED

37. The City alleges the following ultimate facts that entitle it to the relief requested herein.

(a) FPL is subject to Chapter 366, Florida Statutes, and to Fla. Admin. Code R. 25-6.115, and FPL's charges and practices relating to UG conversion projects where Local Government Applicants provide IKCIAC are fully subject to the Commission's jurisdiction under those statutes and the Commission's Rules.

(b) The City is subject to FPL's tariffs relating to UG conversion projects.

(c) The rates demanded, charged, or collected by FPL for UG conversion projects, where a Local Government Applicant provides an IKCIAC for all or part of the UG conversion work itself are unfair, unjust, unreasonable, and unjustly discriminatory against such Local Government Applicants.

(d) FPL's tariff rules, regulations, and practices applicable to UG conversion projects where a Local Government Applicant provides IKCIAC are unfair, unjust, unreasonable, and unjustly discriminatory against such Local Government Applicants.

(e) FPL's DESS costs are excessive.

(f) FPL's allocation of DESS costs to UG conversion projects in instances where a Local Government provides an IKCIAC results in charges that are unfair, unjust, unreasonable, and unjustly discriminatory against such Local Government Applicants.

(g) FPL's allocation of "general corporate office overhead costs" to UG conversion projects in instances where a Local Government Applicant provides in IKCIAC results in charges that are unfair, unjust, unreasonable, and unjustly discriminatory against such Local Government Applicants.

(h) FPL's "general corporate office overhead costs" do not vary depending on whether FPL performs the work associated with a UG conversion project or on whether a Local Government Applicant performs all or part of the UG conversion work itself.

(i) Where Local Government Applicants perform part or all of the work associated with their UG conversion projects, FPL is entitled to collect from Applicants, or to deduct from credits to be paid to such Applicants, only the actual, direct, reasonable, and prudent costs that it incurs in connection with those UG conversion projects.

(j) Where Local Government Applicants provide IKCIACs, FPL's current practices and charges result in those Local Government Applicants paying more than FPL's reasonable and prudent costs that FPL actually and directly incurs as a result of such UG conversion projects, with the result that those Local Government Applicants will subsidize FPL and its other customers.

V. FPL's Charge for DESS for IKCIAC is Unreasonable

38. The process by which FPL determines the DESS for IKCIAC is not transparent. The applicable FPL tariff only specifies that an applicant must pay engineering personnel to review and inspect the Applicant's work done. However, following the USOA Plant Instructions, this allows for three distinct possibilities: "Engineering and supervision;" "Engineering services" or "Contract work." FPL's tariff on its face specifies that an applicant must pay for engineering personnel to perform

functions described in the USOA as “engineering and supervision.” However, the IKCIAC and credits to the Applicant should be based on an apples-to-apples comparison, such that an applicant understands what “engineering personnel” describes. When presented with a binding cost estimate, an applicant should be able to analyze and compare the proposed costs and how FPL reached those costs with the costs that an applicant might itself incur. The ambiguity in FPL’s tariff and the unbridled discretion FPL exercises in defining DESS costs allows it to “pick and choose” methods that could substantially affect the amount of an IKCIAC as between different customers for the same type of work. FPL can hide costs or overcharge applicants without restraint.

39. Although FPL is not required to define each and every cost, FPL must nevertheless include in its tariff a transparent methodology under which an Applicant may be able to calculate anticipated DESS costs FPL will impose in computing the IKCIAC. See, Fla. Admin. Code Rule 25-6.033; Pan American World Airways Inc. v. Florida Public Service Commission, 427 So. 2d 716 (Fla. 1983).

40. FPL’s Tariff is silent regarding DESS costs. This silence is in stark contrast to the specificity of Fla. Admin. Code Rule 25-6.97 (1983), which was construed in Pan American. Pan American, 427 So. 2d at 719.

41. Absent from FPL’s DESS analysis is any linkage of FPL DESS costs to a specific project or allocation of overhead within a project to specific jobs or units. This creates ambiguity: the review and inspection functions identified in FPL Tariff 12.2.11.d performed by engineering personnel could be the same functions for which FPL is asserting its DESS costs. This is also inconsistent with USOA Instruction 4.

42. A tariff filed with a regulatory agency has the force and effect of law. Bellsouth Telecommunications v. Kerrigan, 55 F. Supp. 2d 1314 (N.D. Fla. 1999). The tariff is “part of the contract between the customer and the utility.” Krasner v. New York State Elec. & Gas Corp., 90 A.D. 2d 921, 921-922, 457 N.Y.S. 2d 927 (N.Y. App. 1982). However, in construing such tariffs, all ambiguities are resolved against the issuer of the tariff. Lauer v. N. Y. Telephone Co., 231 A.D. 2d 126, 659 N.Y.S. 359 (N.Y. App. 1997).

43. Accordingly, FPL should not be allowed to calculate DESS without a tariff-based method that sufficiently ties the DESS to specific projects and is sufficient to put a potential applicant on notice of what costs will be included in DESS and how FPL will arrive at those costs.

VI. FPL’s UG Conversion Process Requires Local Governments to Subsidize the Rate Base

44. According to USOA Instruction 4.A, overhead, including DESS, should be allocated on a per job or unit basis, and not on a percentage of the total cost of the project. Neither FPL’s tariff, applicable administrative rule, nor Appendix 1 show that FPL is following this instruction.

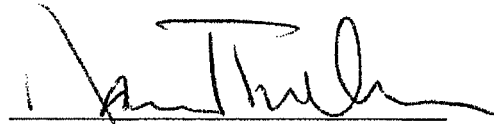
45. The opacity of FPL’s methodology allows it to allocate general corporate overhead and other indirect costs to specific projects, even where an Applicant performs part or all of the UG conversion work, as is its right under the Commission’s rules and FPL’s tariffs. Such allocation benefits the rate base at the expense of the applicant. FPL must show a good faith effort to balance accurately assessing the costs of a project against the temptation to try to include costs that were not incurred directly or indirectly by virtue of the IKCIAC.

VII. Relief Requested

The City alleges that FPL's tariffs applicable to UG conversion projects where an applicant provides an IKCIAC are not in compliance with applicable provisions of statutes and Fla. Admin. Code Rule 25-6.115, in that they result in unfair, unjust, unreasonable, and unjustly discriminatory charges being imposed on the City and other Applicants that wish to provide IKCIAC in connection with their UG conversion projects. Because the costs are computed in an opaque manner and without basis in FPL's tariff, it is impossible to assure that FPL is accurate and non-discriminatory when it imposes such costs.

Accordingly, the City requests the Commission should conduct a formal proceeding and hearing to take evidence on these matters and require FPL to amend its tariffs (1) to ensure that Local Government Applicants only pay FPL for the reasonable and prudent costs that FPL actually and directly incurs where Local Government Applicants provide an IKCIAC with their UG conversion projects and (2) to set out a transparent methodology so that local governments and others will be able to verify how the DESS costs are being determined and assessed. This relief will further the Commission's policy supporting undergrounding and also support FPL's own avowed policy supporting undergrounding as set forth in FPL's Storm Secure Plan.

WHEREFORE, the City respectfully request the Florida Public Service Commission (1) to grant its Petition to Intervene and (2) to conduct a formal proceeding to investigate these matters, to issue appropriate orders requiring FPL to amend its tariffs as prayed herein, and to grant such other relief as the Commission deems appropriate.



David G. Tucker
Florida Bar No. 701327
Brian P. Armstrong
Florida Bar No. 888575
Nabors, Giblin & Nickerson, P.A.
1500 Mahan Drive, Suite 200
Tallahassee, Florida 32308
(850) 224-4070 Telephone
(850) 224-4073 Facsimile

Attorneys for the City of South
Daytona

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished to the following, by electronic and U.S. Mail, on this 14th day of October, 2008:

Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

City of South Daytona
Attn: Joseph W. Yarbrough, City Manager
City of South Daytona
P.O. Box 214960
South Daytona, FL 32121
Telephone: (386) 322-3010
Facsimile: (386) 322-3008
E-mail: jyarbrough@southdaytona.org

David G. Tucker, Esq.
Brian P. Armstrong, Esq.
Nabors, Giblin & Nickerson, P.A.
1500 Mahan Drive, Suite 200
Tallahassee, FL 32308
Telephone: (850) 224-4070
Facsimile: (850) 224-4073
E-Mail: dtucker@ngnlaw.com
E-Mail: barmstrong@ngnlaw.com

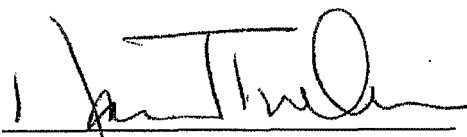
Scott E. Simpson, Esq.
Korey, Sweet, McKinnon, Simpson and Vukelja
Granada Oaks Professional Building
595 West Granada Blvd., Suite A
Ormond Beach, FL 32174-9448
Telephone: (386) 677-3431
Facsimile: (386) 673-0748
E-Mail: simpson66@bellsouth.net

Wade Litchfield, Esq.
Vice President
Florida Power & Light Company
215 S. Monroe Street, Suite 801
Tallahassee, FL 32301
E-mail: Wade_Litchfield@fpl.com

John T. Butler, Esq.
Senior Attorney
Florida Power & Light Company
700 Universe Blvd.
Juno Beach, FL 33408
E-mail: John_Butler@fpl.com

Municipal Underground Utilities Consortium
Attention: Thomas G. Bradford, Deputy Town Manager
Town of Palm Beach
360 South County Road
Palm Beach, FL 33401
Telephone: (561) 838-5410
Facsimile: (561) 838-5411

Robert Scheffel Wright, Esq.
John T. LaVia, III, Esq.
Young van Assenderp, P.A.
225 South Adams Street, Suite 200
Tallahassee, FL 32301
Telephone: (850) 222-7206
Facsimile: (850) 561-6834
E-Mail: swright@yvlaw.net
E-Mail: jlavia@yvlaw.net



Attorney

City of South Daytona
Appendix 1

EXHIBIT 1

**Uniform System of Accounts
Electric Plant Instruction 3**

SUBCHAPTER C—ACCOUNTS, FEDERAL POWER ACT

PART 101—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR PUBLIC UTILITIES AND LICENSEES SUBJECT TO THE PROVISIONS OF THE FEDERAL POWER ACT

AUTHORITY: 16 U.S.C. 791a-825r, 2601-2645; 31 U.S.C. 9701; 42 U.S.C. 7101-7352, 7651-7651c.

SOURCE: Order 218, 25 FR 5014, June 7, 1960, as amended by Order 276, 28 FR 14287, Dec. 25, 1963; Order 290, 29 FR 18214, Dec. 23, 1964; 30 FR 484, Jan. 14, 1965; Order 322, 31 FR 7898, June 3, 1966; Order 348, 32 FR 6678, May 2, 1967; 32 FR 6657, June 16, 1967; Order 354, 32 FR 15671, Nov. 14, 1967; Order 366, 33 FR 10135, July 16, 1968; Order 389, 34 FR 17436, Oct. 29, 1969; Order 393, 34 FR 20269, Dec. 25, 1969; Order 389A, 35 FR 878, Jan. 22, 1970; Order 393A, 35 FR 6943, Apr. 10, 1970; Order 408, 35 FR 13885, Sept. 3, 1970; Order 419, 36 FR 518, Jan. 14, 1971; Order 420, 36 FR 507, Jan. 14, 1971; Order 421, 36 FR 3047, Feb. 17, 1971; 36 FR 4385, Mar. 5, 1971; Order 432, 36 FR 8240, May 1, 1971; Order 434, 36 FR 11431, June 12, 1971; Order 436, 36 FR 15529, Aug. 17, 1971; Order 439, 36 FR 20869, Oct. 30, 1971; Order 454, 37 FR 14226, July 18, 1972; Order 460, 37 FR 24659, Nov. 18, 1972; Order 469, 38 FR 4248, Feb. 12, 1973; Order 462, 38 FR 4948, Feb. 23, 1973; Order 463, 38 FR 7214, Mar. 19, 1973; Order 476, 38 FR 8667, Mar. 12, 1973; Order 488, 38 FR 12115, May 9, 1973; Order 486, 38 FR 18873, July 16, 1973; Order 490, 38 FR 23332, Aug. 29, 1973; Order 489-1, 38 FR 30434, Nov. 5, 1973; Order 473, 39 FR 2469, Jan. 22, 1974; Order 504, 39 FR 8073, Feb. 19, 1974; Order 505, 39 FR 6083, Feb. 19, 1974; Order 505, 39 FR 22417, June 24, 1974; Order 530, 40 FR 26983, June 26, 1975; Order 549, 41 FR 24993, June 22, 1976; Order 561, 42 FR 9163, Feb. 15, 1977; Order 566, 42 FR 30158, June 13, 1977; Order 567, 42 FR 30613, June 16, 1977; Order 5, 43 FR 15418, Apr. 13, 1978; Order 258, 47 FR 42723, Sept. 29, 1982; 48 FR 32567, 32568, 32570, July 18, 1983; Order 890, 49 FR 32505, Aug. 14, 1984; 50 FR 5744, Feb. 12, 1985; Order 435, 50 FR 40358, Oct. 3, 1985; Order 552, 50 FR 18004, 18005, 18006, Apr. 7, 1993; 50 FR 42495, Aug. 10, 1993; 63 FR 6851, Feb. 11, 1998; Order 618, 65 FR 47667, Aug. 3, 2000; Order 627, 67 FR 67701, Nov. 6, 2002; Order 631, 68 FR 19619, Apr. 21, 2003; Order 634, 68 FR 40506, July 8, 2003; Order 634-A, 68 FR 62002, Oct. 31, 2003; Order 688, 70 FR 77638, Dec. 30, 2005; Order 688-A, 71 FR 28515, May 16, 2006.

EFFECTIVE DATE NOTE: At 50 FR 18004-18006, Apr. 7, 1993, part 101 was amended by redesignating Definitions 30 through 38 as 31 through 39 and adding new Definition 30; adding paragraph 21 under the General Instructions; adding Accounts 158.1, 158.2, 182.3,

and 254 under Balance Sheet Accounts; adding Accounts 407.3, 407.4, 411.8, and 411.9 under Income Accounts; and adding Account 509 under Operation and Maintenance Expense Accounts. The added text contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

NOTE: Order 141, 12 FR 8503, Dec. 19, 1947, provides in part as follows:

Prescribing a system of accounts for public utilities and licensees under the Federal Power Act. The Federal Power Commission acting pursuant to authority granted by the Federal Power Act, particularly sections 301(a), 304(a), and 309, and paragraph (13) of section 3, section 4(b) thereof, and finding such action necessary and appropriate for carrying out the provisions of said act, hereby adopts the accompanying system of accounts entitled "Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act," and the rules and regulations contained therein; and *it is hereby ordered:*

(a) That said system of accounts and said rules and regulations contained therein be and the same are hereby prescribed and promulgated as the system of accounts and rules and regulations of the Commission to be kept and observed by public utilities subject to the jurisdiction of the Commission and by licensees holding licenses issued by the Commission, to the extent and in the manner set forth therein;

(b) That said system of accounts and rules and regulations therein contained shall, as to all public utilities now subject to the jurisdiction of the Commission and as to all present licensees, become effective on January 1, 1937, and as to public utilities and licensees which may hereafter become subject to the jurisdiction of the Commission, they shall become effective as of the date when such public utility becomes subject to the jurisdiction of the Commission or on the effective date of the license;

(c) That a copy of said system of accounts and rules and regulation contained therein be forthwith served upon each public utility subject to the jurisdiction of the Commission, and each licensee or permittee holding a license or permit from the Commission.

This system of accounts supersedes the system of accounts prescribed for licensees under the Federal Water Power Act; and Order No. 13, entered November 20, 1922, prescribing said system of accounts, was rescinded effective January 1, 1937.

Applicability of system of accounts. This system of accounts is applicable in principle to

from the difference between the amount of the liability for the asset retirement obligation in account 230, Asset retirement obligations, and the amount paid to settle the obligation, shall be accounted for as follows:

(1) Gains shall be credited to account 421, Miscellaneous nonoperating income, and;

(2) Losses shall be charged to account 426.5, Other deductions.

E. Separate subsidiary records shall be maintained for each asset retirement obligation showing the initial liability and associated asset retirement cost, any incremental amounts of the liability incurred in subsequent reporting periods for additional layers of the original liability and related asset retirement cost, the accretion of the liability, the subsequent measurement changes to the asset retirement obligation, the depreciation and amortization of the asset retirement costs and related accumulated depreciation, and the settlement date and actual amount paid to settle the obligation. For purposes of analyses a utility shall maintain supporting documentation so as to be able to furnish accurately and expeditiously with respect to each asset retirement obligation the full details of the identity and nature of the legal obligation, the year incurred, the identity of the plant giving rise to the obligation, the full particulars relating to each component and supporting computations related to the measurement of the asset retirement obligation.

Electric Plant Instructions

1. *Classification of electric plant at effective date of system of accounts (Major utilities).*

A. The electric plant accounts provided herein are the same as those contained in the prior system of accounts except for inclusion of accounts for nuclear production plant and some changes in classification in the general equipment accounts. Except for these changes, the balances in the various plant accounts, as determined under the prior system of accounts, should be carried forward. Any remaining balance of plant which has not yet been classified, pursuant to the requirements of the prior system, shall be

classified in accordance with the following instructions.

B. The cost to the utility of its unclassified plant shall be ascertained by analysis of the utility's records. Adjustments shall not be made to record in utility plant accounts amounts previously charged to operating expenses or to income deductions in accordance with the uniform system of accounts in effect at the time or in accordance with the discretion of management as exercised under a uniform system of accounts, or under accounting practices previously followed.

C. The detailed electric plant accounts (301 to 399, inclusive) shall be stated on the basis of cost to the utility of plant constructed by it and the original cost, estimated if not known, of plant acquired as an operating unit or system. The difference between the original cost, as above, and the cost to the utility of electric plant after giving effect to any accumulated provision for depreciation or amortization shall be recorded in account 114, Electric Plant Acquisition Adjustments. The original cost of electric plant shall be determined by analysis of the utility's records or those of the predecessor or vendor companies with respect to electric plant previously acquired as operating units or systems and the difference between the original cost so determined, less accumulated provisions for depreciation and amortization and the cost to the utility with necessary adjustments for retirements from the date of acquisition, shall be entered in account 114, Electric Plant Acquisition Adjustments. Any difference between the cost of electric plant and its book cost, when not properly includible in other accounts, shall be recorded in account 116, Other Electric Plant Adjustments.

D. Plant acquired by lease which qualifies as capital lease property under General Instruction 19, *Criteria for Classifying Leases*, shall be recorded in Account 101.1, Property under Capital Leases, or Account 120.6, Nuclear Fuel under Capital Leases, as appropriate.

2. *Electric Plant To Be Recorded at Cost.*

A. All amounts included in the accounts for electric plant acquired as an

operating unit or system, except as otherwise provided in the texts of the intangible plant accounts, shall be stated at the cost incurred by the person who first devoted the property to utility service. All other electric plant shall be included in the accounts at the cost incurred by the utility, except for property acquired by lease which qualifies as capital lease property under General Instruction 19. *Criteria for Classifying Leases*, and is recorded in Account 101.1, Property under Capital Leases, or Account 120.6, Nuclear Fuel under Capital Leases. Where the term cost is used in the detailed plant accounts, it shall have the meaning stated in this paragraph.

B. When the consideration given for property is other than cash, the value of such consideration shall be determined on a cash basis (see, however, definition 9). In the entry recording such transition, the actual consideration shall be described with sufficient particularity to identify it. The utility shall be prepared to furnish the Commission the particulars of its determination of the cash value of the consideration if other than cash.

C. When property is purchased under a plan involving deferred payments, no charge shall be made to the electric plant accounts for interest, insurance, or other expenditures occasioned solely by such form of payment.

D. The electric plant accounts shall not include the cost or other value of electric plant contributed to the company. Contributions in the form of money or its equivalent toward the construction of electric plant shall be credited to accounts charged with the cost of such construction. Plant constructed from contributions of cash or its equivalent shall be shown as a reduction to gross plant constructed when assembling cost data in work orders for posting to plant ledgers of accounts. The accumulated gross costs of plant accumulated in the work order shall be recorded as a debit in the plant ledger of accounts along with the related amount of contributions concurrently be recorded as a credit.

3. Components of construction cost.

A. For Major utilities, the cost of construction properly includible in the electric plant accounts shall include,

where applicable, the direct and overhead cost as listed and defined hereunder:

(1) *Contract work* includes amounts paid for work performed under contract by other companies, firms, or individuals, costs incident to the award of such contracts, and the inspection of such work.

(2) *Labor* includes the pay and expenses of employees of the utility engaged on construction work, and related workmen's compensation insurance, payroll taxes and similar items of expense. It does not include the pay and expenses of employees which are distributed to construction through clearing accounts nor the pay and expenses included in other items hereunder.

(3) *Materials and supplies* includes the purchase price at the point of free delivery plus customs duties, excise taxes, the cost of inspection, loading and transportation, the related stores expenses, and the cost of fabricated materials from the utility's shop. In determining the cost of materials and supplies used for construction, proper allowance shall be made for unused materials and supplies, for materials recovered from temporary structures used in performing the work involved, and for discounts allowed and realized in the purchase of materials and supplies.

NOTE: The cost of individual items of equipment of small value (for example, \$500 or less) or of short life, including small portable tools and implements, shall not be charged to utility plant accounts unless the correctness of the accounting therefor is verified by current inventories. The cost shall be charged to the appropriate operating expense or clearing accounts, according to the use of such items, or, if such items are consumed directly in construction work, the cost shall be included as part of the cost of the construction.

(4) *Transportation* includes the cost of transporting employees, materials and supplies, tools, purchased equipment, and other work equipment (when not under own power) to and from points of construction. It includes amounts paid to others as well as the cost of operating the utility's own transportation equipment. (See item 5 following.)

(5) *Special machine service* includes the cost of labor (optional), materials and

supplies, depreciation, and other expenses incurred in the maintenance, operation and use of special machines, such as steam shovels, pile drivers, derricks, ditchers, scrapers, material unloaders, and other labor saving machines; also expenditures for rental, maintenance and operation of machines of others. It does not include the cost of small tools and other individual items of small value or short life which are included in the cost of materials and supplies. (See item 3, above.) When a particular construction job requires the use for an extended period of time of special machines, transportation or other equipment, the net book cost thereof, less the appraised or salvage value at time of release from the job, shall be included in the cost of construction.

(6) *Shop service* includes the proportion of the expense of the utility's shop department assignable to construction work except that the cost of fabricated materials from the utility's shop shall be included in *materials and supplies*.

(7) *Protection* includes the cost of protecting the utility's property from fire or other casualties and the cost of preventing damages to others, or to the property of others, including payments for discovery or extinguishment of fires, cost of apprehending and prosecuting incendiaries, witness fees in relation thereto, amounts paid to municipalities and others for fire protection, and other analogous items of expenditures in connection with construction work.

(8) *Injuries and damages* includes expenditures or losses in connection with construction work on account of injuries to persons and damages to the property of others; also the cost of investigation of and defense against actions for such injuries and damages. Insurance recovered or recoverable on account of compensation paid for injuries to persons incident to construction shall be credited to the account or accounts to which such compensation is charged. Insurance recovered or recoverable on account of property damages incident to construction shall be credited to the account or accounts charged with the cost of the damages.

(9) *Privileges and permits* includes payments for and expenses incurred in se-

curing temporary privileges, permits or rights in connection with construction work, such as for the use of private or public property, streets, or highways, but it does not include rents, or amounts chargeable as franchises and consents for which see account 302, *Franchises and Consents*.

(10) *Rents* includes amounts paid for the use of construction quarters and office space occupied by construction forces and amounts properly includible in construction costs for such facilities jointly used.

(11) *Engineering and supervision* includes the portion of the pay and expenses of engineers, surveyors, draftsmen, inspectors, superintendents and their assistants applicable to construction work.

(12) *General administration capitalized* includes the portion of the pay and expenses of the general officers and administrative and general expenses applicable to construction work.

(13) *Engineering services* includes amounts paid to other companies, firms, or individuals engaged by the utility to plan, design, prepare estimates, supervise, inspect, or give general advice and assistance in connection with construction work.

(14) *Insurance* includes premiums paid or amounts provided or reserved as self-insurance for the protection against loss and damages in connection with construction, by fire or other casualty injuries to or death of persons other than employees, damages to property of others, defalcation of employees and agents, and the non-performance of contractual obligations of others. It does not include workmen's compensation or similar insurance on employees included as *labor* in item 2, above.

(15) *Law expenditures* includes the general law expenditures incurred in connection with construction and the court and legal costs directly related thereto, other than law expenses included in protection, item 7, and in injuries and damages, item 8.

(16) *Taxes* includes taxes on physical property (including land) during the period of construction and other taxes properly includible in construction costs before the facilities become available for service.

(17) Allowance for funds used during construction (Major and Nonmajor Utilities) includes the net cost for the period of construction of borrowed funds used for construction purposes and a reasonable rate on other funds when so used, not to exceed, without prior approval of the Commission, allowances computed in accordance with the formula prescribed in paragraph (a) of this subparagraph. No allowance for funds used during construction charges shall be included in these accounts upon expenditures for construction projects which have been abandoned.

(a) The formula and elements for the computation of the allowance for funds used during construction shall be:

$$A_1 = s(S/W) + d(D/D + P + C)(1 - S/W)$$

$$A_2 = [1 - S/W] [p(P/D + P + C) + c(C/D + P + C)]$$

A_1 = Gross allowance for borrowed funds used during construction rate.

A_2 = Allowance for other funds used during construction rate.

S = Average short-term debt.

s = Short-term debt interest rate.

D = Long-term debt.

d = Long-term debt interest rate.

P = Preferred stock.

p = Preferred stock cost rate.

C = Common equity.

c = Common equity cost rate.

W = Average balance in construction work in progress plus nuclear fuel in process of refinement, conversion, enrichment and fabrication, less asset retirement costs (See General Instruction 25) related to plant under construction.

(b) The rates shall be determined annually. The balances for long-term debt, preferred stock and common equity shall be the actual book balances as of the end of the prior year. The cost rates for long-term debt and preferred stock shall be the weighted average cost determined in the manner indicated in §35.13 of the Commission's Regulations Under the Federal Power Act. The cost rate for common equity shall be the rate granted common equity in the last rate proceeding before the ratemaking body having primary rate jurisdictions. If such cost rate is not available, the average rate actually earned during the preceding three years shall be used. The short-term debt balances and related cost and the average balance for construction work in progress plus nuclear fuel in process of refinement, conversion, enrichment,

and fabrication shall be estimated for the current year with appropriate adjustments as actual data becomes available.

NOTE: When a part only of a plant or project is placed in operation or is completed and ready for service but the construction work as a whole is incomplete, that part of the cost of the property placed in operation or ready for service, shall be treated as *Electric Plant in Service* and allowance for funds used during construction thereon as a charge to construction shall cease. Allowance for funds used during construction on that part of the cost of the plant which is incomplete may be continued as a charge to construction until such time as it is placed in operation or is ready for service, except as limited in item 17, above.

(18) Earnings and expenses during construction. The earnings and expenses during construction shall constitute a component of construction costs.

(a) The earnings shall include revenues received or earned for power produced by generating plants during the construction period and sold or used by the utility. Where such power is sold to an independent purchaser before intermingling with power generated by other plants, the credit shall consist of the selling price of the energy. Where the power generated by a plant under construction is delivered to the utility's electric system for distribution and sale, or is delivered to an associated company, or is delivered to and used by the utility for purposes other than distribution and sale (for manufacturing or industrial use, for example), the credit shall be the fair value of the energy so delivered. The revenues shall also include rentals for lands, buildings etc., and miscellaneous receipts not properly includible in other accounts.

(b) The expenses shall consist of the cost of operating the power plant, and other costs incident to the production and delivery of the power for which construction is credited under paragraph (a), above, including the cost of repairs and other expenses of operating and maintaining lands, buildings, and other property, and other miscellaneous and like expenses not properly includible in other accounts.

(19) *Training costs* (Major and Nonmajor Utilities). When it is necessary that employees be trained to operate or maintain plant facilities that are being constructed and such facilities are not conventional in nature, or are new to the company's operations, these costs may be capitalized as a component of construction cost. Once plant is placed in service, the capitalization of training costs shall cease and subsequent training costs shall be expensed. (See Operating Expense Instruction 4.)

(20) *Studies* includes the costs of studies such as nuclear operational, safety, or seismic studies or environmental studies mandated by regulatory bodies relative to plant under construction. Studies relative to facilities in service shall be charged to account 183, Preliminary Survey and Investigation Charges.

(21) *Asset retirement costs*. The costs recognized as a result of asset retirement obligations incurred during the construction and testing of utility plant shall constitute a component of construction costs.

B. For Nonmajor utilities, the cost of construction of property chargeable to the electric plant accounts shall include, where applicable, the cost of labor; materials and supplies; transportation; work done by others for the utility; injuries and damages incurred in construction work; privileges and permits; special machine service; allowance for funds used during construction, not to exceed without prior approval of the Commission, amounts computed in accordance with the formula prescribed in paragraph (a) of paragraph (17) of this Instruction; training costs; and such portion of general engineering, administrative salaries and expenses, insurance, taxes, and other analogous items as may be properly includable in construction costs. (See Operating Expense Instruction 4.) The rates and balances of short and long-term debt, preferred stock, common equity and construction work in progress shall be determined as prescribed in paragraph (b) of paragraph (17) of this Instruction.

4. *Overhead Construction Costs.*

A. All overhead construction costs, such as engineering, supervision, gen-

eral office salaries and expenses, construction engineering and supervision by others than the accounting utility, law expenses, insurance, injuries and damages, relief and pensions, taxes and interest, shall be charged to particular jobs or units on the basis of the amounts of such overheads reasonably applicable thereto, to the end that each job or unit shall bear its equitable proportion of such costs and that the entire cost of the unit, both direct and overhead, shall be deducted from the plant accounts at the time the property is retired.

B. As far as practicable, the determination of pay roll charges includable in construction overheads shall be based on time card distributions thereof. Where this procedure is impractical, special studies shall be made periodically of the time of supervisory employees devoted to construction activities to the end that only such overhead costs as have a definite relation to construction shall be capitalized. The addition to direct construction costs of arbitrary percentages or amounts to cover assumed overhead costs is not permitted.

C. For Major utilities, the records supporting the entries for overhead construction costs shall be so kept as to show the total amount of each overhead for each year, the nature and amount of each overhead expenditure charged to each construction work order and to each electric plant account, and the bases of distribution of such costs.

5. *Electric Plant Purchased or Sold.*

A. When electric plant constituting an operating unit or system is acquired by purchase, merger, consolidation, liquidation, or otherwise, after the effective date of this system of accounts, the costs of acquisition, including expenses incidental thereto properly includible in electric plant, shall be charged to account 102, Electric Plant Purchased or Sold.

B. The accounting for the acquisition shall then be completed as follows:

(1) The original cost of plant, estimated if not known, shall be credited to account 102, Electric Plant Purchased or Sold, and concurrently charged to the appropriate electric

City of South Daytona
Appendix 2

**Direct Engineering, Supervision & Support
Adjustment for Assumed Customer-Performed Work**

| | % Breakdown | Adjustment (Customer- Performed Work) | Adjustment % |
|--------------------------------|-------------|--|-----------------|
| Operations Centers | 70% | | -0.7% |
| Engineering | 28% | 0.0% | 0.0% |
| CCRs (Contract Crew Oversight) | 5% | 0.0% | 0.0% |
| Service Center Support | 19% | -1.9% | -0.4% |
| Operations Supervisors | 12% | -1.9% | -0.2% |
| Restoration Coverage | 5% | -1.9% | -0.1% |
| Other Service Center | 4% | -1.9% | -0.1% |
| Operations Support | 19% | | -4.2% |
| Drafting | 3% | 0.0% | 0.0% |
| CCR Support | 2% | 0.0% | 0.0% |
| Engineering Staff | 8% | 0.0% | 0.0% |
| Distribution Business Services | 1% | -65.5% | -0.6% |
| Technology Support | 0% | -65.5% | -0.3% |
| Other Support | 3% | -65.5% | -1.9% |
| Survey | 1% | -100.0% | -1.4% |
| Complete | 1% | -65.5% | -7.2% |
| TOTAL | | | -12.1% |

(1):

| | |
|-------------------------------|----------------|
| CMH - Customer-performed work | (2,740) |
| CMH - Total | <u>144,000</u> |
| % of Total CMH | <u>-1.9%</u> |

(2):

| | <u>Labor/Vehicle</u> | <u>Material</u> | <u>Total</u> |
|-------------------------------|----------------------|-----------------|--------------------|
| Total underground work | 2,118,308 | 684,789 | 2,803,097 |
| Customer-performed work | <u>(1,836,802)</u> | - | <u>(1,836,802)</u> |
| Remaining FPL portion of work | 281,506 | 684,789 | 966,295 |
| % Customer-performed work | | | <u>-65.5%</u> |

| | |
|---|-----------------------|
| TJI Total underground direct engineering, supervision & support | 638,018 |
| Adjustment Amount | <u>(76,562)</u> |
| Adjusted TJI direct engineering, supervision & support | <u>561,456</u> |

(3): Assumes customer performs own survey work