

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

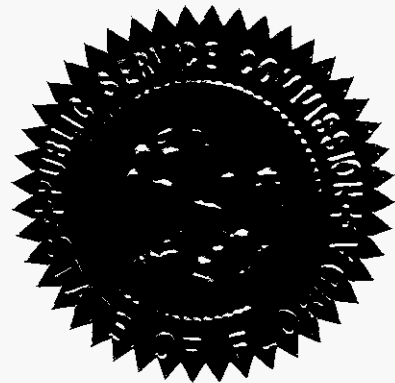
In the Matter of:

PETITION FOR APPROVAL OF  
2007 REVISIONS TO UNDERGROUND  
RESIDENTIAL AND COMMERCIAL  
DISTRIBUTION TARIFF, BY  
FLORIDA POWER & LIGHT COMPANY.

DOCKET NO. 070231-EI

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PETITION FOR APPROVAL OF  
UNDERGROUND CONVERSION TARIFF  
REVISIONS, BY FLORIDA POWER &  
LIGHT COMPANY.

DOCKET NO. 080244-EI



14	PROCEEDINGS:	PREHEARING
15	COMMISSIONER	
16	PARTICIPATING:	COMMISSIONER LISA POLAK EDGAR PREHEARING OFFICER
17		
18	DATE:	Monday, May 18, 2009
19	TIME:	Commenced at 1:30 p.m. Concluded at 1:47 p.m.
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21	PLACE:	Betty Easley Conference Center Room 148 4075 Esplanade Way Tallahassee, Florida
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23		
24	REPORTED BY:	JANE FAUROT, RPR Official FPSC Reporter (850) 413-6732
25		

DOCUMENT NUMBER-DATE

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## 1 PARTICIPATING:

2 KENNETH M. RUBIN, ESQUIRE, and JOHN T. BUTLER,  
3 ESQUIRE, Florida Power & Light Company, 700 Universe  
4 Boulevard, Juno Beach, Florida 33408, appearing on  
5 behalf of Florida Power & Light Company.

6 ROBERT SCHEFFEL WRIGHT, ESQUIRE, and  
7 JOHN T. LAVIA, III, ESQUIRE, Young Van Assenderp, P.A.,  
8 225 South Adams Street, Suite 200, Tallahassee, Florida  
9 32301, appearing on behalf of the Municipal Underground  
10 Utilities Consortium, et al. (MUUC).

11 MARLENE K. STERN, ESQUIRE, and BRIAN P.  
12 ARMSTRONG, ESQUIRE, Nabors, Giblin & Nickerson, P.A.  
13 1500 Mahan Drive, Suite 200, Tallahassee, Florida  
14 32308, appearing on behalf of the City of South Daytona.

15 RALPH JAEGER and ERIK L. SAYLER, ESQUIRE, FPSC  
16 General Counsel's Office, 2540 Shumard Oak Boulevard,  
17 Tallahassee, Florida 32399-0850, appearing on behalf of  
18 Commission Staff.

19 MARY ANNE HELTON, Deputy General Counsel,  
20 Florida Public Service Commission, 25340 Shumard Oak  
21 Boulevard, Tallahassee, Florida 32399-0850, Advisor to  
22 the Florida Public Service Commission.

## P R O C E E D I N G S

1  
2           **COMMISSIONER EDGAR:** Good afternoon. I call  
3 this prehearing to order. I'll ask our staff to read  
4 the notice.

5           **MR. JAEGER:** Yes, Commissioner Edgar.

6           Pursuant to notice, this time and place was  
7 set for a Prehearing Conference in Docket Number  
8 070231-EI, in re: Petition for approval of 2007  
9 revisions to underground residential and commercial  
10 distribution tariff by FPL, and Docket Number 080244-EI,  
11 in re: Petition for approval of underground conversion  
12 tariff revisions by FPL.

13           **COMMISSIONER EDGAR:** Thank you.

14           Let's take appearances.

15           **MR. RUBIN:** Ken Rubin for FPL.

16           **MR. WRIGHT:** Robert Scheffel Wright, and I  
17 would also like to enter an appearance for my partner,  
18 John. T. LaVia, III, on behalf of the MUUC, and the  
19 other municipalities named in our pleadings.

20           **COMMISSIONER EDGAR:** Thank you.

21           **MR. WRIGHT:** Thank you.

22           **MS. STERN:** Marlene Stern, and I'd like to  
23 enter an appearance for Brian Armstrong on behalf of the  
24 City of South Daytona.

25           **MR. JAEGER:** Ralph Jaeger, and with me is Erik

1 Sayler on behalf of the Commission staff.

2 **MS. HELTON:** Mary Anne Helton, advisor to the  
3 Commission.

4 **COMMISSIONER EDGAR:** Thank you.

5 **MR. RUBIN:** Commissioner, I'm sorry, I'd like  
6 to enter an appearance for John Butler, as well, for  
7 FPL.

8 **COMMISSIONER EDGAR:** So noted.

9 Staff, preliminary matters.

10 **MR. JAEGER:** I believe the first thing we  
11 have, both parties are requesting that depositions -- I  
12 think MUUC -- is there a terminology we use for MUUC, or  
13 MUUC, or --

14 **MR. WRIGHT:** Madam Commissioner, I prefer  
15 MUUC. Others do use the homonym for the stuff in the  
16 Everglades. I prefer MUUC, and it's fine with us if we  
17 can -- to call MUUC, Coconut Creek, Jupiter Inlet  
18 Colony, and Palm Beach just collectively MUUC.

19 **MR. JAEGER:** Okay. MUUC, I think, wants to  
20 add the deposition of Mr. Shank into the record as an  
21 exhibit with all exhibits to his deposition, and FPL  
22 wants to do Mr. Rant's deposition with their exhibits.  
23 And we were discussing it, and they said it would just  
24 be like a parties' composite exhibit, the depositions of  
25 Rant and Shank.

1                   **COMMISSIONER EDGAR:** Okay. And that's  
2 agreeable to both parties that we'll go ahead and have a  
3 composite exhibit introduced at the time of hearing?

4                   **MR. RUBIN:** Yes, Commissioner.

5                   **MR. WRIGHT:** Yes, Commissioner. Thank you.

6                   **COMMISSIONER EDGAR:** Okay. So noted.

7 Any other preliminary matters?

8                   **MR. JAEGER:** None that I know of, just some  
9 confidential matters and a pending motion.

10                   **COMMISSIONER EDGAR:** Okay. And shall we take  
11 those up as we come to that section of the prehearing  
12 order?

13                   **MR. JAEGER:** That will be fine with me.

14                   **COMMISSIONER EDGAR:** Okay. Then any other  
15 comments from the parties before we go through  
16 section-by-section?

17                   **MR. WRIGHT:** I would just --

18                   **COMMISSIONER EDGAR:** Mr. Wright.

19                   **MR. WRIGHT:** Thank you, Commissioner.

20                   I would just mention that we are -- FPL filed  
21 its rebuttal testimony on Friday, the 15th. We are  
22 going to take the deposition of their witnesses,  
23 Mr. Koch and Mr. McEvoy. Mr. McEvoy this Thursday, the  
24 21st, Mr. Koch on Wednesday, the 27th. It is possible  
25 that we might seek to enter those deposition transcripts

1 as exhibits, but, obviously, we can't do that yet. I  
2 just wanted you to be aware of that.

3 **COMMISSIONER EDGAR:** Okay. I appreciate that.  
4 I understand.

5 **MR. WRIGHT:** Thank you.

6 **MR. RUBIN:** Commissioners, one other item for  
7 FPL, as well. We are waiting to receive a late-filed  
8 exhibit, and depending upon what we receive  
9 substantively within that exhibit, it may give rise to  
10 an additional exhibit or exhibits on the part of FPL.

11 We have a motion pending to serve supplemental  
12 rebuttal testimony, and it's possible that that  
13 supplemental rebuttal testimony may have an additional  
14 exhibit with it. We just won't know that until we get  
15 it.

16 **COMMISSIONER EDGAR:** Okay. And that  
17 supplemental rebuttal testimony, the request is  
18 submitted by May 22nd, is that correct?

19 **MR. RUBIN:** That's correct, Commissioner.

20 **MR. WRIGHT:** It is an agreed motion, and we  
21 are in agreement with FPL's motion for leave to file the  
22 supplemental rebuttal testimony.

23 **COMMISSIONER EDGAR:** Thank you. And I  
24 appreciate the joint cooperation.

25 Okay. Anything else before we go through the

1 draft prehearing order by section?

2 Okay, hearing none. We have all been through  
3 this together before. As always, I'll just kind of walk  
4 through them quickly. If there is anything, wave, speak  
5 up, and we'll stop and go over it in more detail.

6 Anything on Section I, Case Background? Okay.  
7 Sections II and III, Conduct and Jurisdiction. Hearing  
8 none. Section IV, Procedure for Confidential  
9 Information.

10 Mr. Jaeger, did you want to speak to something  
11 on the confidential information?

12 **MR. JAEGER:** Apparently -- at one time I  
13 thought we were not going to have any confidential  
14 documents, but they have now -- FPL has done a notice of  
15 intent for TRK Exhibit 10 to Mr. Koch's testimony, and  
16 then we're still not sure if the deposition from Peter  
17 J. Rant's deposition, Late-filed Exhibit 2, and so those  
18 two are the confidential matters that we have pending.

19 **COMMISSIONER EDGAR:** Okay. And those will be  
20 addressed prior to hearing?

21 **MR. JAEGER:** Yes. We haven't even -- we  
22 haven't gotten the motion for either one yet, and so  
23 we're waiting to determine if those motions should be  
24 granted.

25 **COMMISSIONER EDGAR:** Okay. We'll move on.

1 Section V, Prefiled Testimony. As is general practice,  
2 five minutes for summaries.

3 Okay. Section VI, Order of Witnesses. Any  
4 opportunity to stipulate a witness? Hearing none, so  
5 noted. I always have to ask.

6 Section VII, Basic Positions for the issues.

7 Section VIII, Issues and Positions. No  
8 changes? No changes at this time.

9 Section IX, Exhibit List. Staff.

10 **MR. JAEGER:** Yes. Staff is preparing a  
11 Comprehensive Exhibit List consisting of all the  
12 prefiled exhibits for the purposes of numbering and  
13 identifying the exhibits at hearing, and staff will  
14 provide the exhibit list to parties as soon as possible.  
15 And that will include the Staff's Composite Exhibit 2,  
16 and then this added exhibit that we just had for the  
17 depositions of Mr. Rant and Mr. Shank.

18 **COMMISSIONER EDGAR:** Okay.

19 Section X, Proposed Stipulations.

20 **MR. JAEGER:** Other than the stipulation for  
21 the two deposition exhibits, and also they have  
22 stipulated to Staff's Composite Exhibit 2 for the four  
23 sets of data requests less the confidential portion of  
24 FPL's response to Staff's Second Data Request.

25 **COMMISSIONER EDGAR:** Okay.



1 Section XI, Pending Motions we have discussed.  
2 Mr. Wright.

3 **MR. WRIGHT:** Thank you, Madam Commissioner.

4 We and FPL are in substantive agreement as to  
5 our positions on Issues 3 and 6, which are if the  
6 Commission were to decide that the CIAC type charges as  
7 a result of this hearing should be less than those paid  
8 in the meantime, that affected customers or applicants  
9 should get refunds. We have not agreed on language, but  
10 I would propose that Mr. Rubin and we get together and  
11 see if we can't nail that down so we could have  
12 stipulations on the generic form of relief on those  
13 issues.

14 **COMMISSIONER EDGAR:** Okay. So the potential  
15 for proposed stipulations for Issue 3 and 6 prior to  
16 hearing?

17 **MR. WRIGHT:** Yes, Commissioner.

18 **MR. RUBIN:** Yes, Commissioner.

19 **COMMISSIONER EDGAR:** Okay. So noted, thank  
20 you.

21 Okay. Section XII. Anything else on  
22 confidentiality or the specific language in the draft  
23 order?

24 Hearing none. Section XIII, Post-hearing  
25 Procedures.

1 Mr. Wright.

2 **MR. WRIGHT:** Thank you, Commissioner Edgar.

3 I would simply request that we be allowed 50  
4 pages for briefs rather than the 40 that's set forth in  
5 the draft prehearing order.

6 **MR. RUBIN:** No objection.

7 **COMMISSIONER EDGAR:** Okay. With no objection,  
8 so noted, and we will change the wording to 50 pages as  
9 the limitation.

10 Section XIV. Opening statements; five  
11 minutes? Mr. Wright.

12 **MR. WRIGHT:** I would like a little more than  
13 five. I don't think I need ten. I was going to go for  
14 seven, if that would be agreeable.

15 **COMMISSIONER EDGAR:** Mr. Rubin, do you have a  
16 preference?

17 **MR. RUBIN:** That would be fine. Seven minutes  
18 is fine.

19 **COMMISSIONER EDGAR:** Seven minutes. Okay.

20 I like opening statements. That's just one of  
21 five, but I like to have opening statements. But seven  
22 minutes, considering the issues, sounds appropriate to  
23 me, so we will ask our staff to change the language in  
24 Section XIV to allow a maximum of seven minutes per  
25 party for opening statements.

1 Anything else?

2 Section -- I guess that's it for the sections,  
3 isn't it? Any other matters while we are all gathered  
4 here together?

5 Staff.

6 **MR. JAEGER:** If their positions change on,  
7 like, 3 and 6, and if we have a stipulation, staff was  
8 wondering if we could get that by Tuesday of next week.

9 **COMMISSIONER EDGAR:** Recognizing that Monday  
10 is a holiday, does Tuesday work? I'm seeing nods, so we  
11 will take that as an affirmative on the proposed  
12 stipulation language on Issues 3 and 6 to our staff by  
13 noon on Tuesday.

14 Any other matters?

15 **MR. JAEGER:** Staff is not aware of any.

16 **COMMISSIONER EDGAR:** Anything from the  
17 parties?

18 **MR. WRIGHT:** No, thank you.

19 **MR. RUBIN:** No, Commissioner.

20 **COMMISSIONER EDGAR:** All right. Thank you.

21 I appreciate you all working together, and we  
22 look forward to the hearing. We are adjourned.

23 (The prehearing concluded at 1:47 p.m.)

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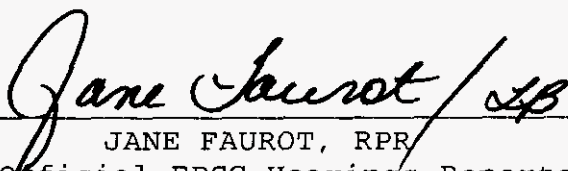
STATE OF FLORIDA        )  
                                  :  
                                  CERTIFICATE OF REPORTER  
COUNTY OF LEON        )

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 26th day of May, 2009.

  
\_\_\_\_\_  
JANE FAUROT, RPR  
Official FPSC Hearings Reporter  
(850) 413-6732