

ORIGINAL

Timolyn Henry

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Sent: Wednesday, October 18, 2006 4:30 PM
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Subject: Docket No. 060635-EU - Armstrong's Emergency Motion for Extension of Time to File Testimony
Attachments: Emergency Motion for Extension of Time to File Testimony_Docket No. 060635-EU.doc

Dear Sir or Madam:

This is sent on behalf of Brian Armstrong:

1. Brian Armstrong, 7025 Lake Basin Road, Tallahassee, Florida, 32312, (850) 322-4097, is the person responsible for this electronic filing;
2. The filing is to be made in Docket 060635-EU;
3. The filing is made on behalf of Rebecca J. Armstrong;
4. The total number of pages is 3; and
5. The attached document is an Emergency Motion for Extension of Time to File Testimony by Rebecca J. Armstrong.

Alissa Weiner

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FPSC-COMMISSION CLERK

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to Determine Need for
an Electrical Power Plant in Taylor
County by Florida Municipal Power
Agency, JEA, Reedy Creek Improvement
District and City of Tallahassee

Docket No. 060635-EU

Dated: October 18, 2006

Emergency Motion for Extension of Time to File Testimony

Rebecca J. Armstrong (“Armstrong”), by and through her undersigned attorney, and pursuant to applicable provisions of the Florida Administrative Code, files this motion requesting extension of time to file testimony in this docket and in support of this motion states as follows:

1. Petitions filed a Petition for a Determination of Need in this docket on or about September 19, 2006.
2. Armstrong filed a Petition to Intervene in this proceeding within approximately one week of such date, specifically, on September 26, 2006.
3. The Commission has not yet acted upon Armstrong’s petition to intervene.
4. By its Order Establishing Procedure dated October 4, 2006 (the “Procedural Order”), the Commission requires interveners to file testimony and associated exhibits by October 24, 2006.
5. Extensive publicity associated with Petitioners’ consideration of the proposed pulverized coal fired plant in Taylor County confirms that Applicants had their management, employees, consultants and experts involved in the preparation of their Petition in this docket for a year or more.

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6. According to the Procedural Order, if an intervener filed a petition to intervene on the very day that the application was filed, such intervener would have had less than five weeks to prepare prefiled testimony and exhibits responsive to the voluminous application, testimony and exhibits filed by Applicants in this proceeding. Armstrong acted diligently to intervene and still she is provided less than one month to file testimony.

7. On its face, the timetable established in the Procedural Order constitutes a violation of a citizen's Federal and State constitutional rights to due process and a fair hearing. Absent an amendment to the time frame established in the Procedural Order, Armstrong will be required to take such actions as may be required to protect her interests in this docket, including her rights of appeal to the First District Court of Appeals challenging the constitutionality of such order in that it constitutes a flagrant violation of Armstrong's procedural and substantive due process rights.

8. Armstrong requests that the Prehearing Officer act expeditiously to amend the Procedural Order to permit interveners to file testimony and exhibits by January 26, 2007 or such later time as will be adequate to protect Armstrong's constitutional rights of due process. All other dates established in the Procedural Order should be delayed for a corresponding period of time.

WHEREFORE, Armstrong respectfully requests that the prehearing officer amend the Procedural Order in the manner requested in this motion.

RESPECTFULLY SUBMITTED this 18th day of October, 2006.

Brian P. Armstrong
7025 Lake Basin Road
Summerbrooke, Florida 32312
Phone: 850-322--4097
Fax: 850-668-1138

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Emergency Motion for Extension of Time to File Testimony in Docket No. 060635-EU was served upon the following by electronic mail(*) or U.S, on this ____ day of October, 2006:

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