

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of new account and treatment of costs associated with right-of-way expenses, by Florida Public Utilities Company.

DOCKET NO. 021191-GU
ORDER NO. PSC-03-0466-FOF-GU
ISSUED: April 3, 2003

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

ORDER ACKNOWLEDGING WITHDRAWAL OF PETITION FOR NEW ACCOUNT AND TREATMENT OF COSTS ASSOCIATED WITH RIGHT-OF-WAY EXPENSES BY FLORIDA PUBLIC UTILITIES COMPANY

BY THE COMMISSION:

On November 27, 2002, Florida Public Utilities Company (FPUC or the Company) filed a Petition for approval of new account and treatment of costs associated with right-of-way expenses. FPUC filed a notice of withdrawal of its petition on March 11, 2003.

The law is clear that the plaintiff's right to take a voluntary dismissal is absolute. Fears v. Lunsford, 314 So. 2d 578, 579 (Fla. 1975). Once a timely voluntary dismissal is taken, the trial court loses its jurisdiction to act and cannot revive the original action for any reason. Randle-Eastern Ambulance Service, Inc. v. Vasta, 360 So. 2d 68, 69 (Fla. 1978).

We find FPUC's withdrawal of its petition for approval of a new account and treatment of costs associated with right-of-way expenses divests us of further jurisdiction over this matter. Accordingly, this docket shall be closed.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSIONER CLERK

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Public Utilities Company's Withdrawal of its Petition for new account and treatment of costs associated with right-of-way expenses is acknowledged. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 3rd day of April, 2003.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

(S E A L)

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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.

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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 Director, Division of the Commission Clerk and Administrative Services, 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 Director, Division of the Commission Clerk and Administrative Services 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.