

FLORIDA PUBLIC SERVICE COMMISSION
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Tallahassee, Florida 32399-0850

MEMORANDUM

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JANUARY 8, 1998

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TO : DIRECTOR OF RECORDS AND REPORTING (BAYO) ^{EJD} ^{DIR} ^{11:50} ⁷²⁷ ^{Records/Reporting}

FROM : DIVISION OF ELECTRIC AND GAS (DRAPER, WHEELER)
DIVISION OF LEGAL SERVICES (JAYE) ^{ORVE}

RE : DOCKET NO. 971256-EI - PETITION FOR APPROVAL OF PREMIUM LIGHTING AND RECREATIONAL LIGHTING SERVICE RATE SCHEDULES AND AGREEMENTS BY FLORIDA POWER & LIGHT COMPANY

AGENDA: JANUARY 20, 1998 - REGULAR AGENDA - TARIFF FILING - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: 8-MONTH EFFECTIVE DATE: MAY 2, 1998

SPECIAL INSTRUCTIONS: S:\PSC\EAG\WP\971256EI.RCM

CASE BACKGROUND

On September 29, 1997 Florida Power & Light Company (FPL) filed a petition for approval of Premium Lighting (PL) and Recreational Lighting (RL) service rate schedules and agreements. FPL currently offers Street Lighting and Outdoor Lighting service (rate schedules SL-1 and OL-1). The PL and RL rate schedules are intended to offer customers fixtures and poles that are not available under the SL-1 and OL-1 rate schedules. FPL alleges that customers have been requesting a greater variety of decorative fixtures and poles and that the current lighting schedules do not provide sufficient variety in fixtures and poles. The customer will be required to sign an agreement for a minimum term of 20 years. Should the customer choose to terminate service early, the customer will be required to pay a termination fee.

At the November 18, 1997 Agenda Conference the Commission suspended the proposed tariff to provide additional time for investigation.

In addition to offering customers a greater choice of poles and fixtures, the PL and RL rate schedules expand the area of application. The current SL-1 tariff is available for streets and roadways only, and does not apply to municipally or privately-owned parking lots, parks and recreational areas. The OL-1 tariff is available for outdoor security lighting of yards or walkways. The PL rate will be available for streets and common areas such as

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parks and parking lots. The RL rate will be available to community recreational areas such as football fields.

By expanding the service area FPL will be directly competing with private contractors. The customer has the choice of buying the pole and fixture from a private contractor or renting from FPL. Should the customer choose a contractor to provide the lighting facilities, FPL will provide the energy only.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission approve FPL's petition for approval of the Premium Lighting (Tariff Sheets Nos. 8.720-8.722), Recreational Lighting (Tariff Sheets Nos. 8.743-8.745), Premium Lighting Agreement (Tariff Sheets Nos. 9.120-9.122), and Recreational Lighting Agreement (Tariff Sheets Nos. 9.130-9.132)?

RECOMMENDATION: Yes. (Jenkins)

ALTERNATIVE RECOMMENDATION: No. (Draper, Wheeler)

PRIMARY STAFF ANALYSIS: FPL proposed two new rate schedules: Premium Lighting (PL) and Recreational Lighting (RL). The energy charge for the PL rate was developed by multiplying the non-fuel energy rate of 2.480 cents per kWh, which has been approved for FPL's existing SL-1 tariff, by the estimated monthly kWh usage of each of the lights. Since street lights are not metered, the estimated usages are based on the wattages of the lamps and an average burn time estimate. Under the RL tariff, which will be available to recreational areas such as sports fields, service will be metered and the otherwise applicable general service rate will apply.

Under both the PL and RL rate schedules the customer has the option of paying for the fixtures in full, over 10 years, or over 20 years. The monthly facilities or fixture charge, which represents the rental charge for the fixture, is designed to recover the present value requirements over either a 20 year or a 10 year term. The tariff states that the maintenance charge will be estimated, but FPL provided workpapers showing how generic maintenance factors will be developed. The developed maintenance factor will be multiplied against total work order cost to produce the monthly maintenance charge. Total work order cost consists of labor, materials, and other costs and will be determined using the same methodology for each customer.

Primary staff recommends approval of the instant petition. This is an optional tariff offering intended to meet the specific

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needs of customers who desire a greater variety in poles and fixtures. Primary staff believes that FPL will recover the cost of its poles and fixtures offered under the proposed rate schedules and therefore FPL's other ratepayers will not be harmed by this proposal.

ALTERNATIVE STAFF ANALYSIS: Staff compared FPL's proposed PL and RL tariff schedules to the Commission-approved lighting rates for other investor-owned electric utilities (IOU) and FPL's existing SL-1 and OL-1 rate. A common characteristic among all current lighting tariffs is a listing of all available fixtures and poles. In addition the tariffs provide the monthly maintenance, fixture, and energy charges for each fixture option and a monthly charge for each pole option. Florida Power Corporation's Lighting Service and Gulf's Outdoor Service have special provisions that state that they will provide a fixture or pole type other than those listed. No specific charges for these other optional fixtures or poles are listed in the tariffs.

In reviewing FPL's proposed tariff sheets, staff became concerned that none of the fixtures and poles available under the PL or RL rate schedule are listed, nor does FPL provide any charges. For example, in lieu of a maintenance charge, the PL and RL tariff sheets state: "Maintenance: FPL's estimated costs of maintaining lighting facilities." The facilities charge, which represents the monthly rental charge of the fixture, is stated as a percentage of the total work order cost. Total work order cost, however, is not defined. In addition, FPL reserves the right to charge customers an additional billing or customer charge. Normally, the customer charge is embedded in the non-fuel energy charge. The only charge specifically listed in the proposed tariffs is the non-fuel energy charge.

Upon request by staff, FPL did provide workpapers which outline the method that will be used to develop work order cost, maintenance, and monthly facilities charges. The final charges will vary, however, depending on the customers' specific requirements such as size, color, or number of poles and fixtures rented. The Premium Lighting Agreement or the Recreational Lighting Agreement the customer will sign with FPL will contain all the final charges.

In response to staff's concerns, FPL stated that it currently is aware of only two types of fixtures customers might request: Acorn and Shoebox. Staff suggested that FPL list in the tariff the Acorn and Shoebox fixtures with the associated charges, and add a section to state that the company will provide other fixtures and poles upon a customer's request. FPL did not agree to staff's

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proposal, stating that listing any specific fixture and charge in the tariff will curtail its ability to meet customers' demands. Staff notes that Tampa Electric Company's Premium Outdoor Lighting Service tariff lists 22 fixtures and 17 poles and all associated charges for each option. During informal discussion Tampa Electric told staff that its Premium Outdoor tariff has been very successful.

Staff recommends that FPL's petition be denied because the proposed tariff appears to be in violation of Section 366.06(1), Florida Statutes. This statute states that no public utility "shall . . . charge or receive any rate not on file with the commission for the particular class of service involved." This statute also states that all changes in rates will be made to the Commission in writing and that "the commission shall have the authority to determine and fix fair, just and reasonable rates that may be requested, demanded, charged, or collected by any public utility for its service." Because utilities are required to file rates with the Commission so that the Commission may determine if they are fair, just and reasonable, this tariff filing is insufficient. Without more information as to the charges contained in the tariff the Commission cannot make this determination.

The Commission approved in Order No. PSC-96-1219-FOF-EI, issued September 24, 1996, Gulf Power Company's optional Commercial Industrial Service Rider (CISR) tariff. The CISR tariff lists no rates, but allows Gulf the flexibility to enter into negotiated contracts with at-risk customers. Gulf argued that by retaining at-risk load all customers benefit. FPL's proposal, however, is not intended to retain at-risk load. To approve FPL's proposed tariff would set a precedent, allowing IOU's to file tariffs which include no charges and rates.

Moreover, to approve this tariff would violate Rule 25-6.033(2), Florida Administrative Code. Rule 25-6.033(2) states that each utility "shall file with the Commission tariffs containing schedules for all rates and charges." The information provided by FPL in its tariff does not list all the rates and charges for this service.

In 1983 the Commission, on its own motion, held a generic investigation to determine whether to deregulate streetlighting and outdoor lighting service by electric utilities (see Docket No. 830066-EU). In Order No. 12563, issued September 28, 1983, the Commission defined what it meant by deregulation of streetlighting and outdoor lighting:

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Deregulation of such service would mean that the utilities' tariffs would reflect only the energy charge for service. The charges for lighting facilities and maintenance would then be set by the marketplace.

At the prehearing conference, all parties agreed that street lighting service should not be deregulated. Order No. 14081, issued February 13, 1985, ordered that the investigation be discontinued and the docket be closed. FPL does not propose to deregulate lighting services, and staff believes that FPL intends to charge facilities and maintenance charges which are based on customer-specific cost. However, staff notes that the proposed PL and RL tariffs list only the energy charge, which is what was envisioned as a tariff for a deregulated service in the 1983 docket.

Some of the discussion during the generic investigation focused on complaints by electric contractors who alleged that the utility has an unfair advantage in the lighting market. Staff continues to receive a number of complaints from private contractors who claim that utilities have to meet less stringent safety and engineering standards to install lighting facilities, therefore providing the utilities an unfair advantage. The National Electric Code covers lighting installations by contractors, but not by electric utilities. In addition, utilities do not have to receive permits from the county or city to install lighting facilities. Staff believes that by expanding the service area, staff will receive additional complaints from contractors.

The primary response to these complaints has always been that the Commission sets all charges after determining that they are based on cost. FPL's proposed open-ended tariff removes that safeguard. Staff believes allowing FPL the latitude requested will result in increased complaints which will require time-consuming investigations to determine if FPL has calculated each rate appropriately.

In sum, alternative staff believes that a tariff for a regulated service upon which the utility earns a return requires that all charges and rates be listed. Approval of the instant petition would set a precedent for other utilities to file similar tariffs. Staff recommends that the tariff as proposed be denied as inappropriately vague and in violation of Section 366.06(1), Florida Statutes, and Rule 25-6.033(2), Florida Administrative Code.

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ISSUE 2: Should this docket be closed?

PRIMARY RECOMMENDATION: Yes. If Issue 1 is approved, this tariff should become effective on January 20, 1998. If a protest is filed within 21 days of the issuance of the Order, this tariff should remain in effect with any increase held subject to refund pending resolution of the protest. If no timely protest is filed, this docket should be closed.

ALTERNATIVE RECOMMENDATION: Yes. If Alternative Issue 1 is approved, this tariff should not become effective. If no timely protest is filed within 21 days of the issuance of this Order, this docket should be closed.

PRIMARY STAFF ANALYSIS: If Issue 1 is approved, this tariff should become effective on January 20, 1998. If a protest is filed within 21 days of the issuance of the Order, this tariff should remain in effect with any increase held subject to refund pending resolution of the protest. If no timely protest is filed, this docket should be closed.

ALTERNATIVE STAFF ANALYSIS: If Alternative Issue 1 is approved, this tariff should not become effective. If no timely protest is filed within 21 days of the issuance of this Order, this docket should be closed.