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Reply to Tallahassee

March 5, 2007

Via Hand Delivery

Blanca Bayo, Director
Division of the Commission Clerk and
Administrative Services
Florida Public Service Commission
Betty Easley Conference Center
4075 Esplande Drive, Room 110
Tallahassee, FL 32399-0850

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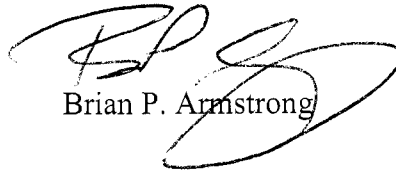
In re: Requirement for investor-owned electric
Utilities to file ongoing storm preparedness
Plans and implementation cost estimates
Docket No. 060198-EI

Dear Ms. Bayo:

Enclosed please find the Post Hearing Statement and Brief of the City of North Miami for
filing in the above matter.

Thank you for your assistance in this matter.

Very truly yours,



Brian P. Armstrong

- CMP _____
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- RCA _____
- SCR _____
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Enclosure

cc: John T. Butler, Esquire
V. Lynn Whitfield, Esquire
Rosanne Gervasi, Esquire

DOCUMENT NUMBER - DATE
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FPSC-COMMISSION CLERK

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Requirement for investor-owned electric
Utilities to file ongoing storm preparedness
Plans and implementation cost estimates.

DOCKET NO. 060198-EI
FILED: March 5, 2007

**POST HEARING STATEMENT AND BRIEF
OF CITY OF NORTH MIAMI**

Pursuant to the Prehearing Order, the City of North Miami ("City") files its Post Hearing Statement and Brief in the above-styled case and states as follows:

BASIC POSITION

The Commission opened this investigation to address the suffering of customers who lost electric service after recent weather events. The Commission found that the implementation of a 3 year lateral tree trimming cycle would reduce customer interruptions -- and consequently, provide reliable customer service.

Despite the fact that customers of Florida Power & Light ("FPL") suffered the most from the recent weather events, FPL proposes to only implement a 6 year "average" lateral tree trimming cycle. This 6 year cycle is the longest cycle proposed by any utility (tying Gulf Power Company's proposal) and FPL proposes to take the longest time to implement even this lengthy cycle.

FPL's witness Miranda confirms that a 3 year cycle results in more reliable service, however, FPL suggests that the cost of a 3 year cycle outweighs the improved reliability. FPL's cost-benefit analysis is based on subjective assumptions. Moreover, FPL's purported costs of implementing a 3 year versus a 6 year trim cycle are subject to question as FPL failed to compare

the cost of bringing tree trimming activities "in house," to FPL's projected cost of having tree trimming activities performed by contractors.

Issue 1: Should Florida Power & Light (FPL) Company establish a three-year cycle for its vegetation management program within the City of North Miami?

*** * * Yes. Order No. PSC-06-0351-PAA-EI requires utilities to provide a 3 year trim cycle for lateral distribution lines unless they can show their proposed alternative is "equivalent or better in terms of cost and reliability." FPL's testimony shows that its 6 year trim cycle for laterals is less reliable than the 3 year cycle. See Exhibit 11. In addition, FPL's projected costs are subject to question. See Order No. PSC-06-0781-PAA-EI. * * ***

Issue 2: Should the docket be closed?

***** No. The docket should remain open until FPL submits a trimming plan that complies with the requirements of Order No. PSC-06-0351-PAA-EI, and which is supported by reliable data. *****

Approximately 3.2 million people served by FPL were without power for periods ranging from one day to eighteen days following Hurricane Wilma in 2004. Exh. 1 (Review of Florida's Investor-Owned Electric Utilities' Service Reliability in 2005, at pg. 6). The suffering of FPL's customers was more widespread and devastating than the suffering of customers served by any other electric utility in Florida. The suffering of utility customers in the aftermath of a series of hurricanes and other storm events lead the Florida Public Service Commission ("Commission") to open an investigation into the policies, practices and procedures of the electric utilities, particularly those policies, practices and procedures which can influence whether, and to what extent, utility customers are left without power after storms. The Commission recognized the utilities' tree-trimming practices as one of the ten utility practices that most directly effect the incidence of weather-related power outages. Recognizing this fact, the Commission determined, among other things, that the most effective tree trimming practice that a utility could implement was a three year tree trimming cycle for laterals.

The Commission issued Order No. PSC-06-0351-PAA-EI in this docket on April 25, 2006, pursuant to which the electric utilities were ordered to establish a three year trimming cycle for laterals or otherwise prove to the Commission that the implementation of a three year cycle was cost prohibitive or that a different cycle was "equal to or better than a three year cycle in terms of costs and reliability." Order No. PSC-06-0351-PAA-EI at pg. 4.

FPL made no suggestion that the implementation of a three year lateral tree trimming cycle would be cost-prohibitive. Instead, despite the fact that FPL's customers suffered the worst from the storm events which caused the Commission to, in part, find that a three year lateral tree trimming cycle was the most efficacious cycle to reduce or perhaps prevent further suffering of the magnitude recently experienced, FPL proposes in this proceeding to do the least for its customers of any of Florida's regulated electric utilities and to take the longest time to do even that. (Exh. 13). Specifically, FPL proposes to implement a 6 year lateral tree trimming cycle, not the 3 year cycle favored by the Commission. FPL further proposes that even this 6 year cycle will not be in place until the year 2013. (T. at pg. 186, lines 4-5).

The testimony of FPL's witnesses provides no comfort to the citizens of the City of North Miami, on whose behalf the governing body of the City of North Miami intervened in this proceeding. FPL's witnesses repeated consistently on cross-examination that the 6 year cycle was an "average 6 year cycle." (See e.g. T. at pg. 113, lines 10-21; pg. 114, line 22- pg. 115, line 10; pg. 153, lines 15-17). No witness provided any assurance that every lateral line would be trimmed or even inspected for trimming at least once every six years -- as a 6 year cycle would ordinarily imply.

Based on FPL's testimony it is apparent to the City that FPL in fact intends to do little to change its current tree trimming efforts. FPL suggests that laterals within the City's corporate

limits currently average 7.6 years between trimmings while other laterals throughout FPL's service area are not trimmed for an average of 10 years. In fact, FPL admits that fully 32% of FPL's laterals have not been trimmed in 10 years or more. (Exh. 3).

FPL witness Miranda suggests that FPL has performed a cost-benefit analysis which confirms that implementing a 3 year lateral tree trimming cycle is not worth the additional cost to FPL. However, the Commission already has noted that such analyses are not based on forensic data, otherwise known as "facts." (Order No. PSC-06-0781-PAA-EI at pg. 4). Rather, FPL's analysis is based on the subjective assumptions of the FPL employee or consultant who performed the analysis. For this reason, the results of the analysis can be skewed based upon the subjective assumptions made and input into the analysis.

Further, FPL's analysis confirms that the implementation of a 6 year cycle would increase the number of customer interruptions by more than 50,000 per year, or a 50 % increase from the level of customer interruptions that would be expected under a three year cycle. (Exh. 11).

FPL's analysis also assumes a direct linear correlation between the number of miles of laterals trimmed and the cost of such trimming. This assumption is invalidated by FPL's historical experience which indicates that no such correlation exists. (Exh. 16). As shown on Exhibit 16, FPL suggests that the cost of tree trimming will rise steadily from year to year but the number of miles trimmed historically, and in FPL's projections, can increase or decrease.

Finally, and most importantly, FPL admits that it failed to compare the cost of continuing its current practice of contracting out all tree trimming activities to third party contractors to the cost that FPL would incur if it had tree trimming performed by FPL employees. (T. at pgs. 191-193). It is inconceivable that FPL would propose to implement a purportedly new tree-trimming program that FPL suggests will cost \$76.5 million annually once fully implemented (a \$ 34.9

million annual increase), without evaluating whether such costs can be reduced by bringing tree trimming activities "in house." (Exhs. 15 and 16.)

FPL's witness Miranda admitted that FPL did not perform this cost comparison for the purposes of this proceeding. (T. at pg. 193, lines 2-6). However, the witness suggested that FPL had performed such analyses in the past. Id. This testimony makes it more puzzling as to why FPL has failed to re-address the cost issue when FPL consistently emphasizes in this proceeding that its proposed 6 year cycle will cost tens of millions of dollars more each year. Perhaps if the tree trimming activities were brought "in house," the cost of a 3 year lateral tree trimming cycle would be no more than FPL suggests it will cost to have an "average" 6 year cycle performed by third party contractors. Moreover, by bringing this work "in house," FPL would be able to more directly control the tree trimming process and could insure that every lateral is inspected and, if necessary, trimmed at least once every 6 years. There should be no doubt that a 3 year lateral tree trimming cycle will provide more reliable service to FPL's customers than the proposed 6 year "average" cycle.



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CO-COUNSEL FOR CITY OF NORTH MIAMI

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to JOHN T. BUTLER, ESQUIRE, Florida Power and Light Company, 700 Universe Boulevard, Juno Beach, Florida 33408-0420, this 5th day of March, 2007.



BRIAN P. ARMSTRONG

Copies furnished to:

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