

State of Florida



# Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

**-M-E-M-O-R-A-N-D-U-M-**

**DATE:** September 24, 2009

**TO:** Office of Commission Clerk (Cole)

**FROM:** Division of Economic Regulation (Thompson, Kummer) *TK*  
Office of the General Counsel (Brubaker) *JB*

**RE:** Docket No. 090407-EI – Petition for approval of revisions to long-term rental agreement for distribution substation facilities by Florida Power & Light Company.

**AGENDA:** 10/06/09 – Regular Agenda – Tariff Filing – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\ECR\WP\090407.RCM.DOC

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### Case Background

By Order No. 21855, the Commission approved Florida Power & Light Company's (FPL) proposed new Long-Term Substation Rental Agreement (LTSRA or Rental Agreement) for distribution substation facilities.<sup>1</sup> Some large power users require a dedicated substation to serve their load in the most efficient and economical manner. The customer may build and own his own substation. If the customer does not want to be responsible for building and maintaining an electrical substation, the Rental Agreement provides an option to use a substation owned by the utility. Currently, FPL has this Rental Agreement in place with seven customers.

<sup>1</sup> Issued September 8, 1989, in Docket No. 890760-EI, In re: Petition of Florida Power and Light Company for approval of long-term rental agreement for distribution substation facilities.

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The Rental Agreements are for a term of twenty years. The existing tariff language is silent on the renewal or extension of a contract. FPL is requesting permission to modify the existing Rental Agreement to add subsequent extension periods of five years, or sixty months. By Order PSC-09-557-PAA-EI, the Commission approved a limited extension to FPL's current contract with Tropicana Products, Inc, pending approval of revised tariff language addressing renewals.<sup>2</sup>

The Commission has jurisdiction over this matter pursuant to Sections 366.03, 366.04, 366.05, and 366.06, Florida Statutes (F.S.).

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<sup>2</sup> Issued August 8, 2009, in Docket No. 090338-EI, In re: Request for short term extension of substation rental agreement with Tropicana Products, Inc., by Florida Power & Light. The order was consummated and made final by Order No. PSC-09-0630-CO-EI, issued September 17, 2009.

### **Discussion of Issues**

**Issue 1:** Should FPL be allowed to revise its Long-Term Rental Agreement for Distribution Substation Facilities?

**Recommendation:** Yes. (Thompson, Kummer)

**Staff Analysis:** The currently-effective substation Rental Agreement states that the term of the Agreement is for twenty years. FPL is seeking to modify the Agreement to include subsequent extension periods in increments of five years.

The existing tariff specifically states how the monthly rental amount is to be calculated for new contracts. It also addresses termination of a contract prior to the twenty-year term. The tariff is silent on what happens at the expiration of the initial contract, if the customer wishes to renew the agreement for the existing facilities. This oversight in the tariff language came to light when an existing contract came up for renewal.

Since the existing tariff does not specifically address renewals, the only option is to sign a new Agreement. Under the current tariff, at the expiration of each Customer's Rental Agreement, FPL would recalculate the customer's monthly rental payments, based on the current replacement value of the facilities, even though no new investment is required. For most Rental Customers, monthly rental payments would significantly increase based upon this calculation.<sup>3</sup> The underlying cause of this is the cost of distribution substation facilities, which have more than doubled over the last 20 years. FPL states that this increase to the Rental Customers' monthly payment after the initial 20 year term is unnecessary for the company to recover its costs for in-place equipment. The proposed remedy is to allow subsequent five-year extensions of the Rental Agreement, with monthly payments calculated based upon the net book value of the rental facilities. In addition, the proposed modification allows for the costs for any necessary addition to the rental facilities to be incorporated into the in-place value of the rental facilities, as well as incorporated into the Rental Customer's monthly payments. This same updating provision can be found in Tariff Sheet No. 9.750 to 9.751, which have previously been approved by the Commission.

There are advantages to both FPL and the customer from the proposed modification. If the Rental Agreement is continued past its initial term, FPL avoids potentially stranding the investment in the existing substation, which may not immediately be needed, or appropriately placed, to serve other loads. This avoids the potential for shifting these costs to FPL's other ratepayers. The customer also benefits through the ability to continue to use the facilities, without a substantial increase in costs.

Staff believes the addition of a subsequent extension period is appropriate. It is reasonable to assume that continuation of a lease for in-place equipment would have different cost characteristics than an agreement for completely new facilities. Agreement renewals are not

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<sup>3</sup> Docket no. 090407, In re: Florida Power & Light Company, Petition for Approval of Revisions to Long Term Rental Agreement for Distribution Substation Facilities, Petition for Approval of Revisions to Long Term Rental Agreement for Distribution Substation Facilities.

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addressed in the current tariff, and FPL has filed revised Tariff Sheet No. 9.730, 9.731, and 10.015, reflecting the above revisions. Staff has reviewed the proposed factors to be used for calculating the charges for the extension periods and they appear to be reasonable.

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**Issue 2:** Should this docket be closed?

**Recommendation:** Yes, if the Commission approves staff's recommendation to approve the revisions to the Long-Term Rental Agreement, as requested by FPL, and no person whose substantial interests are affected requests a hearing to address this matter, then this docket should be closed upon issuance of a consummating order. If a protest is filed within 21 days of the issuance of the Commission's order, the proposed term modification should remain in effect pending resolution of the protest. (Brubaker).

**Staff Analysis:** If the Commission approves staff's recommendation to approve the revisions to the Long-Term Rental Agreement, as requested by FPL, and no person whose substantial interests are affected requests a hearing to address this matter, then this docket should be closed upon issuance of a consummating order. If a protest is filed within 21 days of the issuance of the Commission's order, the proposed term modification should remain in effect pending resolution of the protest.