

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: May 21, 2008

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Draper)
Office of the General Counsel (Sayler, Jaeger)

RE: Docket No. 080223-EI – Petition for extension of governmental adjustment factor tariff and approval of sixth revised tariff sheet No. 9.725 by Florida Power & Light Company.

AGENDA: 06/03/08 – Regular Agenda – Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 06/15/08 (60-Day Suspension Date)

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\080223.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.

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, at least 60 days prior to the expiration of the GAF tariff, to file a report with the Commission providing an updated quantification of storm restoration benefits based on any new storm restoration data. Therefore the report would be due by August 31, 2008, i.e., 60 days before October 30, 2008. FPL was also directed to petition the Commission to continue, modify, or discontinue the tariff at that time.

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.

Several municipalities known as the Municipal Underground Utilities Consortium (MUUC) intervened in Docket No. 060150-EI.³ 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 Docket No. 060198-EI, the Commission required all investor-owned electric utilities to file plans and estimated implementation costs for certain storm preparedness initiatives, including collaborative research.⁴ As a result of that 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 providing funding to the Public Utility Research Center (PURC) for the coordination of research to investigate the costs and benefits of undergrounding their existing infrastructures. In Phase 1, the existing body of knowledge on the costs and benefits of undergrounding was summarized and analyzed in a report dated February 28, 2007. In Phase 2, actual case studies of overhead-to-underground conversions in four areas of Florida were examined. Phase 3 of the project involves the development and testing of a methodology for analyzing the costs and benefits of specific undergrounding proposals. A model has been produced that electric utilities are currently evaluating. A report on the model is expected to be published by May 30, 2008.

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

³ The intervention was granted in Order No. PSC-07-0442-TRF-EI, p 7.

⁴ See Order No. PSC-06-0351-PAA-EI, issued April 25, 2006, in Docket No. 060198-EI, In re: Requirement for investor-owned electric utilities to file ongoing storm preparedness plans and implementation cost estimates.

Discussion of Issues

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

Recommendation: Yes, the eligibility period for the GAF tariff should be extended for an additional year until October 30, 2009. The Commission should also accept the report attached to the petition in this docket as satisfying the report requirement of the GAF approval order. FPL should, at least 60 days prior to the expiration of the GAF tariff in October 2009, 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 original approval, i.e., until October 30, 2009, and (2) accept the report attached to the petition in this docket 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. FPL further argues that it has no legitimate basis at this point to change the GAF waiver from the current 25 percent level. FPL finally argues that even if a hurricane struck FPL's service area in June or July, the interests of its customers would be better served by FPL devoting resources to restoration efforts than compiling and analyzing data on the hurricane to be filed in August.

Extending the availability period of the GAF tariff will benefit local governments by providing them additional time to implement conversion projects. 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, 2009. 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. Nevertheless, the GAF waiver may need to be fine-tuned as more information on costs and benefits become available. The absence of hurricanes in the last two years has not allowed FPL to gather additional information. Therefore, staff believes that at this point, the Commission has no basis to modify the 25 percent reduction in the otherwise

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applicable CIAC to recognize the estimated avoided storm restoration costs when large contiguous areas are converted.

Similarly as required by the GAF approving order, FPL should at least 60 days prior to the expiration of the GAF tariff in October 2009 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.

As noted in the case background, MUUC was a party to Docket No. 060150-EI. FPL states that counsel for MUUC has authorized FPL to represent that MUUC fully supports extension of the availability of the GAF tariff to October 2009.

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Issue 2: Should this docket be closed?

Recommendation: Yes. If Issue 1 is approved, this tariff should become effective on October 31, 2008. 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. (Sayler)

Staff Analysis: If Issue 1 is approved, this tariff should become effective on October 31, 2008. 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
EXHIBIT B**

Additional Storm Restoration Data

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

Note: During 2006 and 2007, 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 - 3/08)

Ballpark cost estimates:	64
Binding cost estimates:	16
Projects completed:	2
Projects in engineering design:	20
Projects under construction:	2