

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request by Florida Power) DOCKET NO. 970183-EI
& Light Company to revise Tariff) ORDER NO. PSC-97-0459-FOF-EI
Sheets 6.001, 6.002, 6.040,) ISSUED: April 22, 1997
6.050, 6.060, and 6.061 to add a)
section defining unobstructed)
access to company's facilities.)
_____)

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
SUSAN F. CLARK
J. TERRY DEASON
JOE GARCIA
DIANE K. KIESLING

ORDER APPROVING REVISIONS TO TARIFF

BY THE COMMISSION:

Florida Power & Light Company (FPL) first proposed a tariff revision clarifying the definition of "unobstructed access" in April 1996 in Docket No. 960565-EI. That language stated that if the utility did not have access to repair its facilities, it would notify the homeowner and require that the obstruction be removed within 20 working days. If the homeowner did not provide sufficient access within the specified period, FPL would remove the obstruction and bill the homeowner for the cost of removal. This matter was scheduled for Agenda in May 1996. However, upon further reflection, FPL withdrew the proposed tariff prior to our consideration and the docket was closed. FPL submitted a revised tariff on February 5, 1997. The new tariff provisions still require the customer to provide unobstructed access to utility facilities. However, it now states that if the obstruction is not removed, or arrangements made for another option (such as relocation of the service drop), within 20 working days, FPL may terminate service until the matter is resolved. The customer has the right to request our review of termination of service under this provision. The utility has agreed that service will not be disconnected during the review of the complaint.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

DECISION

We approve the proposed revisions to Tariff Sheets 6.001, 6.002, 6.040, 6.050, 6.060, and 6.061 to add Section 5.6, Unobstructed Access to Company Facilities, to Florida Power & Light Company's Rules and Regulations. The proposed addition is contained in Tariff Sheet 6.040 in the Rules and Regulations section of the utility's tariff. The remaining pages are revisions to the index and revisions required to accommodate spacing for the new text. The proposed language, included as Attachment 1, clarifies the definition of safe access by the utility to the premises of the Customer: (1) to require customers to work with the utility to prevent or mitigate obstructions; or (2) risk discontinuance of service if customer-owned obstructions to utility facilities are not removed. The utility currently has the ability to discontinue service if a customer does not provide safe and reasonable access under Rule 25-6.105(5)(f), Florida Administrative Code (F.A.C.). The proposed language explicitly requires that the company have "perpetual unobstructed access to its overhead and underground facilities such as poles, underground cables, pad mounted transformers and meters in order to perform repair and maintenance in a safe, timely and cost-efficient manner." The new language is aimed at preventing or mitigating problems caused by external construction such as home additions, driveways, pools, and patios built after the electric facilities were installed. Inability to gain access to its facilities hinders timely and cost-effective repairs and maintenance and may result in delayed service restoration or unsafe conditions.

Under the new tariff, the customer is required to consult with the utility prior to any construction by the customer which might interfere with the utility's access to its facilities, to determine if relocation of the electric facilities is required. If a problem requiring utility maintenance occurs, and new or existing construction interferes with the utility's access, the utility shall discuss with the customer feasible alternatives to facilitate the necessary repairs at minimum disruption to both parties. The customer would be responsible for any costs incurred by the utility in excess of that required to perform the same function in an unobstructed area. If the only option is removal of the obstruction or relocation of the service, the customer is required to take action within 20 working days. This time frame is consistent with the utility's internal policy for completing repairs to remove ground straps used to temporarily restore underground service.

If, after 20 working days, the customer has failed to remedy the situation or make other arrangements with the utility, the utility may discontinue service pursuant to Rule 25-6.105(5)(f), F.A.C. The utility must comply with all applicable noticing requirements contained in Rule 25-6.105. The notice sent in compliance with this rule would not be sent until the expiration of the 20 working days and includes our toll free number if the customer wishes to contest the discontinuance of service. The company has agreed that if the customer appeals discontinuance of service pursuant to this provision to us, that service will not be disconnected until we make a final resolution of the complaint. If approved, the new requirement will be explained in a bill stuffer sent to customers in late April to early May.

Although the new language applies to all utility facilities, FPL has experienced problems primarily with directly buried underground service drops where customers build permanent structures over underground facilities. Unlike cable in conduit which can be repaired without digging up the conduit, when a service problem occurs with direct buried drops, the company is unable to dig up the cable for repairs without destroying the customer's patio, pool or driveway. The use of direct buried cable is being phased out over time since all underground service drop installations since 1985 have been placed in conduit. As a result, areas with cable that is most likely to fail due to deterioration or damage will be located in older subdivisions where homeowners are more apt to have extended or improved upon the original structures and built over utility lines.

Currently, when a failure occurs in a direct buried service drop, the company places a temporary above-ground connection, or ground strap, to restore service until the customer can remove the obstruction to allow proper repair of the underground facilities, or the drop can be relocated. However, the utility has found that once service is restored, the customer has little incentive to remove the obstruction or pay for relocation of the drop, especially if the cost is substantial. This can create a potentially dangerous situation with prolonged use of ground strap connections.

FPL has assured the Commission that simply the presence of a utility-installed groundstrap would not be considered a hazardous condition subject to disconnect without notice under Rule 25-6.105(5)(h), F.A.C. "Hazardous conditions" under this provision refers to a dangerous situation on the customer's side of the meter such as exposed wires, a damaged weather head, or inability to meet building code (common following Hurricane Andrew). It would not apply to a situation resulting from a temporary repair installed by

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the utility. The company believes more explicit tariff language covering access to facilities will assist their field staff in all situations where access is at issue. The change simply makes more explicit FPL's authority to have access to its facilities. No change in rates or charges are associated with this tariff revision. Florida Public Service Commission review is available if the customer and the utility are unable to resolve any unobstructed access question. The filing of a complaint by a ratepayer will assure that service is maintained during the resolution of the dispute.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that revisions to Tariff Sheets 6.001, 6.002, 6.040, 6.050, 6.060, and 6.061 to add Section 5.6, Unobstructed Access to Company Facilities to Florida Power & Light Company's Rules and Regulations are approved. It is further

ORDERED that the effective date of the revisions to Tariff Sheets 6.001, 6.002, 6.040, 6.050, 6.060, and 6.061 to add Section 5.6, Unobstructed Access to Company Facilities to Florida Power & Light Company's Rules and Regulations is April 1, 1997. It is further

ORDERED if a protest is filed in accordance with the requirements set forth below, the tariff shall remain in effect pending resolution of the protest. It is further

ORDERED that if no protest is filed in accordance with the requirements set forth below, this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 22nd day of April, 1997.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

(S E A L)

LJP

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The Commission's decision on this tariff is interim in nature and will become final, unless a person whose substantial interests are affected by the action proposed files a petition for a formal proceeding, as provided by Rule 25-22.036(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a)(d) and (e), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 13, 1997.

In the absence of such a petition, this order shall become final on the day subsequent to the above date.

Any objection or protest filed in this docket before the issuance date of this Order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this Order becomes final on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the date this Order becomes final, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.