

**Dorothy Menasco**

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**From:** Rhonda Dulgar [rdulgar@yvlaw.net]  
**Sent:** Wednesday, December 17, 2008 4:23 PM  
**To:** John T. Butler; R. Wade Litchfield; David Tucker; Erik Saylor; Filings@psc.state.fl.us; Ralph Jaeger; Joseph Yarbrough; Schef Wright  
**Subject:** Electronic Filing - Docket No. 080244-EI  
**Attachments:** MUUC.ProtestOfOrder.12-17-08.doc

a. Person responsible for this electronic filing:

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b. Docket No. 080244-EI

In Re: Petition for Approval of Underground Conversion Tariff Revisions by Florida Power & Light Company.

c. Document being filed on behalf of the Muncipal Underground Utilities Consortium (MUUC), the Town of Palm Beach, Florida, the City of Coconut Creek, Florida, and the Town of Jupiter Inlet Colony, Florida.

d. There are a total of 19 pages.

e. The document attached for electronic filing is the Petition of the Municipal Underground Utilities Consortium, the Town of Palm Beach, Florida, the City of Coconut Creek, Florida, and the Town of Jupiter Inlet Colony, Florida Protesting Order No. PSC-08-0780-TRF-EI and Request for Formal Proceeding.

(see attached file: MUUC.ProtestOfOrder.12-17-08.doc)

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12/17/2008

DOCUMENT NUMBER-DATE  
11670 DEC 17 8  
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Approval of )  
Underground Conversion Tariff Revisions ) DOCKET NO. 080244-EI  
by Florida Power & Light Company. ) FILED: December 17, 2008  
\_\_\_\_\_)

PETITION OF THE MUNICIPAL UNDERGROUND UTILITIES CONSORTIUM  
THE TOWN OF PALM BEACH, FLORIDA, THE CITY OF COCONUT CREEK, FLORIDA,  
AND THE TOWN OF JUPITER INLET COLONY, FLORIDA  
PROTESTING ORDER NO. PSC-08-0780-TRF-EI AND  
REQUEST FOR FORMAL PROCEEDING

The Municipal Underground Utilities Consortium (the "MUUC"), the Town of Palm Beach, Florida ("Palm Beach"), the City of Coconut Creek, Florida ("Coconut Creek"), and the Town of Jupiter Inlet Colony, Florida ("Jupiter Inlet Colony"),<sup>1</sup> pursuant to Chapter 120, Florida Statutes, Rule 28-106.201, Florida Administrative Code ("F.A.C."), and the Notice of Further Proceedings set forth in Commission Order No. PSC-08-0780-TRF-EI, and by and through their undersigned counsel, hereby file this Petition Protesting Order No. PSC-08-0780-TRF-EI ("Petition") and request that the Commission conduct a formal proceeding, including an evidentiary hearing if necessary, to resolve the issues raised in this Petition. In summary, Commission Order PSC-08-0780-TRF-EI approves proposed amendments to Florida Power & Light Company's ("FPL") tariffs by which FPL claims to implement certain requirements of the Commission's rules that govern FPL's tariffs applicable to Contributions in Aid of Construction ("CIACs") for conversions of

<sup>1</sup> Palm Beach, Coconut Creek, and Jupiter Inlet Colony are hereinafter referred to collectively as the "Local Governments."

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existing overhead ("OH") distribution facilities to underground ("UG") facilities. Specifically, the amendments include an adjustment to the CIAC charges that FPL asserts reflects "the Net Present Value of operational costs including the average historical storm restoration costs for comparable [OH vs. UG] facilities over the expected life of the facilities." The MUUC and the Local Governments believe that FPL's adjustment is inappropriate in that it understates the operational cost savings from UG facilities, resulting in the CIAC charges being too high. FPL's amendments also include a "tiered" structure for allocating Avoided Storm Restoration Costs ("ASRCs"), which is a defined component of the operational cost differential under the Commission's applicable rules; the MUUC and the Local Governments believe that this "tiered" approach results in unfair, unjust, and unreasonable rates because it results in large discrepancies between value provided from undergrounding and charges paid by projects near the breakpoints in FPL's defined subdivision size tiers.

In further support of this Petition, the MUUC and the Local Governments state as follows.

1. 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, Florida 33401  
Telephone (561) 838-5410  
Telecopier (561) 838-5411.

2. All pleadings, orders and correspondence should be directed to Petitioner's representatives as follows:

Robert Scheffel Wright, Attorney at Law  
John T. LaVia, III, Attorney at Law  
Young van Assenderp, P.A.  
225 South Adams Street, Suite 200  
Tallahassee, Florida 32301  
(850) 222-7206 Telephone  
(850) 561-6834 Facsimile  
E-Mails - [swright@yvlaw.net](mailto:swright@yvlaw.net) and [jlavia@yvlaw.net](mailto:jlavia@yvlaw.net)

with a courtesy copy to

Thomas G. Bradford, Deputy Town Manager  
Town of Palm Beach  
360 South County Road  
Palm Beach, Florida 33401  
Telephone (561) 838-5410  
Telecopier (561) 838-5411  
E-Mail - [Tbradford@TownofPalmBeach.com](mailto:Tbradford@TownofPalmBeach.com).

3. The name, address, and telephone number of Petitioner, the Town of Palm Beach, Florida, are as follows:

Town of Palm Beach, Florida  
Attention: Thomas G. Bradford, Deputy Town Manager  
Town of Palm Beach  
360 South County Road  
Palm Beach, Florida 33401  
Telephone (561) 838-5410  
Telecopier (561) 838-5411.

4. All pleadings, orders and correspondence should be directed to the Town of Palm Beach's representatives as follows:

Robert Scheffel Wright, Attorney at Law  
John T. LaVia, III, Attorney at Law  
Young van Assenderp, P.A.  
225 South Adams Street, Suite 200  
Tallahassee, Florida 32301  
(850) 222-7206 Telephone  
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E-Mails - [swright@yvlaw.net](mailto:swright@yvlaw.net) and [jlavia@yvlaw.net](mailto:jlavia@yvlaw.net)

with a courtesy copy to

Thomas G. Bradford, Deputy Town Manager  
Town of Palm Beach  
360 South County Road  
Palm Beach, Florida 33401  
Telephone (561) 838-5410  
Telecopier (561) 838-5411  
E-Mail - [Tbradford@TownofPalmBeach.com](mailto:Tbradford@TownofPalmBeach.com)

5. The name, address, and telephone number of Petitioner, the City of Coconut Creek, Florida, are as follows:

City of Coconut Creek  
ATTN: Don Gentile, Engineering Department  
4800 West Copans Road  
Coconut Creek, Florida 33063  
Telephone (954) 973-6756  
Telecopier (954) 956-1424.

6. All pleadings, orders and correspondence should be directed to Petitioner's representatives as follows:

Robert Scheffel Wright, Attorney at Law  
John T. LaVia, III, Attorney at Law  
Young van Assenderp, P.A.  
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with a courtesy copy to

Don Gentile, Project Manager  
City of Coconut Creek Engineering Department  
4800 West Copans Road  
Coconut Creek, Florida 33063  
Telephone (954) 973-6756  
Telecopier (954) 956-1424  
E-Mail - [DGentile@coconutcreek.net](mailto:DGentile@coconutcreek.net)

7. The name, address, and telephone number of Petitioner, the Town of Jupiter Inlet Colony, are as follows:

Town of Jupiter Inlet Colony  
ATTN: Joann Manganiello, Town Administrator  
Administration Building  
1 Colony Road  
Jupiter Inlet Colony, Florida 33469

8. All pleadings, orders and correspondence should be directed to the Town of Jupiter Inlet Colony's representatives as follows:

Robert Scheffel Wright, Attorney at Law  
John T. LaVia, III, Attorney at Law  
Young van Assenderp, P.A.  
225 South Adams Street, Suite 200  
Tallahassee, Florida 32301  
(850) 222-7206 Telephone  
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E-Mails - [swright@yvlaw.net](mailto:swright@yvlaw.net) and [jlavia@yvlaw.net](mailto:jlavia@yvlaw.net)

with a courtesy copy to

Joann Manganiello, Town Administrator  
Town of Jupiter Inlet Colony  
Administration Building  
1 Colony Road  
Jupiter Inlet Colony, Florida 33469  
Telephone (561) 746-3787  
Telecopier (561) 746-1068  
E-Mail - [jicolony@bellsouth.net](mailto:jicolony@bellsouth.net).

9. The agency affected by this Petition & Complaint is:

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

The Commission's docket number for this matter is No. 080244-EI.

10. The MUUC and the Local Governments received notice of this matter when they received a copy of Commission Order No. PSC-08-0780-TRF-EI on or about November 26, 2008. Pursuant to Order No.

PSC-08-0780-TRF-EI, the period for filing this Petition expires on December 17, 2008. Accordingly, this Petition is timely filed.

Statement of Affected Interests

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

Mr. Wade Litchfield, Esquire  
Vice President  
Regulatory Affairs  
Wade\_Litchfield@fpl.com  
Florida Power & Light Company  
215 South Monroe Street, Suite 801  
Tallahassee, FL 32301  
(850) 521- 3900 (Office)  
(850) 521-3939 (Telecopier)

John T. Butler  
Senior Attorney  
John\_Butler@fpl.com  
Florida Power & Light  
Company  
700 Universe Boulevard  
Juno Beach, FL 33408  
(561) 304-5137 (Office)  
(561) 691-7305 (Telecopier)

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

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

The Interlocal Agreement specifically contemplates the MUUC

[p]articipating in any relevant proceedings before any governmental agency having jurisdiction, including, without limitation, rulemaking or other proceedings before the Florida Public Service Commission, legislative activities before the Florida Legislature or before any other legislative or quasi-legislative body in Florida having relevant jurisdiction, and any other relevant proceedings and activities before any court, tribunal, agency, executive, or legislative body having jurisdiction over the subject matter of undergrounding utility and utility-type facilities in Florida.

13. The MUUC's members own and operate numerous municipal facilities and utility equipment. All of the MUUC's currently active members, including Palm Beach, Jupiter Inlet Colony and Coconut Creek, purchase retail electric service directly from FPL. A substantial number of the MUUC's members are considering underground ("UG") utility projects, and accordingly, these members are subject to FPL's tariffs applicable to underground electric distribution facilities and service.

14. The Town of Palm Beach was incorporated in 1911 and has a year-round population of approximately 9,700 and a seasonal population of 25,000 persons. The Town employs approximately 400 people. The Town of Palm Beach owns and operates numerous municipal facilities and lighting equipment, for all of which the Town purchases electric service from FPL. For the past several years, as a potential Applicant within the meaning of applicable FPL tariffs, including FPL Tariff Sheets Nos. 6.300 through 6.330, as well as FPL's Underground Facilities Conversion Agreement (Sheets Nos. 9.700



through 9.702) and FPL's Underground Facilities Conversion Agreement - Governmental Adjustment Factor Waiver (Sheets Nos. 9.725 through 9.727), the Town has been engaged in discussions and negotiations with FPL toward converting the existing overhead ("OH") electric distribution facilities in the Town to underground ("UG") facilities. As a long-established community, much of FPL's distribution system in Palm Beach consists of older, overhead facilities, and the Town is actively working toward the conversion of all OH facilities in the Town to UG facilities. Palm Beach has obtained a ballpark cost estimate from FPL for its Town-wide UG conversion project. Palm Beach has participated actively in Commission proceedings relating to undergrounding since early 2006.

15. The City of Coconut Creek is a city located in Broward County, Florida. The City has a land area of approximately 12 square miles with approximately 50,000 residents and 1,400 businesses. Housing is primarily single-family homes, condominiums, and townhouses within professionally landscaped communities. Coconut Creek is widely recognized as a well-planned community with a unique environmental consciousness, including an abundance of trees, waterways, attractive landscaped roads, beautiful parks, and butterfly gardens, all reflective of the City's progressive planning approach to creating a unique life-style for its residents and businesses. Coconut Creek has plans for development and redevelopment projects within the City that will include undergrounding of more than nine miles of existing distribution

lines and the installation of new UG distribution lines in new development areas. The City is attempting to partner with developers - and with FPL - to ensure that these projects are completed as cost-effectively as possible. Among other things, the City has requested that FPL, subject to the City's commitment to be responsible for payment of applicable CIACs, include new-development areas as part of the City's contiguous areas for qualification for FPL's Governmental Adjustment Factor waiver (a 25 percent credit against otherwise applicable CIACs). Coconut Creek is also participating actively in other Commission proceedings relating to undergrounding.

16. The Town of Jupiter Inlet Colony is a small municipality with 226 homes located on the south end of Jupiter Island, at the Jupiter Inlet. Like the electrical facilities in Palm Beach, FPL's distribution facilities in Jupiter Inlet Colony are old and consist of a significant amount of rear-lot installations. Jupiter Inlet Colony has been working toward its UG conversion project for more than two years and has obtained from FPL a ballpark cost estimate for its contemplated Town-wide UG conversion project. Jupiter Inlet Colony is presently on the verge of requesting a Binding Cost Estimate from FPL for the entire UG conversion project. Based on conversations among Jupiter Inlet Colony officials and officials of Palm Beach and other municipalities, Jupiter Inlet Colony expects that it will want to pursue its rights under Rule 25-6.115, F.A.C., and FPL's Tariff Section No. 12.2.11 to do all of the construction

and installation work for its UG conversion project through Town-hired contractors. Like Palm Beach and Coconut Creek, Jupiter Inlet Colony has participated and continues to participate actively in Commission proceedings relating to undergrounding.

17. FPL is a public utility subject to the Commission's full regulatory jurisdiction pursuant to Chapter 366, Florida Statutes, and also subject to Commission Rule 25-6.115, F.A.C. Within the scope of Commission Rule 25-22.036, F.A.C., FPL is the party against whom the Petitioners are seeking relief via their complaint herein, in the form of requiring FPL to amend, modify, and adjust its tariffs, charges, and practices applicable to UG conversion projects such that FPL's charges and practices comply fully with the statutory requirements that such charges and practices must be fair, just, reasonable, and not unjustly discriminatory.

18. Rule 25-6.115, F.A.C., which governs the CIACs applicable for conversions of existing OH facilities to UG facilities, provides in pertinent part as follows:

**25-6.115 Conversion of Existing Overhead Investor-owned Distribution Facilities.**

(1) Each investor-owned utility shall file a tariff showing the non-refundable deposit amounts for standard applications addressing the conversion of existing overhead electric distribution facilities to underground facilities. The tariff shall include the general provisions and terms under which the public utility and applicant may enter into a contract for the purpose of converting existing overhead facilities to underground facilities. The non-refundable deposit amounts shall be calculated in the same manner as the engineering costs for underground facilities serving each of the following scenarios: urban commercial, urban residential, rural residential, existing low-density single family home

subdivision and existing high-density single family home subdivision service areas.

\* \* \*

(3) Nothing in the tariff shall prevent the applicant from constructing and installing all or a portion of the underground distribution facilities provided:

(a) Such work meets the investor-owned utility's construction standards;

(b) The investor-owned utility will own and maintain the completed distribution facilities; and

(c) Such agreement is not expected to cause the general body of ratepayers to incur additional costs.

\* \* \*

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

(a) The utility shall 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.

(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.

19. Standing. The MUUC's and the Local Governments' substantial interests are of sufficient immediacy to entitle them to participate in the proceeding and are the type of interests that the proceeding is designed to protect. To participate as a party in this proceeding, 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). Here, the Local Governments' substantial interests, as actual (Coconut Creek, Jupiter Inlet Colony) or eligible (all three of the Local Governments) applicants for UG conversion projects appropriate CIACs calculated consistently with the Commission's rules, are directly and substantially affected by the Commission's decision in this case.

20. Additionally, a substantial number of the MUUC's members are directly subject to FPL's Tariffs. Moreover, the MUUC's members have ongoing interests in reliable electric service, in converting existing OH lines in their respective jurisdictions to UG service, and in ensuring that new construction within their jurisdictions is served by UG electric facilities, consistent with the express policies and goals announced by FPL in its Storm Secure Initiatives in January 2006. The charges for both new UG service and for UG conversions are, of course, directly impacted by FPL's tariffs.

21. Associational Standing. Under Florida law, to establish standing as an association representing its members' substantial interests, an association such as the MUUC must demonstrate three things:

- a. that a substantial number of its members, although not necessarily a majority, are substantially affected by the agency's decisions;

- b. that the intervention by the association is within the association's general scope of interest and activity; and
- c. that the relief requested is of a type appropriate for an association to obtain on behalf of its members.

Florida Home Builders Ass'n v. Dep't of Labor and Employment Security, 412 So. 2d 351, 353-54 (Fla. 1982). The MUUC satisfies all of these "associational standing" requirements. A substantial majority of the MUUC's members are local governments in FPL's service area and receive retail electric service from FPL. The MUUC exists to represent its members' interests in a number of venues, including the Florida Public Service Commission: indeed, the Interlocal Agreement creating the MUUC specifically contemplates the MUUC's participation in a proceeding such as this. Finally, the relief requested -- proper amendment of FPL's tariffs and implementation so as to provide all affected municipalities and other parties the timely benefit of the Commission's rules applicable to FPL's tariffs at issue here -- is across-the-board relief that will apply to all of the MUUC's members in the same way; therefore, the requested relief is of the type that is appropriate for an association to obtain on behalf of its members.

22. Disputed Issues of Material Fact. The MUUC and the Local Governments believe that the disputed issues of material fact in this proceeding will include, but will not necessarily be limited to, the following.

**ISSUE 1:** Do FPL's tariffs comply fully with Commission Rule 25-6.115, F.A.C., which requires, among other things,

that those tariffs 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?"

**ISSUE 2:** Are FPL's tariff charges, credits, and provisions fair, just and reasonable?

**ISSUE 3:** Do the charges and credits proposed by FPL reflect the full value of service restoration cost savings provided by underground facilities?

**ISSUE 4:** Should new developments within a municipality that are served with UG facilities and that are contiguous with areas converted from OH to UG pursuant to Rule 25-6.115 and Section 12 of FPL's Tariff, and also that are constructed by a Local Government Applicant pursuant to Section 11 of FPL's Tariff, count toward satisfying the size minimums for obtaining the maximum GAF or ASRC credits under FPL's Tariffs?

**ISSUE 5:** What is the appropriate relief for the Local Governments, the MUUC, and other affected persons and parties in this case?

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

23. Statement of Ultimate Facts Alleged. The MUUC alleges the following ultimate facts entitling it to the relief requested herein.

a. FPL's tariffs do not fully comply with the requirements of Commission Rule 25-6.115, F.A.C., because FPL's calculations misstate the value of the Net Present Value of operational costs other than Avoided Storm Restoration Costs in favor of Overhead facilities, resulting in the CIAC charges for UG facilities being too high, and therefore unfair, unjust, and unreasonable. Among other things, the MUUC and the Local Governments believe that the FPL's asserted differences between operation and maintenance costs for UG vs. OH facilities is misstated because FPL does not take account of the better O&M performance of new UG facilities as compared to the system-average cost values that FPL used in its calculations.

- b. The ASRCs proposed by FPL do not reflect the full value of service restoration cost savings provided by underground facilities because they do not give full credit for weather-related restoration cost savings other than those associated with named tropical storms and hurricanes.
- c. FPL's "tiered" approach to calculating the ASRC credits and CIACs results in large discrepancies between value provided from undergrounding and charges paid by projects near the breakpoints in FPL's defined size tiers. Accordingly, this approach should be changed, e.g., by a simple arithmetic formula, to provide fairer charges for projects that are near the breakpoints.
- d. Having larger areas served by UG facilities provides roughly equivalent value, regardless of the composition of those areas as between new, greenfield UG facilities and UG facilities that have been converted from OH facilities. Accordingly, Local Governments and other Applicants that apply for and install UG service for new developments should be allowed to count any such new-UG-construction areas toward satisfying the size minimums under FPL's GAF tariff.<sup>2</sup>

24. Statutes and Rules That Entitle the MUUC and the Local Governments to the Relief Requested. The applicable statutes and rules that entitle the MUUC and the Local Governments to relief include, but are not limited to, Sections 120.569, 120.57(1), 366.03, 366.05(1), 366.06(1), and 366.07, Florida Statutes, and Rules 25-6.115 and 25-22.039 and Chapter 28-106, Florida Administrative Code.

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<sup>2</sup> This issue may or may not be appropriate to this docket, in that it does not relate directly to the tariff amendments approved by Order No. 08-0780-TRF-EI. Even so, the MUUC and the Local Governments believe that this is an important issue that the Commission must resolve in order to ensure that large-scale UG projects that consist of both UG conversions and new UG construction are treated fairly and accorded the full value that such combination new-and-conversion projects provide. At this juncture, the MUUC and the Local Governments wish to identify this issue for the Commission and to state that they will file an appropriate petition to put this issue before the Commission for resolution along with all other outstanding issues relating to CIACs for underground electric service.



25. Statement Explaining How the Facts Alleged By the MUUC and the Local Governments Relate to the Above-Cited Rules and Statutes. Chapter 120, Florida Statutes, provides for a point of entry into administrative proceedings for persons whose substantial interests are subject to determination by, or adversely affected by, agency action. Here, the interests of the Local Governments, plus the interests of all other MUUC members who have development services departments that would desire to support new UG installations in partnership with developers, and with FPL, are subject to being determined, and to being affected adversely, by allowing FPL's tariffs to remain in effect without complying with the Commission's rules.

26. Additionally, the above-cited sections of Chapter 366 generally provide that the Commission must ensure that all tariffs, rates, and charges are fair, just, reasonable, and non-discriminatory. Unless the Commission ensures that the tariff charges and credits imposed by FPL are in full compliance with the Commission's rules, those charges will be unfair, unjust, unreasonable, and unduly discriminatory.

#### **CONCLUSION AND RELIEF REQUESTED**

FPL's proposed CIAC charges for underground conversions do not comply with the requirements of Commission Rule 25-6.115, F.A.C., in that they do not give full credit for the operational cost savings provided by UG facilities vs. OH facilities, and also in that they do not provide full value for weather-related restoration cost savings realized by UG facilities other than those associated with

named tropical storms and hurricanes. Moreover, FPL's "tiered" approach to calculating the ASRC credits and resulting CIACs results in large discrepancies between the value provided by undergrounding and the CIAC charges paid by projects near the breakpoints in FPL's defined size tiers. Accordingly, FPL's CIAC charges should be modified to reflect the full value of cost savings provided by undergrounding, and FPL's tariffs should be modified to treat UG projects of different sizes fairly and commensurately with the value that they provide.

The Commission should conduct a formal proceeding, including a hearing, to ensure that FPL's charges and tariff provisions are fair, just, reasonable, and non-discriminatory. Additionally, municipalities should be allowed to count new "greenfield" UG areas that are contiguous with areas being converted from OH to UG service toward meeting the project size minimums under FPL's GAF tariff.

**WHEREFORE**, the Municipal Underground Utilities Consortium, the Town of Palm Beach, the City of Coconut Creek, and the Town of Jupiter Inlet Colony respectfully ask the Florida Public Service Commission to conduct a formal proceeding to investigate this matter, and to issue appropriate orders granting the relief requested in this Petition and such other relief that the Commission deems appropriate.

Respectfully submitted this 17th day of December, 2008.

S/Robert Scheffel Wright  
Robert Scheffel Wright  
Florida Bar No. 966721  
John T. LaVia, III  
Florida Bar No. 853666  
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Attorneys for the Municipal Underground  
Utilities Consortium and the  
Local Governments

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 17th day of December, 2008.

Florida Power & Light Company  
Mr. Wade Litchfield, Esquire  
215 South Monroe Street, Suite 810  
Tallahassee, FL 32301-1859

Florida Power & Light Company  
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