

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for increase in rates by Florida Power & Light Company. | DOCKET NO. 080677-EI

In re: 2009 depreciation and dismantlement study by Florida Power & Light Company. | DOCKET NO. 090130-EI  
ORDER NO. PSC-09-0687-PCO-EI  
ISSUED: October 14, 2009

ORDER DENYING MOTION WITHDRAWING PRIOR MOTION TO WITHDRAW

On November 17, 2008, Florida Power & Light Company (FPL) filed a test year letter, as required by Rule 25-6.140, Florida Administrative Code (F.A.C.), notifying this Commission of its intent to file a petition in the Spring of 2009 for an increase in rates effective January 1, 2010. Pursuant to the provisions of Chapter 366, Florida Statutes (F.S.), and Rules 25-6.0425 and 25-6.043, F.A.C., FPL filed the petition for an increase in rates on March 18, 2009. On March 9, 2009, Thomas Saporito filed a Petition to Intervene. Mr. Saporito was granted intervention in his individual capacity by Order No. PSC-09-0280-PCO-EI, issued on April 29, 2009.

On August 13, 2009, Mr. Saporito filed a Motion for Withdrawal. In his Motion for Withdrawal, Mr. Saporito asserted that he would not be able to attend the scheduled Prehearing Conference or the hearing due to a recent injury for which he was under the care of a physician. For good cause shown, Mr. Saporito's request to withdraw was acknowledged at the Prehearing Conference on August 17, 2009, and reflected in Order No. PSC-09-0573-PHO-EI, issued August 21, 2009. The hearing on FPL's petition for an increase in rates commenced August 24, 2009. Mr. Saporito filed a Motion Withdrawing Prior Motion to Withdraw (Motion) on October 2, 2009. In his Motion, Mr. Saporito contends that the medical concern which necessitated his withdrawal from the case has been addressed, allowing him to proceed in the instant action.

By voluntarily withdrawing from the case, Mr. Saporito lost his status as a party to this docket. Accordingly, he did not participate in the hearings on FPL's petition for an increase in rates. While stylized as a motion withdrawing his prior Motion for Withdrawal, Mr. Saporito's Motion is, in effect, a petition for leave to intervene in order to regain party status. Pursuant to Rule 25-106.205, F.A.C., petitions for leave to intervene must be filed at least five days before the final hearing. Since Mr. Saporito filed his Motion over a month after the hearing commenced, his Motion is denied as untimely.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Motion Withdrawing Prior Motion to Withdraw filed by Thomas Saporito is hereby denied.


DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

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By ORDER of Chairman Matthew M. Carter II, as Prehearing Officer, this 14th day of  
~~October~~, 2009.



MATTHEW M. CARTER  
Chairman and Prehearing Officer

(SEAL)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request:

- 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or
- 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.