

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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COMMISSION
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In re: Petition for approval of 2007 revisions to underground residential and commercial distribution tariff, by Florida Power & Light Company.

DOCKET NO. 070231-EI

In re: Petition for approval of underground conversion tariff revisions, by Florida Power & Light Company.

DOCKET NO. 080244-EI

FILED: MAY 11, 2009

PREHEARING STATEMENT OF THE MUNICIPAL UNDERGROUND UTILITIES CONSORTIUM, THE TOWN OF PALM BEACH, FLORIDA, THE CITY OF COCONUT CREEK, FLORIDA, AND THE TOWN OF JUPITER INLET COLONY, FLORIDA

Pursuant to Order No. PSC-09-0114-PCO-EI, issued February 25, 2009, as amended by Order No. PSC-09-0145-PCO-EI, issued March 10, 2009, and as further amended by Order No. PSC-09-0237-PCO-EI, issued April 16, 2009, the Municipal Underground Utilities Consortium ("MUUC"), the Town of Palm Beach, Florida, the City of Coconut Creek, Florida, and the Town of Jupiter Inlet Colony, Florida, collectively referred to herein as "MUUC/Applicants," hereby file their Prehearing Statement in the above-captioned dockets.

APPEARANCES:

Robert Scheffel Wright
John T. LaVia, III
Young van Assenderp, P.A.
225 South Adams Street, Suite 200
Tallahassee, Florida 32301
(850) 222-7206 Telephone
(850) 561-6834 Facsimile

On behalf of the Municipal Underground Utilities Consortium, the Town of Palm Beach, Florida, the City of Coconut Creek, Florida, and the Town of Jupiter Inlet Colony, Florida

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a. All Known Witnesses

- Peter J. Rant, P.E. All issues – Mr. Rant's testimony addresses the costs and benefits of undergrounding and explains the flaws in FPL's calculation of operational cost differences, including FPL's asserted capital cost differences, which result in CIAC charges and URD charges for underground installations that are unfair, unjust, and unreasonable. Mr. Rant's testimony also presents the MUUC's and the Applicants' proposed charges.
- Lloyd D. Shank, Jr., P.E. All issues – Mr. Shank testifies on the basis of more than 37 years' experience working for utilities in North Carolina and Florida, that underground electrical distribution facilities are far superior to overhead facilities in terms of lower operating costs, enhanced reliability, lower restoration costs, and public safety, and that underground facilities are in the public interest because they substantially avoid the economic costs that result from outages on overhead facilities.

b. All Known Exhibits

- Exhibit PJR-1 Resume' of Peter J. Rant, P.E.
- Exhibit PJR-2 2006 PowerServices report entitled Cost Effectiveness of Undergrounding Electric Distribution Facilities in Florida
- Exhibit PJR-3 Updated PowerServices analyses (including REVISED Table C-1 thereof, submitted on 5/7/2009)
- Exhibit PJR-4 White Paper – Utility Puts TR-XLE and EPR Cables to the Test, by Shattuck and Hartlein
- Exhibit PJR-5 Presentation – Technical Trends in Medium Voltage URD Cable Materials and Design by Dudas
- Exhibit PJR-6 Presentation entitled Community of Captiva Island, Florida PowerServices, Inc. Report Supporting Information by R. L. Willoughby
- Exhibit PJR-7 FPL's 2006 Storm Restoration Cost worksheet (that derived the original 25% GAF)
- Exhibit PJR-8 FPL's URD worksheet package

- Exhibit PJR-9 FPL's UG conversion worksheet package
- Exhibit PJR-10 FPL's responses to MUUC's Sept 2008 Data Requests
- Exhibit PJR-11 FPL's responses to MUUC's March 2009 Interrogatories
- Exhibit PJR-12 Formula for solving the "tiers" issue
- Exhibit PJR-13 Proposed URD Charges (REVISED 5/7/2009)
- Exhibit LDS-1 Resume' of Lloyd D. Shank, Jr., P.E.
- Exhibit ___ (LDS-2)* Transcript of Deposition of Lloyd D. Shank, Jr., P.E., taken by FPL on May 8, 2009 (* Not prefiled.)

c. Statement of Basic Position

Underground electric distribution facilities provide significant operational cost savings benefits, significant reliability benefits, and substantial public interest benefits vs. overhead facilities. While FPL's credit for the avoided storm restoration cost savings associated with larger, GAF-eligible, UG projects is reasonable, FPL's proposed charges for UG installations, both for new underground installations (in Docket No. 070231-EI) and for underground conversions (in Docket No. 080244-EI) fall short of recognizing and giving full credit for non-storm-related operational cost savings. FPL's calculations of the operational cost differential, including FPL's calculation of capital cost differences, for UG vs. OH facilities are systematically biased against UG facilities by using cost data for FPL's existing UG system or fleet, more than half of which is more than 20 years old. Proper calculation of the operational cost differential for the new UG facilities that would, necessarily, be installed today, indicates that instead of FPL's proposed \$11,400 debit charge per pole-line mile against UG conversion projects, FPL's tariff should include a credit reducing UG CIACs by \$122,189 per pole-line mile *in addition to the storm restoration cost differential. Comparable adjustments should also be made in FPL's URD charges.*

FPL's proposed Tier 2 charges are unfair and unjust because they would result in applicants whose projects were near the breakpoints paying inappropriate CIACs or URD charges (a form of CIAC). This inequity is easily remedied by use of a formula that would calculate the actual UG charges for Tier 2 applicants on the basis of the number of units or length of facilities involved. Mr. Rant proposes a "curved" formula, but a straight-line or "linear" formula would also be reasonable.

For the foregoing reasons, FPL's tariffs, as proposed, are unfair, unjust, and unreasonable, and fail to provide full credit for the estimated cost savings provided by undergrounding. This, in turn, is contrary to the public interest because it will likely result in fewer and smaller undergrounding projects being undertaken, thereby exposing the public to additional losses from storms and from other events involving overhead facilities.

d. Positions on the Issues

ISSUE 1: Are Florida Power & Light Company's ("FPL's") proposed "tiered" URD charges appropriate, and if not, how should the charges for installation of different sizes be stated in FPL's tariff?

POSITION: No. FPL's proposed "tiered" charges are not appropriate because they inappropriately charge Tier 2 customers near the break points between Tier 1 and Tier 2, and between Tier 2 and Tier 3 amounts that are not reflective of the costs and benefits of undergrounding projects within Tier 2. For example, it is obvious that the costs and benefits of a UG project covering 195 lots are much closer to those of a 200-lot project, which would qualify for the larger Tier 1 credit, than to an average for projects between 86 and 199 units.

ISSUE 2: Taking into account the requirements of Rules 25-6.078 and 25-6.0342, Florida Administrative Code, what should FPL's URD charges be?

POSITION: FPL's URD charges should be as shown in REVISED Exhibit PJR-13 to the testimony of Peter J. Rant, P.E.

ISSUE 3: What, if any, relief should be provided to customers who have previously paid the URD charges approved in Order Nos. PSC-07-0835-TRF-EI and PSC-08-0774-TRF-EI, in the event that the Commission determines, pursuant to Issues 1 and 2 that FPL's URD charges should be lower than it approved in those Orders?

POSITION: If the Commission determines that FPL's URD charges should be lower than approved in the subject orders, then any applicants and customers who paid the higher current charges should be refunded the difference between what they paid and the final charges determined to be appropriate by the Commission.

ISSUE 4: Are FPL's proposed "tiered" CIAC charges for UG conversions appropriate, and if not, how should the charges for conversion projects of different sizes be stated in FPL's tariff?

POSITION: No. FPL's proposed "tiered" charges are not appropriate because they inappropriately charge Tier 2 customers near the break points between Tier 1 and Tier 2, and between Tier 2 and Tier 3 amounts that are not reflective of the costs and benefits of undergrounding projects within Tier 2. For example, it is obvious that the costs and benefits of a UG project covering 195 lots are much closer to those of a 200-lot project, which would qualify for the larger Tier 1 credit, than to an average for projects between 86 and 199 units.

ISSUE 5: Taking into account the requirements of Rule 25-6.115, what should FPL's CIAC charges for conversions of existing overhead facilities to underground service be?

POSITION: The CIAC charges for conversions of existing overhead facilities to underground service should be as set forth and described in Mr. Rant's testimony. Basically, the CIAC charges should be as proposed by FPL except that: (a) instead of a \$11,400 debit charge per pole-line mile against UG conversion projects, FPL's tariff should include a \$122,189 credit per pole-line mile reducing the UG CIAC charges; and (b) the charges for Tier 2 projects should be adjusted as described in the testimony of Mr. Rant.

ISSUE 6: What, if any, relief should be provided to customers who have previously paid the conversion CIAC charges approved in Order NO. PSC-08-0780-TRF-EI, in the event that the Commission determines, pursuant to Issues 4 and 5, that their CIAC charges should be lower than what they paid under the terms of that Order?

POSITION: If the Commission determines that the UG conversion CIAC charges should be less than those approved, subject to protest, in Order No. PSC-08-0780, then all Applicants who paid the higher charges should receive refunds of the difference between the amounts paid and the amounts due per the charges approved by the Commission as a result of this proceeding.

e. **Stipulated Issues**

The parties have stipulated that FPL's UCD tariffs are not at issue in this proceeding.

f. **Pending Motions**

The MUUC and the Applicants have no pending motions at this time.

g. **Pending Confidentiality Claims or Requests**

The MUUC and the Applicants have no pending confidentiality claims or requests at this time.

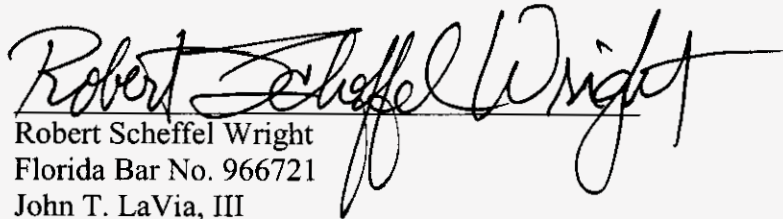
h. **Objections to Witness Qualifications as an Expert**

Subject to the fact that FPL has not yet identified its rebuttal witnesses, the MUUC and the Applicants have no objections to expert witness qualifications at this time.

i. **Compliance with the Order Establishing Procedure**

The MUUC and the Applicants have complied with, and expect to be able to comply with, all requirements of the Order Establishing Procedure, as amended, entered in this docket.

Respectfully submitted this 11th day of May, 2009.



Robert Scheffel Wright
Florida Bar No. 966721
John T. LaVia, III
Florida Bar No. 853666
Young van Assenderp, P.A.
225 South Adams Street, Suite 200
Tallahassee, Florida 32301
(850) 222-7206 Telephone
(850) 561-6834 Facsimile

Attorneys for the Municipal Underground Utilities
Consortium, the Town of Palm Beach, Florida, the city
of Coconut Creek, Florida, and the Town of Jupiter
Inlet Colony, Florida

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic and U.S. Mail to the service list below, on this 11th day of May, 2009.

Don Gentile, Engineering Department
City of Coconut Creek
4800 West Copans Road
Coconut Creek, FL 33063
Phone: 954-973-6756
FAX: 954-956-1424
Email: DGentile@coconutcreeknet

Joseph W. Yarbrough
City of South Daytona
P.O. Box 214960
South Daytona, FL 32121
Email: jyarbrough@southdaytona.org

Brian P. Armstrong, Esquire
Marlene K. Stern, Esquire
Nabors, Giblin & Nickerson, P.A.
1500 Mahan Drive, Suite 200
Tallahassee, Florida 32308

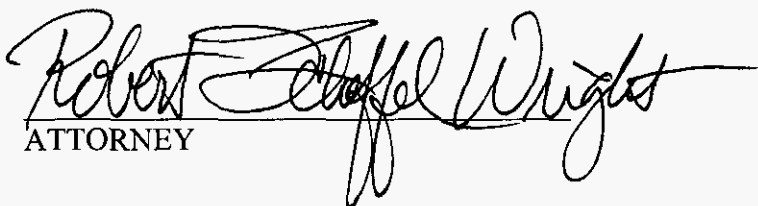
Scott E. Simpson, Esquire
Korey Law Firm
Granada Oaks Professional Bldg.
595 West Granada Blvd., Suite A
Ormond Beach, FL 32174
Email: simpson66@bellsouthnet

Natalie F. Smith, Esquire
Florida Power & Light Company
215 South Monroe Street, Suite 810
Tallahassee, FL 32301-1859
Email: Natalie_Smith@fpl.com

John T. Butler, Esquire
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408
Email: john_butler@fpl.com

Thomas G. Bradford, Deputy Town Mgr.
c/o Town of Palm Beach, Florida
360 South County Road
Palm Beach, FL 33480
Email: TBradford@TownofPalmBeach.com

Joann Manganiello, Town Admin'r
Town of Jupiter Inlet Colony
Administration Building
1 Colony Road
Jupiter Inlet Colony, FL 33469
Email: jicolony@bellsouth.net


ATTORNEY