

Shawna Senko

From: Pam Keillor <pkeillor@radeylaw.com>
Sent: Tuesday, October 08, 2013 1:57 PM
To: Filings@psc.state.fl.us
Cc: Rosanne Gervasi; schef@gbwlegal.com; jlavia@gbwlegal.com;
apepper@serenewablesfuels.com
Subject: Docket No. 130235-EQ - Leave to File Amici Curiae Memorandum of Law
Attachments: Leave to File Amici Curiae Memo of Law.pdf

- a. Person responsible for this electronic filing:

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- b. Docket No. 130235-EQ – In re: Petition of Southeast Renewable Fuels, LLC, for a Declaratory Statement Regarding Co-Ownership of Electrical Cogeneration Facilities in Hendry County.
- c. Document being filed on behalf of Tampa Electric Company, Florida Power & Light Company, and Gulf Power Company.
- d. There are a total of 6 pages.
- e. The document attached for electronic filing is the Joint Motion of Tampa Electric Company, Florida Power & Light Company, and Gulf Power Company for Leave to File Amici Curiae Memorandum of Law.

(See attached file: Leave to File Amici Curiae Memo of Law)

Thank you for your assistance in this matter.

Pam L. Keillor, FRP

Paralegal to Susan F. Clark and Travis L. Miller

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Southeast Renewable)
Fuels, LLC, for a Declaratory Statement)
Regarding Co-Ownership of Electrical)
Cogeneration Facilities in Hendry County.)
_____)

DOCKET NO. 130235-EQ

FILED: October 8, 2013

**JOINT MOTION OF
TAMPA ELECTRIC COMPANY, FLORIDA POWER & LIGHT COMPANY,
AND GULF POWER COMPANY
FOR LEAVE TO FILE AMICI CURIAE MEMORANDUM OF LAW**

Tampa Electric Company ("Tampa Electric"), Florida Power & Light Company ("FPL"), and Gulf Power Company ("Gulf Power") (collectively "Joint Movants") move the Commission for leave to appear as Amici Curiae and to file the attached Memorandum of Law addressing legal issues raised in the Petition filed in this proceeding on behalf of Southeast Renewable Fuels, LLC ("Southeast") and, as grounds therefor, says:

1. Tampa Electric is a Florida corporation which is a wholly-owned subsidiary of TECO Energy, Inc. with its headquarters located at 702 North Franklin Street, Tampa, Florida. Tampa Electric is an investor-owned electric utility operating under the jurisdiction of the Florida Public Service Commission (the "Commission") pursuant to the provisions of Chapter 366, Florida Statutes. Tampa Electric provides generation, transmission, and distribution service to approximately 684,000 retail customers in Hillsborough and portions of Polk, Pasco, and Pinellas counties.

2. FPL is a corporation which is a wholly-owned subsidiary of NextEra Energy, Inc., with its headquarters located at 700 Universe Boulevard, Juno Beach, Florida 33408-0410. FPL is an investor-owned electric utility operating under the jurisdiction of the Commission pursuant

to the provisions of Chapter 366, Florida Statutes. FPL currently provides generation, transmission and distribution services to approximately 4.6 million retail customers across the state of Florida.

3. Gulf Power is a Florida corporation which is a wholly-owned subsidiary of The Southern Company, with its headquarters located at 500 Bayfront Parkway, Pensacola, Florida. Gulf Power is an investor-owned electric utility operating under the jurisdiction of this Commission pursuant to the provisions of Chapter 366, Florida Statutes. Gulf Power provides generation, transmission, and distribution services to more than 436,000 retail customers across 8 counties in Northwest Florida.

4. The Joint Movants and the retail customers they serve have a significant and abiding interest in the preservation and enforcement of the regulatory provisions set forth in Chapter 366, Florida Statutes. Those interests include the avoidance of territorial disputes and the avoidance of further uneconomic duplication of generation, transmission and distribution facilities. Tampa Electric, FPL, Gulf Power and their retail customers rely upon the Commission's exercise of its jurisdiction over the planning, development and maintenance of a coordinated electric power grid throughout Florida and the Commission's jurisdiction to prescribe and enforce safety standards for transmission and distribution facilities of all electric utilities. For many years the Legislature has declared these regulatory activities to be in the public interest.

5. Given their status as public utilities regulated by the Commission under Chapter 366, Florida Statutes, their extensive knowledge of decisional law relating to that Chapter and their deep concern over any proposal which might be inconsistent with Chapter 366, as interpreted by the Commission and the courts of this state, the Joint Movants are well qualified

to assist the Commission as Amici Curiae concerning certain legal issues which must be resolved in this proceeding.

6. The Joint Movants request that they be allowed to file the attached Amici Curiae Memorandum of Law addressing the following issues:

Issue No. 1: Does the Petition filed in this proceeding on behalf of Southeast satisfy the requirements of Section 120.565, Florida Statutes (Declaratory Statement by Agencies), and the applicable requirements pertaining to declaratory statements set forth in Chapter 28-105, Florida Administrative Code?

Issue No. 2: Does the Petition filed in this proceeding state facts sufficient to support a determination by the Commission that the activities described in the Petition, if implemented, cannot and will not result in the retail sale of electricity in Florida or subject Southeast, the Confidential Partner or the Operating and Management Company to regulation by the Commission?

Issue No. 3: What is the appropriate disposition of Southeast's Petition?

7. Consent of parties. Counsel for the Joint Movants has contacted counsel for Southeast, Mr. Robert Scheffel Wright, and is authorized to represent that Mr. Wright does not oppose this Motion.

8. Copies of all notices and pleadings with respect to this Motion should be furnished to:

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WHEREFORE, the Joint Movants respectfully request that the Commission accept and consider the attached Amici Curiae Memorandum of Law in its disposition of the Petition filed in this proceeding.

DATED this 8th day of October 2013.

Respectfully submitted,

s/ Susan F. Clark

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ATTORNEY FOR TAMPA ELECTRIC COMPANY,
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POWER COMPANY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Joint Motion for Leave to File Amici Curiae Brief, filed on behalf of Tampa Electric Company, Florida Power & Light Company, and Gulf Power Company has been furnished by electronic mail on this 8th day of October 2013, to the following:

Ms. Rosanne Gervasi
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s/ Susan F. Clark
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