Chairman Carter Requested that written testimony be included in the record. 3/18/08 Agenda Conference 080035-EU -ac

Testimony by Dr. Charles A. Falcone
Before the
State of Florida Public Service Commission
In Tallahassee, FL
On March 18, 2008
Docket No. 080035-EU

Mr. Chairman, Commissioners, Good Morning. I appreciate the opportunity to address you today on the subject of electric power distribution system underground conversion, and particularly an applicant's Contribution in Aid of Construction (CIAC) for such underground conversion. I will avoid repeating the comments already made to you by our counsel, Robert S. Wright, Esq.

Briefly, my background is as follows. I am a retired Senior Vice President from American Electric Power Company, which I believe is the largest electric utility holding company in the United States, serving in 11 states, where I was responsible for the company's transmission policy, system operation, wholesale power marketing, transmission service marketing, and I served as the "relationship manager" for all the company's dealings with over 100 municipal and cooperative utilities. Today I am Mayor of the Town of Jupiter Island.

I will add that I worked in several utility roles, but never as a rates and tariffs analyst. We always had competent staff to do that, and perhaps some of it rubbed off on me, but I suspect not too much.

I ask that this testimony, copies of which are available in written form, be included in the record.

The Town of Jupiter Island has had the explicit goal to replace its aging overhead distribution system with an underground cable system since the year 2000. During the first several years of that period, FPL representatives discouraged us from doing it, both with their speeches and their policies. We were undeterred, and we even carried our story to Tallahassee, spoke to the staff, spoke to all the commissioners then seated, including some of you. But there was no change in policy or attitudes at FPL or, in our perception in Tallahassee, until Wilma in 2005.

The hurricanes of 2004-05 changed things at FPL. It's only fair to give credit where it is due. FPL deserves our praise and thanks, and I know I speak for all of the Towns, for coming forward with its Storm Secure Program, part of which is a revised policy for underground distribution conversion. Wilma and her earlier sister hurricanes demonstrated brutally what happens to flimsy old overhead distribution poles and wires. The cost FPL paid to restore all the damage to its OH system was enormous – more than $1.3 Billion by FPL's estimate submitted in the GAF Waiver docket. The time it took to

CMP
COM
CTR
ECR
GCL
OPC
RCA
SCR
SGA
SEC
CLK Cole
OTH

restore service following the several hurricanes was incredibly lengthy, and customers lost tremendous value due to FPL's inability to supply electricity because of these prolonged outages. We all know that the "cost" of unserved energy is enormously greater to the customers than the nominal price of electricity otherwise served, on the order of 100 times the retail price, if not more.

We are in the beginning stage of a long period of increased anticipated hurricane frequency, according to the US Weather Service. FPL quickly recognized this and in this regard FPL is way out in front of all utilities in Florida, and most other investor-owned utilities in the USA. After the multiple hurricanes of 2004-05, FPL gave fuller appreciation to the "hardening value"—the storm-defensive value—of underground electric distribution, and reformed its policy for dealing with it. Today they officially encourage underground service, and underground conversion of overhead service.

Prior to the change, underground electric conversions were virtually non-existent. Now we can expect to see a number of Towns in Florida at least try to exercise this option. At Jupiter Island, our whole-town conversion is under way **RIGHT NOW**.

I cannot overstate the significance of FPL's epiphany. I'm glad that most of you are relatively new to electric utility regulation, because you are unlikely to be anchored in the myths of the past with regard to the merits of underground utilities. I spent my whole career in the electric utility industry. I went to many Edison Electric Institute (EEI) meetings, where the industry privately works out policy positions and finds common ground in the various areas of its business, in the industry's own self interest. This is perfectly legal. One area where they found common ground long ago—I was there, and they have not changed-- is the industry policy on underground electric conversion. There are economic reasons for utilities to discourage those conversions, which I would explain if my time today were not limited. Their position is that underground conversions are not cost effective for the customer, nor do they improve reliability, they only produce aesthetic benefits. I have read two dozen reports from many different states, all funded by utilities and performed by consultants hired by utilities, and all say about the same thing.

Well, that's very interesting, but ***it isn't true.***

It's utility propaganda at its worst, in their interest but not in the public interest. Like much propaganda, it became conventional wisdom.

It's certainly not true in Florida, or in many other locales where the forces of nature are especially unkind to overhead poles and wires. We at Jupiter Island, and some other towns, understood this, long before the hurricanes of 2004-05. We were vocal and expressed the point forcefully. The press was very interested. The utilities weren't.

The miracle is that FPL's position changed! After Wilma, there was a sea change at FPL. They saw the reality, sorted it out and went public. They proposed the GAF, and fully justified it based on avoided storm restoration costs. They accepted the concept of

constructing underground facilities in road rights-of-way, a very important change. They augmented staff to perform design studies and cost estimates.

Is the Florida PSC supportive of underground conversion? You did approve GAF last year, but you have a CIAC policy that is quite ambiguous, and perhaps actually wrong. Your staff recommends that, rather than clarify the ambiguity in the policy, you should simply reject our request for declaratory statements on all four points. We have about 6 months left until the availability of the GAF credit runs out, and the staff doesn't want you to clarify the ambiguous CIAC policy so that towns can figure out what it will cost them to do an underground conversion, and so that the towns can explain to their residents what it will cost and that they should vote YES in a referendum.

Of course, you the Commission haven't yet spoken to this.

Your staff says in their memorandum that we should negotiate these issues with FPL. We certainly have tried, but I have to tell you that negotiating policy with a giant monopoly, when there is no other utility to turn to and no other option, isn't a real negotiation. No, I look to the PSC to set the policy clearly. FPL knows that they could be at financial risk if they interpret an ambiguous policy in our favor, without your OK. They need to get recovery of costs either from us or from the general body of customers. You will ultimately decide whether they can put costs in rate base, so their only safe course is to err on the safe side-- overcharge us. They take a risk the other way. But you can settle the matter by clarifying the policy. If you won't do it, let me be clear--***you will discourage underground conversion.***

Jupiter Island is presently undergoing the construction phase of its underground conversion, which will continue in full swing all of this year and part of the next, and we expect to have it completely finished before the hurricane season next year, 2009. We're so earnest in doing it that we proceed at some degree of economic risk, since the cost is unclear due to the ambiguity of your policy. Other towns are not that far along or that bold, and may or may not exercise conversion depending on cost estimates, and especially on clarification of your CIAC Policy.

Under FPL's direction, our town conversion is divided into 5 phases, each approximately one fifth of the Town's geography, and we are presently in the first phase, Phase A. We decided to do part of the construction work on Phase A ourselves, specifically the excavation and conduit installation. Per formal contractual arrangements with FPL, we are doing this part and FPL, or its contractors, will do the remainder of the work—cable pulling, connections, transformer installation and removal of the old overhead system.

We are very nearly ready to contract for Phase B, and work on the remaining phases is also underway. We would very much like to do all the work on Phase B and the remaining phases with our own contractors. It's because we have found this to be an effective way to carry out the project, and the competitive market for these services is very favorable to us as buyers at this time. However, prior to making the operational decision to do all the work ourselves in Phase B, we would need your and FPL's

clarification on at least one part of this Declaratory Statement, that is the fourth part, which is briefly, ***if the Town does all the work itself, ands hands over ownership of the underground system—the finished product—to FPL, that it will get the appropriate credits for an equivalent overhead system and the GAF (and additional O&M cost savings) by way of a check from FPL***. Most of the project cost is labor, and if we do it all, we will have to pay our contractors more than the utility-calculated CIAC, so we would not get the overhead system credit, the GAF, or the other O&M credit unless the utility writes us a check. Why did we petition you for a declaratory statement? Because the policy is unclear, and apparently FPL interpreted it another way. They may be coming to agreement with us. Your staff agreed with us on this point in an earlier letter, and against us in the current memorandum.

On the second and third parts of our Petition, FPL urges that you deny, even though in one of them—***provide the materials at a reasonable cost to the Town***—they are in agreement, and in the other—***allow the Towns to carry out the removal of the old overhead facilities***—they are willing to consider it, but they don't want it to be part of the Rule. We think that these are perfectly reasonable requests for perfectly reasonable interpretations of your Rules, but it's immaterial to us whether they're in the rule, as long as FPL is willing to do it. So we don't have much of a difference with FPL on these two.

The big issue is the first part of our Request, ***corporate overheads should not be applied when the Town does the work.***

FPL makes an argument that what the Towns ask for is not what the Rule says. The Staff agrees. I think the Rule is ambiguous, and perhaps it can't be read the way we ask. If so, I believe that the Rule is wrong –or mis-stated-- and sets up the wrong test.

As FPL aptly states, "*The Rule takes as a starting point the cost for the utility to perform the underground conversion work itself, and then reduces that amount by identifiable cost savings resulting from the applicant doing the work. This ensures that the general body of customers* ***is not harmed by applicants performing all or a portion of underground conversion work…***"

But the Rule should take the status quo as a starting point, where no underground conversion takes place, and then measure the additional costs due to the conversion project.

The Rule should assure that ***as a result of the project, no additional costs are borne by the general ratepayer. There should be no additional burden, but at the same time, there should be no windfall to the general ratepayer.*** This is a very different test, but FPL's proposed interpretation of the present Rule would put some costs on the applicant that would be paid by the general ratepayer even if the project was not undertaken, thus creating a windfall to the general ratepayers or to FPL. Our residents are FPL ratepayers, and the Rule would have them paying twice for these overhead costs.

As FPL also indicates, "*FPL presently employs four distribution engineers who are working full time on underground conversions. Unless FPL collects the costs for these engineers and their associated support and overhead through CIAC, these costs will fall unfairly upon FPL's general body of customers.*"

Very true! I think FPL's statement helps us to make our point, because these costs are fully identified and can be charged to the applicants directly, through time sheet entries. Also, the cost of these four engineers and their support is but a tiny fraction of the cost that FPL is proposing to allocate to our projects as "DSS Costs"! The total annual cost for these 4 distribution engineers is about one-third the amount that FPL would, with its interpretation, collect ***just from Jupiter Island*** through its claimed "DSS Costs." The staff's suggestion that these matters should be resolved through negotiation with a giant monopoly is unrealistic. Their suggestion that it requires a complaint proceeding, with discovery, etc is wrong because you can prove this on the back of an envelope, and impractical because the GAF runs out in 6 months and towns and their residents need to know up front what the cost will be.

Commissioners, you are our hope. We believe that by approving GAF for at least a trial period, you were explicitly encouraging towns to undertake underground distribution conversion. Please clarify your CIAC Policy in a way that facilitates these conversions, by assuring that the general body of customers does not bear any costs caused by underground conversions, but that towns that convert are not required to bear costs that FPL's general body of customers would bear in any event.

Thank you for the opportunity to address the Commission.