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Sent: Thursday, March 05, 2009 4:43 PM
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Subject: Electronic Filing / Docket Nos. 070231-EI and 080244-EI - FPL's M/Amend Order Consolidating Dockets & Establishing Procedure
Attachments: Motion to Amend Order Est. Proc.(final).doc; Motion to Amend Order Est. Proc.(final).pdf

Electronic Filing

- a. Person responsible for this electronic filing:

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- b. Docket Nos.
 070231-EI - Petition for Approval of 2007 revisions to underground residential and commercial distribution tariff, by Florida Power & Light Company
 and
 080244-EI - Petition for Approval of underground Conversion tariff Revisions
- c. The Document is being filed on behalf of Florida Power & Light Company.
- d. There are a total of 5 pages
- e. The document attached for electronic filing is Florida Power & Light Company's Motion to Amend Order Consolidating Dockets and Establishing Procedure

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DOCUMENT NUMBER-DATE

01825 MAR-5 8

FPSC-COMMISSION CLERK

3/5/2009

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of underground Conversion tariff revisions, by Florida Power & Light Company.))))	Docket No. 080244-EI
In re: Petition for approval of 2007 revisions to Underground residential and commercial Distribution tariff, by Florida Power & Light Company.)))))	Docket No. 070321-EI
<hr/>		Dated: March 5, 2009

**FLORIDA POWER & LIGHT COMPANY'S MOTION TO AMEND ORDER
CONSOLIDATING DOCKETS AND ESTABLISHING PROCEDURE**

Florida Power & Light Company ("FPL" or the "Company"), by and through its undersigned counsel, hereby files with the Florida Public Service Commission (the "PSC" or the "Commission") its *Motion to Amend Order Consolidating Dockets and Establishing Procedure* in the above-entitled and numbered proceeding, and in support thereof states as follows:

1. On February 25, 2009, the Commission entered Order No. PSC-09-0114-PCO-EI entitled "*Order Consolidating Dockets and Establishing Procedure*" (hereinafter referred to as the "Order"). The entry of this Order consolidated Docket Nos. 070231-EI and 08244-EI and established the procedures and controlling dates. Through this Motion, FPL respectfully requests an amendment to only that portion of the Order establishing procedure.

2. Section VIII of the Order provides the controlling dates for the filing of testimony and exhibits by the parties to this consolidated docket. Pursuant to the Order, FPL is required to file its direct testimony and exhibits on or before March 10, 2009, and this Motion does not seek to extend the time for the filing of that direct testimony and exhibits. Thereafter, Intervenor/Protestors, Municipal Underground Utilities Consortium, the Town of Palm Beach, Florida, the City of Coconut Creek, Florida, the Town of Jupiter Inlet Colony, Florida, and the

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City of South Daytona, (hereinafter referred to as “Intervenors”) are afforded 40 days to respond such that their testimony and exhibits must be filed on or before April 20, 2009. Following the filing of Staff’s testimony and exhibits on or before April 27, 2009, FPL is required by the Order to file its rebuttal testimony and exhibits on or before May 4, 2009. This affords FPL only two weeks to respond to Intervenor testimony (and only one week to respond to Staff testimony, if any is filed).

3. FPL’s position on the issues to be addressed by the Commission in the consolidated dockets has been well known to Intervenors from the time that FPL filed its Petition For Approval of 2008 Revisions To Florida Power & Light Company’s Underground Residential and Commercial Differential Tariffs in Docket No. 070231-EI on April 1, 2008, and its Petition For Approval of Florida Power & Light Company’s Third Revised Tariff Sheet 6.300, Third Revised Tariff Sheet 9.720, Original Tariff Sheet 9.721 and Original Tariff Sheet 9.722 (Operational Cost Differentials For Underground Conversion) in Docket No. 080244-EI on April 30, 2008. The issues raised by these filings have subsequently been the subject of significant discovery and discussion among FPL, the Intervenors and Staff. The testimony and exhibits to be filed by FPL on March 10, 2009 will largely reiterate the positions that FPL has maintained and made known to the Intervenors since FPL filed its petitions for tariff approval in April 2008. While FPL’s position has been well known to the Intervenors for quite some time, FPL has not had the benefit of the legal or factual bases that Intervenors will assert to attempt to support their positions on FPL’s revised tariffs.

4. FPL respectfully submits that the Intervenors - fully aware of FPL’s position since well before FPL’s testimony is filed - do not need 40 days to respond to that testimony. At the same time, FPL submits that it will be severely prejudiced by having to review, evaluate and

respond in its rebuttal testimony within 14 days of receiving the Intervenor testimony that will set forth for the first time the Intervenors' theories and analyses. FPL therefore requests an amendment of that portion of the Order providing the Controlling Dates, such that the testimony and exhibits of the Intervenors would be due on or before April 13, 2009, while FPL's rebuttal testimony will be due on or before May 13, 2009. This would provide FPL with the additional time that will be necessary and appropriate for FPL to review, analyze and respond to the new theories and arguments to be advanced by the Intervenors. At the same time, the proposed revised schedule will still afford the Intervenors more than ample time to address and respond to FPL's testimony and exhibits.

5. In addition to the foregoing, FPL requests that the Commission permit the filing of Prehearing Statements by May 11, 2009, three days later than the date provided in the current schedule. This will allow FPL sufficient time to take the Intervenors' testimony into account in formulating its prehearing positions while still allowing sufficient time for the parties and Staff to review the Prehearing Statements and prepare for the Prehearing Conference to take place on May 18, 2009 and for the hearing to be held by the Commission on June 3-4, 2009, all as currently scheduled.

5. On a separate but related issue, and in light of the short time frame within which this matter will be litigated and come to a hearing, FPL respectfully requests an amendment to the Discovery Procedures addressed in Section IV(A)(5) of the Order. FPL asserts that it will be in the best interests of justice and fairness to the parties to require the filing of discovery responses within 20 days rather than the 30 day time frame outlined in the Order. No party would be prejudiced by this amendment, while the granting of this request will assist all parties

in gathering information through discovery necessary to maintain the accelerated schedule for preparing testimony and going to hearing.

6. Undersigned counsel has contacted David Tucker, counsel for Intervenor City of South Daytona, and Robert Scheffel Wright, counsel for all of the additional Intervenor, and undersigned has been authorized to represent that Intervenor do not object to the relief requested in this motion.

WHEREFORE, FPL respectfully requests the entry of an Order granting this Motion and providing for the following: 1) the date for filing Intervenor testimony and exhibits shall be amended to April 13, 2009; 2) the date for FPL to file rebuttal testimony and exhibits shall be amended to May 13, 2009; 3) the date for filing Prehearing Statements shall be amended to May 11, 2009; and 4) the discovery procedures shall be amended to require parties to respond to discovery within 20 days.

Respectfully submitted,

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CERTIFICATE OF SERVICE
Docket Nos. 080244-EI and 070231-EI

I **HEREBY CERTIFY** that a true and correct copy of the foregoing was served by electronic delivery on the 5th day of March, 2009, to the following persons:

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