

State of Florida



Public Service Commission

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-M-E-M-O-R-A-N-D-U-M-

DATE: February 1, 2007

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Economic Regulation (Draper, Breman, Kummer, Trapp)
Office of the General Counsel (Gervasi)

RE: Docket No. 060150-EI – 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.

AGENDA: 02/13/07 – Regular Agenda – Tariff Filing - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 8-Month clock – May 21, 2007

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\060150.RCM.DOC

Case Background

On February 20, 2006, Florida Power & Light Company (FPL) filed a petition for approval of revisions to the Contribution-In-Aid of Construction (CIAC) definition in Section 21.1 of its First Revised Tariff Sheet No. 6.300. FPL's tariff provides the general provisions and terms under which FPL and a customer (applicant) may enter into a contract for the purpose of converting existing overhead electric facilities to underground. The customer is required to pay FPL a CIAC, which represents the conversion costs incurred by FPL. FPL has proposed 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. The 25 percent GAF waiver is designed to encourage the installation of underground facilities to reduce storm restoration costs to all FPL customers by reducing the CIAC the customer is required to pay FPL. The GAF

waiver is based on expected savings in storm restoration costs when large contiguous areas are converted from overhead to underground service. FPL has proposed to charge the 25 percent not borne by the requesting municipalities as new plant-in-service since the GAF waiver is projected to provide quantifiable benefits to FPL's general body of ratepayers. In future rate cases, the 25 percent forgone CIAC would be recovered from FPL's general body of ratepayers.

At the time the tariff was filed, Rule 25-6.115, Florida Administrative Code (F.A.C.), Facility Charges for Providing Underground Facilities of Public Distribution Facilities Excluding New Residential Subdivisions, required the customer requesting the conversion to pay the entire cost. Concurrent with the tariff filing, FPL filed a petition to initiate rulemaking to amend Rule 25-6.115, F.A.C., to allow for the 25 percent reduction as outlined in the proposed tariff.

Prior to the rule amendments adopted in Docket Nos. 060172-EU and 060173-EU, the rule provided that a utility could waive any or all of the CIAC, but the full amount of the applicable CIAC had to offset the costs as if it had been collected from the customer. In other words, this placed the entire cost of the conversion on the customer unless the utility was willing to forego recovery of those costs.

The Commission denied FPL's petition to initiate rulemaking and directed staff to initiate rulemaking to address strengthening of overhead infrastructure and issues surrounding the conversion of overhead infrastructure of underground facilities.¹ Accordingly, on March 1, 2006, staff opened Docket Nos. 060172-EU and 060173-EU to initiate comprehensive rulemaking proceedings to enhance the reliability of Florida's transmission and distribution system during extreme weather events.

On March 17, 2006, the Town of Palm Beach and the Town of Jupiter Island (the Towns) each filed a Petition to Intervene and Petitions for Tariff Amendment in this docket. Both towns have been engaged in discussions and negotiations with FPL toward converting the overhead facilities to underground. The petitions to intervene were granted.²

On April 24, 2006, the Commission suspended FPL's tariff filing pending further review and the conclusion of rulemaking in Docket Nos. 060172-EU and 060173-EU. The Commission further ordered that in the event that FPL's proposal is ultimately approved, FPL shall be permitted to apply any approved discount for local government-sponsored conversion projects to undergrounding contracts entered into with local governments on or after April 4, 2006.³

On September 21, 2006, FPL filed an amended petition to update and refine its tariff to reflect the recent staff-proposed revisions to the Commission's rules in Docket Nos. 060172 and 060173. FPL agreed that this amended petition constitutes a substantive change to the original filing and therefore the eight-month clock restarted for the Commission. The eight-month clock expires on May 21, 2007.

¹ See Order No. PSC-06-0273-FOF-EI, issued April 6, 2006, in Docket No. 060149-EI, In re: Petition to initiate rulemaking to amend Rule 25-6115, F.A.C., Facility Charges for Providing Underground Facilities of Public Distribution Facilities Excluding New Residential Subdivisions, by Florida Power & Light Company.

² See Order Nos. PSC-06-0366-PCO-EI and PSC-06-0367-PCO-EI, issued May 1, 2006, in this docket.

³ See Order No. PSC-06-0339-PCO-EI, issued April 24, 2006, in this docket.

At its December 5, 2006, Agenda Conference, the Commission approved several revisions to its rules governing electric infrastructure and underground CIAC policies. With respect to Rule 25-6.115, F.A.C., the Commission approved the addition of new subsection (11), requiring investor-owned electric utilities to include the net present value of operational costs including the average historical storm restoration costs over the expected life of the facilities in a CIAC calculation. The Commission also approved language in new subsection (12) that allows the waiver of all or a portion of the CIAC for a customer requesting conversion without reducing net plant-in-service by the waived amount, if the Commission determines that there are quantifiable benefits to the general body of ratepayers.

The Commission further revised Rule 25-6.115(9), F.A.C., to require CIAC calculations to include cost impacts of any new storm hardening construction standards for underground and overhead facilities based on the requirements of Rule 25-6.0342, F.A.C., Electric Infrastructure Storm Hardening. Rule 25-6.0342, F.A.C., requires investor-owned electric utilities to file a comprehensive storm hardening plan for review and approval by the Commission. The storm hardening plans are to be filed no later than 90 days after the effective date of the rules, which is February 2, 2007. The storm hardening plans are therefore due on May 2, 2007.

On November 13, 2006, the Towns filed a cost-effectiveness study of undergrounding electric distribution facilities entitled Cost Effectiveness of Undergrounding Electric Distribution Facilities in Florida. The study was prepared on behalf of several municipalities known as the Municipal Underground Utilities Consortium. This study was filed in this docket and in Docket Nos. 060172-EU and 060173-EU in the event the Commission or staff wished to consider the study in connection with the rulemaking dockets. This staff recommendation does not address the appropriateness of the study submitted by the Towns because the issue before the Commission is the FPL tariff as filed in this docket.

On January 16, 2007, the Town of Gulf Stream, in Palm Beach County, filed a resolution supporting the conversion of overhead distribution facilities to underground facilities and encouraging the Commission to implement all reasonable measures to encourage the conversion of facilities. The City of Rockledge, the City of Cocoa Beach, the City of Plantation, the Town of Palm Beach Shores, and the City of Bonita Springs filed similar resolutions.

In Docket No. 060198-EI the Commission required the investor-owned electric utilities to file plans and estimated implementation costs for certain storm preparedness initiatives, including collaborative research.⁴ As a result of this Commission directive, FPL, Progress Energy Florida, Tampa Electric Company, Gulf Power Company, Florida Public Utilities Company, Florida Municipal Electric Association, Florida Electric Cooperatives Association, and Lee County Electric Cooperative (collectively the project sponsors), are funding the Public Utility Research Center (PURC) for the coordination of research to investigate the costs and benefits of undergrounding their existing infrastructures. The project sponsors have contracted with a vendor to perform a study in three phases. In Phase 1, the existing body of knowledge on the costs and benefits of undergrounding will be summarized and analyzed in a report due

⁴ See Order No. PSC-06-0781-PAA-EI, issued September 19, 2006, in Docket No. 060198-EI, In re: Requirement for investor-owned electric utilities to file ongoing storm preparedness plans and implementation cost estimates.

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February 28, 2007. In Phase 2, a study and analysis of Florida cases where overhead facilities have been moved underground will be conducted and a report is due August 6, 2007. Phase 3 will, by March 30, 2008, result in the development of a methodology that can be used to consistently quantify the costs and benefits of undergrounding specific areas of existing electricity distribution infrastructure in Florida.

The Commission has jurisdiction pursuant to Sections 366.03, 366.04, 366.05, 366.06, and 366.075, Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission approve FPL's amended petition for approval of revisions to its tariff to implement a Governmental Adjustment Factor (GAF) for calculation of CIAC?

Primary Staff Recommendation: Yes; however, the GAF and associated tariffs should be effective for only two and a half years from the initial effective date, which is April 4, 2006. At least 60 days prior to the expiration of the GAF and associated tariffs, FPL should be required to file a report with the Commission providing an updated quantification of storm restoration benefits. FPL should also petition the Commission to continue the tariff, modify the tariff, or discontinue the tariff at that time as necessary. (Draper, Kummer)

Alternative Recommendation: The Commission should decline to rule on the tariff at this time because FPL has not adequately justified the 25 percent GAF waiver. An expedited hearing schedule should be set to allow the Commission to hear testimony and make a decision on matters of fact and policy necessary to show how this filing comports with the requirements of revised Rule 25-6.115, F.A.C. If the Commission is unable to render a decision by the statutory deadline of May 21, 2007, the tariff shall go into effect pending completion of the hearing and the Commission's final decision on the matter. Alternatively, the Commission should deny the tariff and suggest that FPL refile its tariff implementing the requirements of Rule 25-6.115, F.A.C. (Breman, Trapp)

Primary Staff Analysis: Primary staff recommends approval of the tariff as filed with the provision that it be deemed a pilot program which must be reviewed by the Commission by October 30, 2008. The time frame is tied to the completion of the Commission's review and approval of FPL's storm hardening plans (due May 2007) and the anticipated completion date of the PURC study (due March 2008).

Pursuant to recently revised Rule 25-06.0342, F.A.C., Electric Infrastructure Storm Hardening, the investor-owned utilities are required to file detailed storm hardening plans, including cost information, for review and approval by the Commission. The storm hardening plans are due in May 2007 and may impact the construction cost differential between overhead and underground systems.

In addition, the results of the PURC study will be valuable in better quantifying any savings attributable to underground facilities compared to overhead facilities. Allowing the GAF tariff to be in effect for another six months after the completion date of the PURC study will give the Commission adequate time to review the study and the study's impact on the GAF tariff. Furthermore, FPL recognized the potential need for review in its petition and proposed that it provide the Commission a report showing the impact of any new storm-restoration data on the quantification of benefits no later than three years after approval of the tariff.

During an informal conference call to discuss the filing, the parties indicated that the Towns and FPL believe the 25 percent is a reasonable percentage, based on the information provided by FPL in this docket. Primary staff believes approval of this proposal is an important

first step in encouraging the installation of underground facilities, but that the GAF waiver may need to be fine-tuned as more information on costs and benefits become available.

FPL's proposal. On September 21, 2006, FPL filed an amended petition for revised tariff sheets to implement FPL's proposed Governmental Adjustment Factor (GAF) for the calculation of CIAC. The GAF is designed to reduce the CIAC amount that a local government applicant otherwise would pay to reflect storm restoration cost savings from undergrounding. The GAF is 25 percent for all eligible local government applicants. The GAF waiver would only apply when the applicant for conversion of overhead to underground distribution facilities is a local government meeting specified criteria. FPL restricted the tariff to local governments because it believes that 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 facilities. The proposed GAF tariff is limited to large, contiguous areas because the storm restoration cost savings are likely to be less than 25 percent for small-scale isolated conversions. FPL has proposed to recover the amount of CIAC waived under the GAF waiver as new plant-in-service. In future rate cases, the forgone CIAC would be recovered from FPL's general body of ratepayers through base rates.

Under the GAF waiver, the local government must make a written request to FPL for the conversion of overhead facilities to underground and enter into a contract with FPL. The entity making the written request is referred to as the applicant. In the request to FPL to convert facilities, the applicant must also define the boundaries of the conversion area. Within the conversion area, all existing overhead facilities, including transformers and switch cabinets, will have to be converted to underground facilities.

To qualify for the GAF waiver, the applicant must meet certain eligibility criteria, which are outlined in FPL's proposed tariff. First, in order for the conversion to incorporate a sufficient amount of overhead facilities to provide electric continuity, the conversion must include a minimum of approximately three pole miles or 200 dwelling units. FPL's tariff allows for exceptions to the project size minimum in special circumstances, such as when a single lateral serves a critical infrastructure facility, or an island or peninsula converting all of its overhead facilities.

Other GAF eligibility criteria include a provision that the applicant attest that there are no state or federal funds available to the local government applicant to cover any portion of the cost of the conversion. Also, all customers within the conversion area who have overhead service drops, must convert their service drops to underground within six months of completion of the underground facilities installation. Finally, FPL's proposed tariff includes language requiring that, if a local government applicant does not satisfy the eligibility criteria, the local government shall repay the GAF waiver within 30 days of written notice from FPL. Additionally, if at any point within 30 years of completion of the underground facilities installation, the local government elects to have electric service within the conversion area supplied by a provider other than FPL, the local government shall repay FPL a pro rata share, which shall reflect partial years, of the GAF waiver.

To support its petition, FPL states that, based on the fewer interruptions experienced by underground facilities than by overhead facilities during the 2004 and 2005 hurricanes, FPL expects converting overhead to underground in large communities will reduce the amount of infrastructure damage requiring repair, thereby reducing restoration costs. The general body of ratepayers would benefit 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 extensive rebuilding or repair. FPL further states that 25 percent would provide a significant incentive to encourage conversions, and thus help reduce the potential impact to all customers from future storms. FPL states that the estimated 25 percent reduction represents avoided storm restoration costs resulting from undergrounding generally contiguous facilities. A summary of FPL's analysis supporting the 25 percent reduction in the otherwise applicable CIAC is shown in Attachment A.

FPL states that it expects to collect additional information on storm restoration costs over the coming years and will continue to monitor and evaluate the benefits justifying the GAF waiver. FPL proposed to submit a report to the Commission no later than three years after the GAF tariff is approved, showing the impact of any new storm-restoration data on the quantification of benefits and proposing revisions to the tariff if warranted.

Calculation of the CIAC. Under FPL's proposal in its amended petition, the GAF is expressed as a waiver of the CIAC that a local government applicant otherwise would pay. First, FPL calculates the otherwise applicable CIAC amount, as required by the recently revised Rule 25-6.115, F.A.C.

CIAC =

- The estimated cost to install the requested underground facilities
- + The estimated cost to remove the existing overhead facilities
- + The net book value of the existing overhead facilities
- + The net present value of the estimated operational costs of underground facilities over 30 years (new per rule)
- + The net present value of the estimated average storm restoration costs of underground facilities over 30 years (new per rule)
- The estimated cost that would be incurred to install new overhead facilities in lieu of underground
- The estimated salvage value of the existing overhead facilities to be removed
- The net present value of the estimated operational costs of the overhead facilities over 30 years (new per rule)

- The net present value of the estimated average storm restoration costs of overhead facilities over 30 years (new per rule).

Calculation of GAF waiver. The GAF waiver represents the expected storm restoration savings that Rule 25-6.115, F.A.C., requires utilities to include in the CIAC calculation. Instead of performing separate analyses for each governmental underground conversion project, FPL has proposed to provide qualifying GAF applicants the same percentage reduction in storm restoration savings.

The GAF waiver is calculated as follows:

GAF Waiver =

25 percent x the otherwise applicable CIAC

+ 75 percent x (the net present value of the estimated average storm restoration costs of underground facilities over 30 years less the net present value of the estimated average storm restoration costs of overhead facilities over 30 years).

Since overhead storm restoration costs are typically higher than underground storm restoration costs, the net present value is a negative number, thus reducing the amount of the GAF waiver. The final term avoids double-counting the estimated average storm restoration costs embedded in the otherwise applicable CIAC calculation.

Attachment B is an illustrative example provided by FPL of the proposed CIAC and GAF waiver calculation.

Staff discussion. Primary staff recommends approval of FPL's proposed tariff revision as an important first step in encouraging the installation of underground facilities. Staff does not view the filing as a cure-all or as complete implementation of the requirements contained in the rule amendments adopted in Docket Nos. 060172-EU and 060173-EU. The GAF waiver is designed to represent the expected storm restoration savings by undergrounding projects that meet the GAF eligibility criteria. As stated in the case background, the Commission recently revised Rule 25-6.115, F.A.C., to include the net present value of average overhead and underground storm restoration costs in the CIAC calculation. Therefore, the GAF does not offer anything not otherwise available to all customers. However, it provides a short-cut for eligible governments and may expedite construction in those areas. Staff recognizes that the 25 percent is an average. Some projects may provide greater or lesser savings to ratepayers. However, the overall benefits of encouraging undergrounding makes this an acceptable risk for a limited time period.

Since only local governments are eligible for the GAF, staff had concerns about other customers who may seek CIAC underground estimates. Discussions with FPL assured staff that for applicants who do not qualify for the GAF waiver, FPL will calculate a CIAC as required by rule. The GAF tariff is optional and does not preclude an applicant from justifying additional benefits from undergrounding. Rule 25-6.115(10), F.A.C., allows an applicant to challenge the utility's cost estimates under the Commission's complaint procedures.

Conclusion

Primary staff recommends approval of FPL's proposed tariff revision with the provision that it be deemed a pilot program which must be reviewed by the Commission at the end of two and a half years, i.e., by October 2008. The time frame is tied to the completion of the Commission's review and approval of FPL's storm hardening plans (due May 2007) and the anticipated completion date of the PURC study (due March 2008). While a measure of storm restoration savings is also available under the current language in Rule 25-6.115, F.A.C., the use of the GAF tariff could expedite calculations of a CIAC and subsequent construction of underground facilities. The GAF waiver represents a limited implementation of the recently revised Rule 25-6.115, F.A.C. The tariff is optional and does not preclude an applicant from justifying additional benefits from undergrounding.

At least 60 days prior to the expiration of the GAF and associated tariffs, FPL should be required to file a report to 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 to continue the tariff, modify the tariff, or discontinue the tariff at that time as necessary.

Alternative Staff Analysis: Alternative staff believes it is premature to approve or deny the tariff as filed because there are still too many unanswered questions. Alternate staff recommends that the Commission hold an expedited hearing to take testimony and make a decision on the issues listed below prior to the expiration of the eight-month clock on May 21, 2007. Pursuant to section 366.06(3), Florida Statutes, if a post-hearing decision is not rendered prior to May 21, 2007, the tariff shall go into effect pending the Commission's final decision. Alternatively, the Commission should deny the tariff and suggest that FPL file an amended petition to address the issues discussed below.

In April 2006, the Commission suspended FPL's proposed tariff because amendments to Rule 25-6.115, F.A.C., adopted in rulemaking Docket Nos. 060172-EU and 060173-EU addressed, among other things, the appropriateness of the type of waiver FPL has proposed. However, FPL has not yet filed its plans to implement the requirements of amended Rule 25-6.115. Requirements of the rule include:

- that the CIAC calculations include construction costs that reflect and implement any new storm hardening construction standards for both overhead construction and underground construction;
- that the CIAC calculations include operational expenses reflecting the new storm hardening standards; and
- that the CIAC calculations include a calculation in the reduction in storm damage restoration costs due to underground construction.

No filing has been made addressing these storm hardening construction costs and operational expenses. No filing has been made addressing the average reduction in storm damage restoration costs due to underground construction. Thus, there is no sense of urgency associated with FPL's tariff because the tariff cannot be fully implemented until such filings are made. Yet, during discussions, FPL represented that 25 percent GAF Waiver will be the ceiling of the credit associated with avoided storm restoration costs due to underground construction.

In support of its 25 percent GAF Waiver, FPL did not consider the effects of storm hardening construction standards. It is possible that storm hardening construction standards may either increase or reduce the construction cost differential between overhead and underground systems. A reduction in the construction cost differential between overhead and underground systems would increase the GAF Waiver, all other factors held the same. Conversely, an increase in the construction cost differential would decrease the GAF Waiver, all other factors held the same.

Another factor impacting construction costs that was discussed at Commission workshops on storm hardening had to do with coastal requirements being different than inland requirements, as well as storm surge and flooding concerns. In its efforts to implement storm hardening, FPL announced that it will be implementing high wind speed standards of up to 150 miles per hour. However, FPL's proposed GAF is based on system averages and does not take into consideration differences between coastal and inland locations. These matters are not addressed by FPL and can significantly impact the construction costs of overhead and underground systems.

Some other unresolved factors are assumptions that FPL made regarding the frequency and severity of future hurricane events for which FPL has provided no scientific basis. The uncertainty of future hurricane frequency over the next 30 year period is not addressed by FPL. The following table is based on a spreadsheet FPL provided to staff that included all of its calculations and assumptions supporting the GAF tariff.

Impact of Hurricane Frequency on FPL's Proposed 25% GAF Waiver
 10-year and 20-year old overhead system
 All other FPL assumptions held constant

Years	Average Frequency of Hurricane Events over 30 Years					
	3	5	7	9	11	13
Estimated Restoration Costs Savings as a Percentage of CIAC	41%	26%	21%	18%	15%	15%
	-	-	-	-	-	-
	31%	20%	16%	14%	11%	11%

The above table shows that assumptions about the frequency of future storms impact the avoided storm restoration costs associated with undergrounding. Thus, it is premature to approve any specific percentage because FPL has not addressed the uncertainty associated with the avoided future storm restoration savings. Testimony provided by the Office of Public

Counsel in Docket No. 060038-EI,⁵ addressed concerns that FPL had overestimated the frequency of storm events and suggested using the historical frequency of events to set the storm self-insurance accrual level.

Another assumption FPL makes is how much of the 2004 and 2005 storm damage restoration costs could have been avoided had the damaged overhead facilities been placed underground. FPL assumes as much as 90 percent. Yet FPL has never shown that is has substantive support for this assumption. Pursuant to Order No. PSC-06-0781-PAA-EI,⁶ the Commission required all investor-owned electric utilities to begin implementing methods to track such information because the utilities had no substantive support for such assumptions.

Uncertainty regarding FPL's estimates concerning future storm events and resultant restoration costs has been previously considered by this Commission. Testimony provided by the Office of Public Counsel, through Witness Stewart, in Docket No. 060038-EI,⁷ addressed the level of storm self insurance based on FPL's actual storm costs from 1990 through 2005. The Commission implemented the recommendation of Witness Stewart by Order No. PSC-06-0464-FOF-EI, issued May 30, 2006.⁸ The actual storm costs included in Witness Stewarts testimony are shown below.

FPL's Actual Storm Restoration Costs from Docket No. 060038-EI
Dollars in Millions

1991	1992	1996	1997	1998	1999	2000	2001	2002	2004	2005
\$1.3	\$445.0	\$4.0	\$1.1	\$27.6	\$57.6	\$17.6	\$27.2	\$3.4	\$890.0	\$879.0

FPL's support for the 25% GAF Waiver is based only on its 2004 and 2005 data and excludes all other years where lower storm damage restoration costs were incurred. Alternative staff questions the reasonableness of selecting only the 2004 and 2005 data for purposes of establishing FPL's proposed tariff.

The best means to test FPL's assumptions is to expose them to a hearing process which has not occurred. Consequently, it is premature to make a finding regarding the reasonableness of FPL's proposed 25 percent GAF Waiver or the assumptions FPL used to support its proposal because all the appropriate information is not yet available for review.

Regarding policy matters, the Commission does not have the benefit of the state-wide collaborative research effort addressing underground conversion projects. Pursuant to Order No. PSC-06-0781-PAA-EI, all electric utilities are funding a joint project that is expected to address policy and cost allocation considerations. The final work product is not expected to be available until March 2008. The absence of the best available information to support a policy is of

⁵ In Re: Petition for issuance of a storm recovery financing order, by Florida Power & Light Company.

⁶ Issued September 19, 2006, in Docket No. 060198-EI, In Re: Requirement for investor-owned electric utilities to file ongoing storm preparedness plans and implementation cost estimates. This order was consummated, in relevant part, by Order No. PSC-06-0859-CO-EI, issued October 31, 2006.

⁷ Document No. 02905-06, filed March 31, 2006, in Docket No. 060038-EI, In Re: Florida Power & Light Company's petition for issuance of a storm recovery finance order.

⁸ Order No. PSC-06-0464-FOF-EI at 25.

concern because the proposed tariff would place all risks associated with FPL's assumptions and implementation on FPL's general body of ratepayers.

Certain cities have shown interest in FPL's proposed tariff. At this time, however, there is no need to approve FPL's tariff to address such interest because under section 366.06(3), Florida Statutes, the tariff shall go into effect at the end of eight months after the filing date if the Commission takes no action by the statutory deadline of May 21, 2007. If a hearing is set in order for the Commission to collect and evaluate the additional information, the customers wishing to enter into these contracts are not harmed regardless of whether the Commission is able to render its decision by May 21, 2007, because the cities can still enter into contracts to convert the overhead facilities to underground. Moreover, Order No. PSC 06-0339-PCO-EI, the order suspending the tariff, provides for the possibility that cities may seek to pursue projects with FPL even though the tariff was suspended. The Order states:

Application of Discount On or After April 4, 2006

Although we suspend the tariff, we are keenly aware of the importance of hardening electric distribution facilities in a expeditious manner to prevent or mitigate potential storm related outages. We have opened two rulemaking dockets to address, among many other related topics, the appropriateness of the type of discount proposed by FPL in this docket. Moreover, we do not wish to discourage cities or counties who are willing to pursue undergrounding of their existing facilities at this time. Accordingly, in the event we decide it is appropriate for all ratepayers to share in the cost of converting existing overhead facilities to underground and we ultimately approve a tariff revision for FPL in this docket, FPL shall be permitted to apply any such later-approved discount to the cost of undergrounding facilities for local governments that proceed with underground conversion projects prior to our final decision on the issue. Any such later-approved discount for local government-sponsored conversion projects shall apply to undergrounding contracts entered into with local governments on or after April 4, 2006, the date of our vote on the matter.⁹

The Commission should hold an expedited hearing on this matter and endeavor to render a decision by May 21, 2007. However, if the hearing cannot be concluded and a decision rendered by May 21, 2007, the utility shall implement the tariff at its own risk pursuant to Section 366.06(3), Florida Statutes, pending completion of the hearing and the Commission's final decision on the matter. Alternatively, the Commission should deny the tariff and suggest that the utility re-file a petition which addresses these areas, thus restarting the tariff clock. Careful deliberation of all the relevant facts and policy matters should not be constrained by FPL's desire to expedite the filing.

⁹ Order No. PSC-06-0339-PCO-EI at 2-3.

Conclusion

In summary, the Commission should refrain from taking action on FPL's proposed tariff at this time because:

- The proposed tariff does not appear to fully implement the new requirements of the rule which require the cost of storm hardening be reflected in the CIAC calculation;
- FPL has not supported the 25 percent GAF Waiver considering new storm hardening construction standards as required by the new rule; and
- The tariff cannot be fully implemented until FPL files the information required by the new requirements of the rule.

Alternate staff recommends that the Commission should decline to rule on the tariff at this time because FPL has not adequately justified the 25 percent GAF waiver. An expedited hearing schedule should be set to allow the Commission to hear testimony and make a decision on matters of fact and policy necessary to show how this filing comports with the requirements of revised Rule 25-6.115, F.A.C. If the Commission is unable to render a decision by the statutory deadline of May 21, 2007, the tariff shall go into effect pursuant to Section 366.06(3), Florida Statutes, pending completion of the hearing and the Commission's final decision on the matter. Alternatively, the Commission should deny the tariff and suggest that FPL refile its tariff implementing the requirements of Rule 25-6.115, F.A.C.

Issue 2: Should this docket be closed?

Recommendation: If the Commission approves the primary staff recommendation on Issue 1, or denies the tariff as alternatively suggested in the alternate recommendation, and if no timely protest is filed within 21 days of the issuance date of the Order, no further action will be necessary and this docket should be closed upon the issuance of a Consummating Order. However, if a protest is filed by a person whose interests are substantially affected within 21 days of the issuance date of the Order, the docket should remain open pending resolution of the protest. If the Commission approves the alternate staff recommendation on Issue 1, this docket should remain open in order to proceed directly to hearing. (Gervasi)

Staff Analysis: If the Commission approves the primary staff recommendation on Issue 1, or denies the tariff as alternatively suggested in the alternate recommendation, and if no timely protest is filed within 21 days of the issuance date of the Order, no further action will be necessary and this docket should be closed upon the issuance of a Consummating Order. However, if a protest is filed by a person whose interests are substantially affected within 21 days of the issuance date of the Order, the docket should remain open pending resolution of the protest. If the Commission approves the alternate staff recommendation on Issue 1, this docket should remain open in order to proceed directly to hearing.

FPL's quantification of benefits for the GAF Waiver

The Commission's standard low density subdivision model of 210 homes was used as a basis for FPL's analysis to calculate the percent storm restoration savings. First, FPL calculated the average CIAC cost for converting the subdivision's overhead facilities under rule 25-6.115, F.A.C., as the rule existed prior to the Commission's revision of the rule in Docket Nos. 060172-EU and 060173-EU. Two scenarios were created by varying the age of the existing overhead facilities being replaced, 10 and 20 years.

Table 1
 CIAC pursuant to Rule 25-6.115
 Without the Storm Restoration Cost Differential Component
 Without the Operating & Maintenance Cost Differential Component

	New Underground Facilities	Existing Overhead Facilities			New Overhead Facilities	CIAC
		Net Book Value	Removal Costs	Salvage Costs		
10-Yr Old Overhead	\$537,000	+\$113,000	+\$104,000	-\$0	-\$334,000	=\$420,000
20-Yr Old Overhead	\$537,000	+\$12,000	+\$104,000	-\$0	-\$334,000	=\$319,000

As shown in the above table, the CIAC for the subdivision is \$420,000 (10-year old overhead facilities) or \$319,000 (20-year old overhead facilities).

The GAF waiver is derived from avoided storm restoration cost savings to the general body of ratepayers as a result of these facilities being placed underground. FPL relied on its experiences during 2004 and 2005 to develop cost data for storm restoration costs to overhead and underground facilities. FPL assumes the 2004/2005 seasons may reoccur, on average, between three and five years over the next 30 years and used a 30-year forecast period for the avoided storm restoration cost. The 30-year cash flows are discounted to arrive at the annualized amounts of \$82,120 to \$129,269. These amounts are intended to represent the expected range in reduced annual storm damage costs due to underground systems on a per affected customer basis. Affected customers are those customers which experienced a service interruption. FPL then compared the estimated storm damage differential to a typical conversion scenario of a 20-year old overhead system and a 10-year old overhead system (as calculated in Table 1) and concludes that a 25 percent credit for certain conversion projects is appropriate.

Table 2
 CIAC Compared to Estimated Storm Restoration Cost Differential Between Overhead and
 Underground Distribution Facilities

	CIAC (from Table 1)	Storm Restoration Cost Differential				FPL's Estimated Credit
		3 Yr Basis		5 Yr Basis		
		Amount	Percentage of Subtotal CIAC	Amount	Percentage of Subtotal CIAC	
10-Yr Old Overhead	\$420,000	\$129,269	31 percent	\$82,120	20 percent	25 percent
20-Yr Old Overhead	\$319,000	\$129,269	41 percent	\$82,120	26 percent	

The above table shows that if a storm occurs every three years, the storm restoration savings due to undergrounding range from approximately 30 to 40 percent. If a storm occurs every five years, the savings range from 20 to 26 percent. FPL states that these ranges support FPL's proposed GAF waiver of 25 percent.

CIAC & GAF WAIVER EXAMPLES (\$000's) (Amounts Are Illustrative Only)				
1	Contribution-In-Aid-of-Construction (CIAC):			
2		The estimated cost to install the requested underground facilities	10,000	
3	+	The estimated cost to remove the existing overhead facilities	1,000	
4	+	The net book value of the existing overhead facilities	3,000	
5	+	The net present value of the estimated operational costs of underground facilities over 30 years (new per rule)	1,800	
6	+	The net present value of the estimated average storm restoration costs of underground facilities over 30 years (new per rule)	700	
7	-	The estimated cost that would be incurred to install new overhead facilities, in lieu of underground, to replace the existing overhead facilities (the "Hypothetical Overhead Facilities")	(7,000)	
8	-	The estimated salvage value of the existing overhead facilities to be removed	(1,000)	
9	-	The net present value of the estimated operational costs of overhead facilities over 30 years (new per rule)	(2,000)	
10	-	The net present value of the estimated average storm restoration costs of overhead facilities over 30 years (new per rule)	<u>(1,000)</u>	
11		CIAC	<u>5,500</u>	sum of lines 2 thru 10
12	GAF Waiver:			
13		CIAC * 25%	1,375	line 11 * 25%
14	+	(The net present value of the estimated average storm restoration costs of underground facilities over 30 years	700	line 6
15	-	The net present value of the estimated average storm restoration costs of overhead facilities over 30 years);	<u>(1,000)</u>	line 10
16		Subtotal - Estimated average storm restoration costs differential	(300)	line 14 + line 15
17	*	75%	<u>(225)</u>	line 16 * 75%
18		GAF Waiver	<u>1,150</u>	line 13 + line 17