

Ruth Nettles

From: Rhonda Dulgar [rdulgar@yvlaw.net]
Sent: Friday, April 18, 2008 1:15 PM
To: Bryan Anderson; jeff_bartel@fpl.com; John T. Butler; jrandolph@jones-foster.com; J.R. Kelly; Filings@psc.state.fl.us; Mary Anne Helton; Richard Bellak; Ralph Jaeger; Schef Wright
Subject: Electronic Filing - Docket 080035-EU
Attachments: AgreedMotiontoAmendRequest.4-18-08.pdf

a. Person responsible for this electronic filing:

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b. Docket No. 080035-EU

In Re: Petition for Declaratory Statement Before the Florida Public Service Commission by the Town of Palm Beach, the Town of Jupiter Island, and the Town of Jupiter Inlet Colony, Florida Concerning Their Rights Under Rule 25-6.115, F.A.C.

c. Document being filed on behalf of the Town of Palm Beach, the Town of Jupiter Island, and the Town of Jupiter Inlet Colony, Florida.

d. There are a total of 5 pages.

e. The document attached for electronic filing is Agreed Motion to Amend Request for Declaratory Statement Concerning Rule 25-6.115, Florida Administrative Code.

(see attached file: AgreedMotiontoAmendRequest.4-18-08.pdf)

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DOCUMENT NUMBER-DATE

03092 APR 18 08

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Declaratory)
Statement Before the Florida Public)
Service Commission by the Town of) DOCKET NO. 080035-EU
Palm Beach, the Town of Jupiter)
Island, and the Town of Jupiter Inlet) FILED: APRIL 18, 2008
Colony, Florida Concerning Their)
Rights Under Rule 25-6.115, F.A.C.)
_____)

AGREED MOTION TO AMEND REQUEST FOR DECLARATORY STATEMENT
CONCERNING RULE 25-6.115, FLORIDA ADMINISTRATIVE CODE

The Town of Palm Beach, Florida, the Town of Jupiter Island, Florida, and the Town of Jupiter Inlet Colony, Florida, collectively referred to herein as the "Towns," pursuant to Section 120.565, Florida Statutes, and Chapter 28-106, Florida Administrative Code ("F.A.C."), hereby move the Florida Public Service Commission ("Commission") to grant an amended statement regarding the Commission's interpretation of Rule 25-6.115(11)(b), F.A.C., as described below.

On January 10, 2008, the Towns petitioned for a declaratory statement on four issues. By Order No. PSC-08-0218-DS-EU, the Commission denied the petition with respect to three of the issues but reserved ruling on the fourth issue. Order No. PSC-08-0218 at 2, note 3. The subject fourth issue addresses the circumstances under which FPL may make a payment, reflecting credits recognized in FPL's tariff formula for calculating

Contributions in Aid of Construction ("CIACs") for underground ("UG") conversion projects, to an applicant for such a UG project, e.g., one of the Towns, where the Town performs part or all of the work involved in the UG conversion project.

The Towns initially requested that the Commission issue the following statement, which was identified as "Declaratory Request No. 4" in the original petition:

4. Where a Town performs all construction and installation of the underground facilities itself, FPL will, upon transfer of the facilities to FPL, pay the Town an amount equal to the Overhead Credit, plus the GAF Waiver Credit, plus the Other O&M Differential Cost Credit, less materials costs and any engineering service costs directly incurred with work on the project over and above the work performed in preparation of the Binding Cost Estimate.

However, FPL and the Commission Staff raised certain questions and reservations about the operation and implications of Declaratory Request No. 4. The Towns conferred with FPL and ultimately reached agreement on language acceptable to both, but that language was settled upon too late in the process to allow the Commission and Staff to review it adequately before the Commission's consideration at its March 18, 2008 agenda.

Accordingly, the Commission deferred its ruling on Request No.

4.

The Towns, FPL, and the Commission Staff have since had discussions and exchanged correspondence on this issue, and the Towns and FPL have reached agreement that the Commission should

issue the following declaratory statement, in lieu of the statement initially requested:

The applicant shall be entitled to payment for, and the utility may include in rate base, any applicable adjustments (credits) to the CIAC calculation for the cost of the hypothetical overhead construction and the net present value of the operational cost differential related to the underground construction as defined in Rule 25-6.115, F.A.C. At no time, however, will FPL's payments to an applicant be greater than the costs FPL would have expected to incur had FPL performed all of the construction itself.

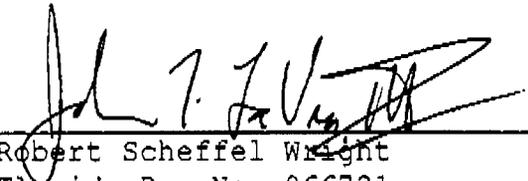
The rationale for this statement is the same as set forth in the Towns' initial petition for declaratory statement, which is essentially that a Town should receive the same credits reflected in the Commission's rules and in FPL's tariffs governing CIACs for UG conversion projects whether FPL does the work or the Town does the work.

The undersigned has conferred with counsel for FPL and is authorized to represent that the Towns and FPL agree that the Commission should issue the requested statement, as amended. The undersigned has also conferred with Commission Staff and believes that Staff are in substantive agreement with the proposed statement.

CONCLUSION

Therefore, the Towns respectfully request that the Commission grant this motion and issue the amended declaratory statement with respect to Declaratory Request No. 4 as set forth above.

Respectfully submitted this 18th day of April, 2008.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished to the following, by electronic and U.S. Mail, on this 18th day of April, 2008.

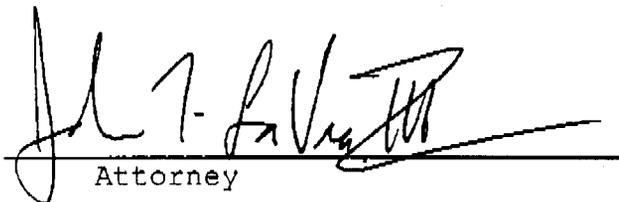
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