

State of Florida



Public Service Commission
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DATE: December 22, 2009

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Draper, Kummer) *ED*
Office of the General Counsel (Jaeger, Sayler) *JK* *ES* *TS* *W*

RE: Docket No. 070231-EI – Petition for approval of 2007 revisions to underground residential and commercial distribution tariff, by Florida Power & Light Company.

Docket No. 080244-EI – Petition for approval of underground conversion tariff revisions, by Florida Power & Light Company.

AGENDA: 01/05/10 – Regular Agenda – Tariff Filing - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Edgar

CRITICAL DATES: 01/20/04 (60-Day Suspension Date)

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\070231.RCM.DOC

Case Background

Docket No. 070231-EI

On April 2, 2007, Florida Power & Light Company (FPL) filed its underground residential distribution (URD) and underground commercial/industrial distribution (UCD) tariffs. By Order No. PSC-07-0835-TRF-EI, issued October 16, 2007, the Commission proposed to approve these tariffs. However, on November 6, 2007, the Municipal Underground Utilities Consortium (MUUC) and the City of Coconut Creek (Coconut Creek) filed their timely protest of that order. Also, the City of South Daytona (South Daytona) was granted intervention by

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Order No. PSC-08-0486-PCO-EI, issued August 1, 2008. Although the Order proposing to approve the tariffs was protested, the tariff rates in that Order remained in effect with any charges collected held subject to refund. A formal hearing was scheduled, but was continued to allow FPL to file revised tariff sheets to reflect the changes in Rule 25-6.078, Florida Administrative Code (F.A.C.), which require certain additional operating costs to be taken into consideration.

On April 1, 2008, FPL filed revised URD and UCD tariffs, which it alleged reflected the changes in Rule 25-6.078, F.A.C. By Order No. PSC-08-0774-TRF-EI, issued November 24, 2008, the Commission proposed to approve the April 1, 2008, tariffs in Docket No. 070231-EI. On December 15, 2008, MUUC timely protested Order No. PSC-08-0774-TRF-EI, requesting this matter be set for a formal hearing. On December 16, 2008, South Daytona filed an untimely protest. Pending resolution of the protests, the April 1, 2008, tariffs have remained in effect with any charges collected held subject to refund.

On May 14, 2009, the protesters confirmed that they were withdrawing their objections to the UCD tariffs approved in this docket.

Docket No. 080244-EI

On April 30, 2008, FPL filed a petition requesting approval of its underground conversion tariffs, in order to implement the requirements of amended Rule 25-6.115, F.A.C. On May 28, 2008, MUUC filed a petition to intervene, which was granted by Order No. PSC-08-0460-PCO-EI, issued on July 17, 2008. On June 6, 2008, South Daytona filed a petition to intervene, which was granted by Order No. PSC-08-0461-PCO-EI, issued on July 17, 2008.

By Order No. PSC-08-0780-TRF-EI, issued November 26, 2008, the Commission proposed to approve these tariffs. On December 17, 2008, MUUC, Coconut Creek, the Town of Palm Beach (Palm Beach), and Town of Jupiter Inlet (Jupiter Inlet) timely protested Order No. PSC-08-0780-TRF-EI, requesting this matter be set for a formal hearing. On December 22, 2008, South Daytona filed an untimely protest. The underground conversion tariffs approved by Order No. PSC-08-0780-TRF-EI remain in effect with any collections being held subject to refund.

Consolidation

By Order No. PSC-09-0114-PCO-EI, issued February 25, 2009, both dockets were consolidated and scheduled for a formal administrative hearing on June 3-4, 2009, with all subsequent filings to be filed in Docket No. 080244-EI.

Further proceedings

A hearing was scheduled for June 3, 2009. When the hearing was convened, the parties announced that they had reached philosophical agreement on a settlement of these two dockets along with Docket No. 080522-EI. The parties requested that the hearing be held in abeyance until the parties could complete the actions contemplated under the proposed settlement. At a later date the parties indicated they would formally submit the settlement along with revised

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tariff sheets for Commission approval. Parties completed the necessary actions and submitted the settlement for approval on November 20, 2009. The City of South Daytona withdrew as an intervenor in these dockets on October 22, 2009.

The Commission has jurisdiction over this matter pursuant to Sections 366.03, 366.04, 366.05, and 366.06, Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should the Commission suspend the tariffs associated with settlement of Docket Nos. 070231-EI and 080244-EI? (Tariff Sheet Nos. 6.100, 6.300, and 9.725)

Recommendation: Yes. The tariffs should be suspended to allow staff adequate time to review the settlement in its totality and bring a recommendation to the Commission. (Kummer)

Staff Analysis: The proposed settlement would resolve Docket Nos. 070231-EI and 080244-EI, as well as the complaint filed in Docket No. 080522-EI. As part of the settlement revised tariff sheets were filed. The Commission has sixty days from the date of filing, to approve, deny, or suspend tariff under statute. Due to other rate case work load, staff has not been able to adequately review the proposal to ensure that the settlement adequately addresses all the issues raised in the three dockets.

Pursuant to Section 366.06(3), F. S., the Commission may withhold consent to the operation of all or any portion of a new rate schedule, delivering to the utility requesting such increase a reason or written statement of good cause for doing so within 60 days. Staff believes the reason stated above is good cause consistent with the requirement of Section 366.06(3), F.S.

Issue 2: Should this docket be closed?

Recommendation: No. The docket should remain open to address the substance of the settlement. (Sayler, Jaeger)

Staff Analysis: The docket should remain open to address the substance of the settlement.