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July 24, 2013

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COMMISSION
CLERK

-VIA HAND DELIVERY -

Ms. Ann Cole
Division of the Commission Clerk and
Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

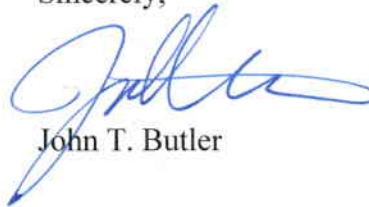
**Re: Petition of Florida Power & Light Company's Petition for Authority
To Discontinue Mechanism for Governmental Recovery of
Undergrounding Fees**

Dear Ms. Cole:

Enclosed for filing please find an original and seven (7) copies of Florida Power & Light Company's ("FPL") Petition for Authority to Discontinue Mechanism for Governmental Recovery of Undergrounding Fees, along with a CD containing the Petition in Microsoft word format.

If you should have any questions, please do not hesitate to contact me.

Sincerely,



John T. Butler

Enclosures

COM	_____
AFD	_____
APA	_____
ECO	_____ <i>6+CD</i>
ENG	_____
GCL	_____ <i>1</i>
IDM	_____
TEL	_____
CLK	_____

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for authority)
to discontinue Mechanism)
for Governmental Recovery)
of Undergrounding Fees)

Docket No. _____

Filed: July 24, 2013

**PETITION OF FLORIDA POWER & LIGHT COMPANY
FOR AUTHORITY TO DISCONTINUE MECHANISM FOR
GOVERNMENTAL RECOVERY OF UNDERGROUNDING FEES**

Florida Power & Light Company (“FPL” or the “Company”) hereby petitions the Commission for authority to discontinue its Mechanism for Governmental Recovery of Undergrounding Fees (“MGRUF”), Section 14.0 of the General Rules and Regulations for Electric Service in FPL’s Electric Tariff, and in support thereof states:

1. FPL is a public utility subject to the jurisdiction of this Commission under Chapter 366, Florida Statutes. FPL’s address is:

Florida Power & Light Company
700 Universe Blvd
Juno Beach, FL 33408

2. All notices and pleadings in connection with this matter are to be served upon the following individuals:

<p>Kenneth A. Hoffman Vice President, Regulatory Affairs Florida Power & Light Company 215 South Monroe Street, Suite 810 Tallahassee, FL 32301 Phone: 850-521-3919 Fax: 850-521-3939 Email: kenneth.hoffman@fpl.com</p>	<p>John T. Butler Assistant General Counsel - Regulatory Florida Power & Light Company 700 Universe Boulevard Juno Beach, FL 33408-0420 Phone: 561-304-5639 Fax: 561-691-7135 Email: john.butler@fpl.com</p>
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3. In 2003, FPL petitioned the Commission for approval of the MGRUF, which is a mechanism for local governments to recover costs that they incur in connection with the conversion of overhead to underground electric service within their boundaries. In Order No. PSC-03-1002-TRF-EI, dated September 5, 2003 (“Order 03-1002”), the Commission approved the MGRUF. Order 03-1002 was consummated by Order No. PSC-03-1076-CO-EI, dated September 30, 2003. The MGRUF appears on Original Tariff Sheets 6.600, 6.601 and 6.602 of FPL’s Electric Tariff.

4. The purpose of the MGRUF is described in Order 03-1002 as follows:

The [MGRUF] provides local governments with an optional procedure to recover their conversion costs from customers on whose behalf the conversion was made through a fee on the FPL electric bill.

Order 03-1002 at 1. The fee charged to customers under the MGRUF would include, in addition to the underground conversion costs,

the computer programming costs FPL expects to incur. The programming costs include start-up costs such as the modification of the billing system to add a line item to the electric bill and the cost of identifying each account [for customers who would be charged the fee]. The programming costs will be capped at the lesser of 10 percent of the conversion costs or \$50,000.

Id. at 2. One of the central premises of both FPL’s petition and Order 03-1002 was that the MGRUF would not impose any additional cost or risk on FPL’s general body of customers.

As noted in the Order,

[the MGRUF] provides a reasonable way to facilitate a local government’s ability to recover the substantial costs of providing underground service to customers within its boundaries. The application of the proposed tariff does not appear to affect the general body of ratepayers. Customers in the UAA will be responsible for the administrative costs of the tariff.

Id.

5. When FPL petitioned for approval of the MGRUF in 2003, it anticipated that there would be substantial interest on the part of municipalities in utilizing this mechanism to assist with financing underground conversion projects. That interest has not materialized, however. In fact, not a single municipality has executed a MGRUF agreement in the decade that the tariff has been in effect, and there have been few serious inquiries about using it. Further, to FPL's knowledge, there have been no such agreements executed by any other IOU in Florida.

6. The computer programming costs associated with implementing the MGRUF would be substantial: FPL's current estimate is that this work would cost \$2 million or more.¹ This high cost has led FPL to conclude that the mechanism is not economically viable for a small number of potential participants. Experience to date suggests that there is little or no chance that a significant number of municipalities will elect to use the MGRUF. Thus, charging an administrative fee of no more than \$50,000 to a municipality that elected to use the MGRUF would not come anywhere close to recovering the programming costs. In order to avoid burdening the general body of customers, FPL would need to amend the MGRUF tariff to charge the first participating municipality the full programming costs incurred in order to implement the MGRUF, perhaps with a provision for a portion of that charge to be returned if other municipalities subsequently elected to participate.² FPL does not believe

¹ FPL has not incurred the programming costs to date, because no municipality has elected to utilize the MGRUF.

² In 2003, FPL estimated that the programming costs would be approximately \$1 million to \$1.5 million and that there would be 20-25 municipalities interested in participating. If FPL collected an administrative charge of \$50,000 per municipality, this would have roughly enough revenues to cover the estimated programming costs. Since that time, however, the programming costs have increased and, more importantly, the realistic prospects for widespread participation in the MGRUF have essentially disappeared.

that any municipalities could justify charging their residents \$2 million in programming costs, in addition to the cost of their planned underground conversions.

7. FPL sees no viable path forward that would make the MGRUF financially attractive for the very limited number of municipalities that might be interested in participating, while at the same time protecting the general body of customers against subsidizing those municipalities. Accordingly, FPL believes that it would be in the best interests of its customers to discontinue the MGRUF and cancel Original Tariff Sheets 6.600, 6.601 and 6.602 on which the MGRUF appears. Exhibit A, attached hereto, shows the cancellation of those tariff sheets in legislative format.

WHEREFORE, FPL respectfully requests that the Commission enter an order authorizing FPL to discontinue the MGRUF and to cancel Original Tariff Sheets 6.600, 6.601 and 6.602 as shown on Exhibit A.

Respectfully submitted this 24th day of July 2013.

John T. Butler, Esq.
Assistant General Counsel-Regulatory
700 Universe Boulevard
Juno Beach, FL 33408
Attorney for Florida Power & Light
Company

By: _____


John T. Butler

EXHIBIT “A”

(Continued from Sheet No. 6.003)

GENERAL RULES AND REGULATIONS FOR ELECTRIC SERVICE

		<u>Sheet No.</u>
12	Installation of Underground Electric Distribution Facilities for the Conversion of Overhead Electric Distribution Facilities	6.300
12.1	Definitions	6.300
12.2	General	6.301
12.2. 1	Application	6.301
12.2. 2	Contribution-in-Aid-of-Construction (CIAC)	6.301
12.2. 3	Non-Refundable Deposits	6.310
12.2. 4	Non-Binding Cost Estimates	6.310
12.2. 5	Underground Facilities Conversion Agreement	6.310
12.2. 6	Simultaneous Conversion of Other Pole Licenses	6.310
12.2. 7	Easements	6.310
12.2. 8	Affected Customer Services	6.320
12.2. 9	Other Terms and Conditions	6.320
12.2.10	Type of System Provided	6.330
12.2.11	Design and Ownership	6.330
12.2.12	Relocation	6.330
13	Supplement to General Rules and Regulations for the Installation of Underground Electric Distribution Facilities to Serve Small Commercial/Industrial Customers	6.400
13.1	Definitions	6.400
13.2	Underground Distribution Facilities to Small Commercial/Industrial Customers	6.500
13.2. 1	Application	6.500
13.2. 2	Early Notification and Coordination	6.500
13.2. 3	Changes to Plans, Layout or Grade	6.500
13.2. 4	Type of System Provided	6.500
13.2. 5	Design and Ownership	6.500
13.2. 6	Rights of Way and Easements	6.510
13.2. 7	Contribution and Credits	6.510
13.2. 8	Location of Distribution Facilities	6.510
13.2. 9	Special Conditions	6.510
13.2.10	Point of Delivery	6.510
13.2.11	Location of Meter and Raceway	6.510
13.2.12	Contribution by Applicant	6.520
13.2.13	Contribution Adjustments	6.540
14	Mechanism for Governmental Recovery of Undergrounding Fees (MGRUF)	6.600

SECTION 14.0

MECHANISM FOR GOVERNMENTAL RECOVERY OF UNDERGROUNDING FEES (MGRUF)

SERVICE

Under this tariff, the Company provides qualifying local governments with an optional mechanism for recovering certain costs paid by or due from the local government to the Company in connection with converting distribution facilities from overhead to underground service. The MGRUF tariff is offered to local governments as that term is defined below.

LOCAL GOVERNMENT

A "local government" shall be defined as a municipality or county under Florida law possessing tax assessment and collection or other comparable authority sufficient to permit such local government to apply for application of this tariff and enter into an Underground Capital Cost Recovery Contract, as defined herein below.

UNDERGROUND ASSESSMENT AREA (UAA)

The local government shall establish the geographic boundaries of an Underground Assessment Area based on a determination, in its discretion and consistent with applicable law, that the electric customers located within these boundaries benefit sufficiently from the underground conversion project in question to warrant the payment of a Governmental Undergrounding Fee to recover the costs of the conversion project. The Underground Assessment Area so established may consist of all or any contiguous portion of the area within the local government's corporate limits, and may overlap all or portions of other Underground Assessment Areas previously established by the local government.

TARGET ANNUAL PAYMENT TO LOCAL GOVERNMENT (TARGET ANNUAL PAYMENT)

Based on the Target Annual Payment calculation, the Company will assess an amount to be recovered through a Governmental Undergrounding Fee, which shall be added to the electric bills of the Company's customers located within a UAA. The Target Annual Payment shall be calculated in accordance with the following formula:

$$\text{Target Annual Payment} = \frac{[(FC + GC + B) \times i]}{1 - (1/(1+i)^n)}$$

Where: **RESERVED FOR FUTURE USE**

- FC — Facility Charge, all amounts payable to the Company in connection with converting distribution facilities from overhead to underground, as specified in the Installation of Underground Electric Distribution Facilities For the Conversion of Overhead Electric Distribution Facilities sections of the Company's rules and regulations, which the local government intends to collect through a user fee on electric customers in the UAA.
- GC — Governmental Cost, which, at the local government's option, consists of the following costs incurred by the local government:
 1. Ancillary costs related to the undergrounding project, such as right-of-way acquisition, preparation and restoration costs, and financing costs.
 2. The total cost charged by electrical contractor(s) selected and hired by the local government to convert customer facilities (such as service entrances and meter bases) to receive underground service.
- B — Billing Charge, equal to \$50,000 or 10% of the Facility Charge, whichever is less.
- n — The number of years over which the Facility Charge, the Governmental Cost, and the Billing Charge are to be recovered by the local government, which shall not exceed a maximum of twenty (20) years.
- i — The interest rate on the bonds or other financial instruments utilized by the local government to finance the Facility Charge, the Governmental Cost, and the Billing Charge adjusted for financing costs.

(Continued on Sheet No. 6.601)

(Continued from Sheet No. 6.600)

ACTUAL ANNUAL PAYMENT TO LOCAL GOVERNMENT (ACTUAL ANNUAL PAYMENT)

Only those amounts actually collected through the Governmental Undergrounding Fee shall be remitted by the Company to the local government. This amount shall be known as the Actual Annual Payment. The Actual Annual Payment shall be remitted by the Company to the eligible local government within sixty (60) calendar days following the conclusion of each calendar year. Amounts collected through the Governmental Undergrounding Fee are not revenues or receipts of the Company for any purpose, including the establishment of electric rates or the determination of revenue sharing or other amounts under any revenue sharing or other incentive plan approved by the Commission, and are not subject to the franchise fee or other separately stated fees, the gross receipts tax, state or local sales or use taxes, or the municipal utility tax. However, if any such taxes are assessed upon the Company's collection of the Governmental Undergrounding Fee, the Actual Annual Payment shall be reduced by the amount of the taxes assessed and paid by the Company.

GOVERNMENTAL UNDERGROUNDING FEE

- (a) The Company will bill a monthly Governmental Undergrounding Fee to electric customers located in the UAA established by the local government. The Governmental Undergrounding Fee is intended as a recovery mechanism for the local government imposing a user fee on electric customers in the UAA. The Governmental Undergrounding Fee shall be assessed as a percent of total electric revenues and applied to all electric customers located within the UAA, subject to the terms and conditions of the applicable Underground Capital Cost Recovery Contract. The Governmental Underground Fee should be calculated to produce the Target Annual Payment. In no event shall the Governmental Undergrounding Fee assessed on a customer exceed the lesser of i) 15% of the customer's total net electric charges, where total net electric charges are defined as total electric charges exclusive of any Governmental Undergrounding Fees or ii) a maximum monthly amount of \$30 for each residential customer and \$50 for every 5,000 kWh of consumption for each non-residential customer.
- (b) The initial Governmental Undergrounding Fee shall be calculated for the remainder of the calendar year in which the fee becomes effective and shall be recalculated for each succeeding calendar year or portion of a calendar year during its effectiveness. The calculation or recalculation shall be based on the Company's most current projections for the upcoming period, and each recalculation shall include a true-up adjustment based on the difference between projected and actual recovery for the prior calendar year. Each true-up recalculation shall include, but not be limited to, any uncollected Governmental Undergrounding Fee resulting from any applicable limits on the amount of the Governmental Undergrounding Fee which can be assessed on the electric bill or from customer non-payment of the Government Undergrounding Fee.

REIMBURSEMENTS DUE THE COMPANY RESERVED FOR FUTURE USE

Nothing herein shall alter the conversion costs paid by or due from the local government to the Company in connection with converting distribution facilities from overhead to underground. In addition, service under this tariff requires the full upfront payment by the local government to the Company of the Billing Charge included in the Target Annual Payment, as well as any other amounts specified in the Company's rules and regulations.

CUSTOMER NOTIFICATION

The local government shall comply with all applicable federal, state and local requirements in connection with the establishment of a UAA and the imposition of the Governmental Undergrounding Fee. Further, at least ninety (90) days prior to the execution of an Underground Capital Cost Recovery Contract pursuant to this tariff, the local government shall mail a notice to each electric customer located within the proposed UAA as defined by the local government, stating its intention to recover the cost of the underground conversion project in question through a Governmental Undergrounding Fee on the customer's electric bill. In addition, the local government shall provide to the Company such information as the Company may require in the event the Company elects or is required to provide notice to its customers. Such notice would be provided at the cost of the local government and would be in addition to such other notice requirements as may be required under Florida law. To the extent required, the local government shall file notice in the public records once the Governmental Undergrounding Fee has been approved by the local government.

LIMITATION OF SERVICE:

- The Company shall withhold application of this tariff under any of the following conditions:
- i. if the Company's projections show the Annual Target Payment would exceed 15% of the net electric charges from customers in the affected UAA
 - ii. if the local government fails to ensure the conversion of any existing overhead service entrances to underground service in the affected UAA
 - iii. if the local government fails to comply with any of the terms and conditions of this tariff, including, but not limited to the provisions on Customer Notification and Reimbursements Due the Company
 - iv. if the local government fails to comply with any other terms or conditions of the Company's rules and regulations, including the Installation of Underground Electric Distribution Facilities for the Conversion of Overhead Electric Distribution Facilities sections of the Company's General Rules and Regulations for Electric Service.

(Continued on Sheet No. 6.602)

(Continued from Sheet No. 6.601)

UNDERGROUND CAPITAL COST RECOVERY CONTRACT

The local government shall enter into an Underground Capital Cost Recovery Contract with the Company, the form of which is satisfactory to the Company and has been approved by the FPSC or its staff, establishing the specific terms and conditions for underground cost recovery consistent with the provisions of this tariff. Terms to be included in the Underground Capital Cost Recovery Contract shall include, but are not limited to, the following:

- 1) ~~[[The local government]] represents and warrants that it has full legal right and authority: (a) to enter into this Underground Capital Cost Recovery Contract; (b) to take all actions and measures necessary to fulfill [[the local government's]] obligations under the MGRUF tariff and this Underground Capital Cost Recovery Contract; (c) to establish Underground Assessment Areas; and (d) to authorize the Company to collect a Governmental Undergrounding Fee from the Company's customers pursuant to the MGRUF tariff and this Underground Capital Cost Recovery Contract. [[The local government]] further represents and warrants that it has complied with all applicable notice and other procedural requirements pertaining to the assessment or collection of a charge to residents for the undergrounding of electric service.~~
- 2) ~~[[The local government]] acknowledges and agrees that the Governmental Undergrounding Fee computed and collected by Company in accordance with the MGRUF tariff is assessed solely by virtue of duly exercised authority of [[the local government]] and not pursuant to authority of the Company or the FPSC and that, in collecting the Governmental Undergrounding Fee for [[the local government]], the Company is acting on behalf of [[the local government]] and not in its own right.~~
- 3) ~~[[The local government]] acknowledges and agrees that all payments made by the Company's electric customers within the UAA shall first be applied to satisfy the customers' payment obligations to the Company, including payments for electric service, and for any service charges and penalties for late payments, and that only the amount, if any, by which a payment exceeds a customer's obligation to the Company shall be available for application to the Governmental Undergrounding Fee and remittance to [[the local government]]. [[The local government]] further acknowledges and agrees that, notwithstanding anything in this Underground Capital Cost Recovery Contract or the MGRUF tariff to the contrary, the Company shall have no obligation to remit to [[the local government]] any amounts in excess of Governmental Undergrounding Fees actually collected and that any shortfall between the Target Annual Payment and the Actual Annual Payment amount remitted to [[the local government]] pursuant to this Underground Capital Cost Recovery Contract shall be borne solely by [[the local government]].~~
- 4) ~~The Company and [[the local government]] agree that the Company shall not assess any late payment fee on the Governmental Undergrounding Fee.~~
- 5) ~~[[The local government]] agrees, to the extent permitted by applicable law, to indemnify, pay, defend, and hold harmless the Company and its officers, directors, employees, agents, contractors and affiliates (collectively referred to hereinafter as the "FPL Entities") from and against any and all claims, demands, losses, costs, or expenses for loss, damage, or injury to persons or property of the FPL Entities or third parties caused by, arising out of, or resulting from: the application of the MGRUF or this Capital Cost Recovery Contract; the assessment or collection of the Governmental Undergrounding Fee, a breach by [[the local government]] of its covenants, representations, warranties or obligations hereunder; the negligence or willful misconduct of [[the local government]] or its contractors, agents, servants or employees; or any other event or act that is the result of, or proximately caused by the local government or its contractors, agents, servants or employees.~~
- 6) ~~[[The local government]] acknowledges and agrees that the Company may not and shall not disconnect electric service of customers for failure to pay the Governmental Undergrounding Fee.~~
- 7) ~~The Company and [[the local government]] agree that the term and expiration date of this Underground Capital Cost Recovery Contract shall coincide with the number of years specified in the Target Annual Payment section of this tariff.~~
- 8) ~~[[The local government]] shall not (a) permit any lien, encumbrance or security interest to attach to the Company's revenues, including without limitation, the amounts collected or to be collected as the Governmental Undergrounding Fees under the MGRUF tariff (collectively, "Revenue Stream"), (b) permit any of the Revenue Stream to be levied upon under legal process, (c) attempt to sell, transfer, pledge or assign any of the Revenue Stream, or permit anything to be done that may impair the value to the Company of the Revenue Stream.~~
- 9) ~~The Company and [[the local government]] agree that the Company may suspend on an indefinite basis the application of the Governmental Undergrounding Fee to those customers where four consecutive months of non-payment of said Governmental Undergrounding Fee is experienced. The Company shall provide [[the local government]] on an annual basis a list of the customers where suspension of the Governmental Undergrounding Fee has taken place as a result of non-payment.~~
- 10) ~~The Company and [[the local government]] agree that the Company shall not assess the Governmental Undergrounding Fee until the conversion of distribution facilities from overhead to underground service upon which the Target Annual Payment is based is complete.~~

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(Continued from Sheet No. 6.003)

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