

State of Florida



Public Service Commission

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COMMISSION
CLERK

DATE: October 15, 2009

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Draper) *EAD*
Office of the General Counsel (Brubaker) *JB*

RE: Docket No. 090422-EI – Petition for extension of governmental adjustment factor tariff and approval of seventh revised tariff sheet No. 9.725 by Florida Power & Light Company.

AGENDA: 10/27/09 – Regular Agenda – Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 10/28/09 (60-Day Suspension Date)

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\090422.RCM.DOC

Case Background

Rule 25-6.115, Florida Administrative Code (F.A.C.), and Florida Power & Light Company's (FPL) tariff provide the general provisions and terms under which FPL and an applicant (i.e., customer) may enter into a contract for the purpose of converting existing overhead electric distribution facilities to underground. The applicant is required to pay FPL a contribution-in-aid-of-construction (CIAC), which represents the conversion costs incurred by FPL.

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In January 2007, the Commission amended Rule 25-6.115, F.A.C., to require investor-owned electric utilities to include the net present value of operational costs including the average historical storm restorations costs over the expected life of the facilities in a CIAC calculation.¹

In Docket No. 060150-EI, FPL received approval to revise the definition of CIAC to include a governmental adjustment factor (GAF) of 25 percent when the applicant for conversion is a local government meeting specified criteria.² The GAF waiver is based on expected savings in storm restoration costs when large contiguous areas are converted from overhead to underground service and is designed to encourage the installation of underground facilities by reducing the CIAC the customer is required to pay FPL. The 25 percent reduction is based on FPL's analysis of the 2004 and 2005 hurricane season. Based on the fewer interruptions experienced by underground facilities than overhead facilities, FPL concluded that converting overhead to underground facilities in large communities will reduce the amount of infrastructure damage requiring repair, thereby reducing restoration costs. The general body of ratepayers benefits from these avoided cost savings through the reduction in aggregate storm restoration costs shared by all. In addition, storm restoration overall may proceed more quickly if fewer areas require repair. In the order approving the GAF tariff, the Commission found that the 25 percent represents an average, and that some projects may provide greater or lesser savings to ratepayers.

FPL also received approval to charge the 25 percent not borne by the requesting municipalities as new plant-in-service. In future rate cases, the 25 percent forgone CIAC would be included as an investment to be recovered from the general body of ratepayers.

The GAF tariff is optional, i.e., local governments are not required to utilize the GAF tariff for conversion projects. The GAF tariff is restricted to local governments because local governments are in the best position to guarantee a 100 percent customer conversion participation and to fulfill the GAF requirements, such as undergrounding generally contiguous areas. The GAF tariff is limited to large, contiguous areas because the storm restoration savings are likely to be less than 25 percent for small-scale isolated conversions.

The Commission approved the GAF and associated tariffs as a pilot program to be available for customers that sign undergrounding contracts on or before October 30, 2008. The GAF approval order also directed FPL to file a report with the Commission providing an updated quantification of storm restoration benefits based on any new storm restoration data. In Docket No. 080223-EI, the Commission approved an extension of the GAF tariff for an additional year until October 20, 2009, and FPL's report regarding storm restoration costs and benefits.³ The order in Docket No. 080223-EI directed FPL to file a report with the Commission providing an

¹ See Order No. PSC-07-0043-FOF-EU, issued January 16, 2007, in Docket No. 060172-EU, In re: Proposed rules governing placement of new electric distribution facilities underground, and conversion of existing overhead distribution facilities to underground facilities, to address effects of extreme weather events.

² See Order No. PSC-07-0442-TRF-EI, issued May 22, 2007, in Docket No. 060150-EI, In re: Petition for approval of revisions to contribution-in-aid-of-construction definition in Section 12.1 of First Revised Tariff Sheet No. 6.300, by Florida Power & Light Company.

³ See Order No. PSC-08-0414-TRF-EI, issued June 23, 2008, in Docket No. 080223-EI, In re: Petition for extension of governmental adjustment factor tariff and approval of sixth revised tariff sheet No. 9.725 by Florida Power & Light Company.

updated quantification of storm restoration benefits based on any new storm restoration data prior to the expiration of the GAF tariff in October 2009. FPL was also directed to petition the Commission to continue, modify, or discontinue the tariff at that time.

Several municipalities known as the Municipal Underground Utilities Consortium (MUUC) intervened in Docket No. 060150-EI.⁴ MUUC members have ongoing interests in converting the existing overhead electric distribution lines in their jurisdictions to underground service, and the majority of this members qualify as “local government applicants” within the scope of FPL’s GAF tariff.

In June 2009, the parties to Docket No. 070231-EI⁵ and Docket No. 080244-EI⁶ reached a settlement which, subject to approval by the participating local governmental entities and the Commission, would among other things make the GAF tariff a permanent tariff. The various participating member of MUUC have consented to the settlement. However, FPL states that the City of South Daytona⁷ (CDS) has not taken a position yet regarding the settlement, and thus FPL must now file this petition in compliance with the order in Docket No. 080223-EI.

On August 28, 2009, FPL filed a petition for an extension of the GAF tariff until October 30, 2010, and a report regarding the status of FPL’s continuing efforts to quantify storm restoration costs and benefits. The recommendation addresses this petition.

The Commission has jurisdiction pursuant to Sections 366.03, 366.04, 366.05, and 366.06, Florida Statutes.

⁴ The intervention was granted in Order No. PSC-07-0442-TRF-EI, p 7.

⁵ Docket No. 070231-EI is FPL’s Petition for approval of 2007 revisions to underground residential and commercial distribution tariff.

⁶ Docket No. 080244-EI is FPL’s petition for approval of underground conversion tariff revisions.

⁷ The City of South Daytona was granted intervention in Docket No. 070231-EI in Order No. PSC-08-0486-PCO-EI, and in Docket No. 080244-EI, in Order No. PSC-08-0461-PCO-EI.

Discussion of Issues

Issue 1: Should the Commission approve FPL's petition for extension of the GAF tariff?

Recommendation: Yes, the eligibility period for the GAF tariff should be extended for an additional year until October 30, 2010. The Commission should also accept the report attached to the petition in this docket as satisfying the report requirement of Order No. PSC-08-0414-TRF-EI. FPL should, at least 60 days prior to the expiration of the GAF tariff in October 2010, file a report with the Commission providing an updated quantification of storm restoration benefits based on any new storm-restoration data. Based on the analysis, FPL should also petition the Commission at that time to continue, modify, or discontinue the tariff. (Draper)

Staff Analysis: FPL requests that the Commission: (1) extend the effective period of the GAF tariff so that it will be available to eligible applicants for an additional year beyond the Commission's approval in Docket No. 080223-EI, i.e., until October 30, 2010, and (2) accept the report attached to the petition regarding the status of its continuing efforts to quantify storm restoration costs and benefits in fulfillment of the Commission's requirements in the GAF approval order. The report is attached to this recommendation as Attachment A.

In support of its petition, FPL states that the principal source of additional data with which to quantify storm restoration benefits is experience in actual storm restoration. Since the GAF tariff was approved in May 2007, there have been no substantial storms impacting FPL's service territory. Therefore, FPL has no additional data with which to update the quantification of storm restoration benefits that it provided in support of the GAF tariff.

Extending the availability period of the GAF tariff will also benefit local governments by providing them additional time to implement conversion projects. FPL states that the report shown in Attachment A shows that many planned governmental underground projects are in the preliminary planning stages. FPL states that large conversion projects require substantial lead times for local governments, and that the extension will result in more conversion projects being implemented. This in turn will enable FPL to gather additional cost and benefit information from actual conversion projects.

Staff recommends approval of FPL's petition to extend the GAF tariff to be available to eligible customers that sign the agreement on or before October 30, 2010. Extending the tariff will allow additional local governments to enter into undergrounding agreements with FPL. The absence of hurricanes or tropical storms since the approval of the GAF tariff kept FPL from obtaining additional data to quantify the storm restoration savings due to undergrounding. In the GAF approval order, the Commission found, based on the analysis FPL provided, that the 25 percent is a reasonable percentage. Therefore, staff believes that at this point, the Commission has no basis to modify the 25 percent reduction in the otherwise applicable CIAC to recognize the estimated avoided storm restoration costs when large contiguous areas are converted.

An extension will also allow the parties to Docket Nos. 070231-EI and 080244-EI to take a position on the settlement. FPL states that in light of the fact that the City of South Daytona has not yet taken a position on the settlement, FPL is not prepared to request that the GAF tariff be made a permanent tariff.

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Similarly, as required by the GAF approving order, FPL should at least 60 days prior to the expiration of the GAF tariff in October 2010 file a report with the Commission providing an updated quantification of storm restoration benefits based on any new storm-restoration data. Based on the analysis, FPL should also petition the Commission at that time to continue, modify, or discontinue the tariff.

Issue 2: Should this docket be closed?

Recommendation: Yes. If Issue 1 is approved, this tariff should become effective on October 31, 2009. If a protest is filed within 21 days of the issuance of the order, this tariff should remain in effect, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order. (Brubaker)

Staff Analysis: If Issue 1 is approved, this tariff should become effective on October 31, 2009. If a protest is filed within 21 days of the issuance of the order, this tariff should remain in effect, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.

FLORIDA POWER AND LIGHT COMPANY

Additional Storm Restoration Data

Due to the lack of any additional major storms impacting FPL's service territory in 2006, 2007 and 2008, FPL has not been able to gather any additional storm restoration data.

Note: Since 2006, FPL has enhanced its forensics tools and processes, including gathering more information that will enable improved evaluation of its overhead vs. underground facilities' storm performance.

Overview/Status – Municipal Overhead vs. Underground Conversion Projects (2/06-7/09)

Ballpark cost estimates:	112
Binding cost estimates:	29
Projects completed:	6
Projects in engineering design:	25
Projects under construction:	9