

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re : Complaint and petition	)	DOCKET NO. 900811-EI
of Town of Golden Beach for	)	ORDER NO. 24976
relief from alleged insufficient,	)	ISSUED: 8/26/91
inadequate, and unsafe overhead	)	
electric service provided by	)	
Florida Power and Light Company.	)	
	)	

SECOND SUPPLEMENTAL ORDER ON PREHEARING PROCEDURE

BY THE COMMISSION:

On October 5, 1990, The Town of Golden Beach (Town or Golden Beach) filed a Complaint and Petition of Town of Golden Beach (Document No. 8995-90) which alleges that Florida Power and Light Company (FPL or Company) did not provide the Town with reasonably sufficient, adequate, efficient, and safe service, and which also alleges that FPL's dealings with the Town were not in good faith. To allow for the possibility of a settlement between Golden Beach and FPL, we stayed the proceedings until May 15, 1991. Unfortunately, the parties were not able to come to an agreement. A hearing is scheduled for October 23 and 24, 1991.

In Supplemental Order on Prehearing Procedure and Order Denying FPL's Motion to Strike, Order No. 24800, issued July 11, 1991, we ordered Golden Beach and FPL to file proposed issues on or before July 26, 1991. Upon review of these proposed issues, it became apparent that the parties would have to be brought together if there was to be an agreement concerning the issues which will be developed at hearing. Accordingly, on August 12, 1991, Staff met with Golden Beach and FPL to develop the issues for hearing.

The parties have stipulated that the following issues are appropriate for consideration by the Commission in this docket:

- 1.) From January 1, 1987, to July 31, 1991, has Florida Power and Light (FPL or Utility) provided the Town of Golden Beach (Golden Beach or Town) and its residents reasonably sufficient, adequate, efficient, and safe electric service?

ORDER NO. 24976  
DOCKET NO. 900811-EI  
PAGE 2

- 2.) If FPL has not provided reasonably sufficient, adequate, efficient, and safe electric service, did FPL violate its statutory obligations to do so under Section 366.03, Florida Statutes?
- 3.) If FPL violated its statutory obligations under Section 366.03, Florida Statutes, was such violation wilful?
- 4.) Given FPL's post-complaint construction, is the current electric service provided to Golden Beach and its residents reasonably sufficient, adequate, efficient, and safe?
- 5.) What was the effect on the citizens of Golden Beach as a result of the downed lines, outages, and voltage fluctuations that initiated this complaint?
- 6.) Was the refurbishment done by FPL the most appropriate means to provide reasonably sufficient, adequate, efficient, and safe electric service in Golden Beach?
- 7.) If the Commission determines that a contribution-in-aid-of-construction (CIAC) should be paid for an overhead-to-underground conversion in this matter, how should the CIAC be calculated?
- 8.) If the Commission determines that a CIAC should be paid here, what are the appropriate mechanisms by which the CIAC should be collected?
- 9.) What other terms and conditions should be required by the Commission for an overhead-to-underground conversion in Golden Beach?
- 10.) Has FPL dealt with Golden Beach in good faith regarding the Town's requests and efforts to obtain reasonably sufficient, adequate, efficient, and safe electric service, and to have portions of its distribution system converted from overhead-to-underground facilities?
- 11.) If the Commission finds that FPL did not act in good faith, what actions, if any, should the Commission take?

ORDER NO. 24976  
DOCKET NO. 900811-EI  
PAGE 3

- 12.) Under what terms and conditions and at what CIAC should the commission require FPL to offer underground distribution service to Golden Beach?
- 13.) What other actions, if any, should the Commission take in this case?

While the parties agree to the thirteen issues above, Golden Beach proposes three additional issues which were listed in Town of Golden Beach's Statement of Proposed Issues, filed July 26, 1991 (Document No. 7573-91). The three additional issues which Golden Beach would like to be considered are as follows:

- A.) Is FPL's behavior in this instance indicative of a broader pattern of bad-faith dealings with communities seeking conversion of overhead distribution facilities to underground systems? If so, what sanctions should the Commission impose on FPL?
- B.) Has FPL violated its obligation not to subject Golden Beach to undue prejudice when it required that Golden Beach pay \$66,400 CIAC and assume other costs to convert the Ocean Boulevard overhead distribution lines to underground? If so, what sanctions should be imposed against FPL?
- C.) Has FPL violated its obligation not to subject Golden Beach to undue prejudice when it replaced the overhead system on the West Side without treating Golden Beach comparably to new customers? Is so, what sanctions should be imposed against FPL?

The prehearing officer will rule on whether these three additional issues will be considered at the Prehearing Conference on September 27, 1991, unless a Motion to Strike is filed prior to that time.

The parties shall not add any additional issues, nor change any of the issues listed above. Furthermore, when the parties file positions to these issues, in addition to the filing with the Divisions of Records and Reporting, each party shall furnish, if available, a copy to the Division of Legal Services, Room 226, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida 32399-0863, on computer diskette formatted to the specifications of WordPerfect, version 5.1. The Legal Division's WordPerfect 5.1

ORDER NO. 24976  
DOCKET NO. 900811-EI  
PAGE 4

program is set up with the following parameters:

- 1.) Courier 10 pitch type-face
- 2.) Tabs are set at 1.5", 2.5", 4.25" and 5.5", and
3. 3 and 1/2" high density diskette.

It is, therefore,

ORDERED by the Florida Public Service Commission that the 13 Issues listed above shall be the issues which will be considered at the hearing in Docket No. 900811-EI. It is further

ORDERED that with the exception of the proposed issues A-C listed above, no other issues will be considered in this docket.

By ORDER of Michael McK. Wilson, Commissioner and Prehearing Officer, this 26th day of AUGUST, 1991.



MICHAEL McK. WILSON, Commissioner  
and Prehearing Officer

( S E A L )

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

ORDER NO. 24976  
DOCKET NO. 900811-EI  
PAGE 5

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or sewer utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.