

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Request for approval of standard form  
underground conversion contract by Progress  
Energy Florida, Inc.      DOCKET NO. 050068-EI  
ORDER NO. PSC-05-0815-FOF-EI  
ISSUED: August 8, 2005

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman  
J. TERRY DEASON  
RUDOLPH "RUDY" BRADLEY  
LISA POLAK EDGAR

ORDER ACKNOWLEDGING VOLUNTARY WITHDRAWAL OF PETITION

BY THE COMMISSION:

On January 14, 2005, Progress Energy Florida, Inc. (PEF) filed a petition for approval of a standard form underground conversion agreement to be included in its tariff. PEF intended to use the standard agreement when applicants request that existing overhead electric distribution facilities be relocated underground. The Office of Public Counsel intervened in the Docket on March 9, 2005. On March 21, 2005, we suspended the proposed tariff pending further review. Thereafter, on July 18, 2005, PEF filed its Notice of Voluntary Withdrawal of its petition.

It is well-settled law that if a case has not yet been presented to the tribunal for a substantive decision a petitioner has an absolute right to a voluntary dismissal or withdrawal. Fears v. Lunsford, 314 So.2d 578, 579 (Fla. 1975). We have not addressed the substance of PEF's petition and therefore, since PEF has filed its voluntary withdrawal, we no longer have jurisdiction to address it. Randle-Eastern Ambulance Service, Inc. v. Vasta, 360 So.2d 68, 69 (Fla. 1978). There are no remaining issues to be addressed.

It is therefore,

ORDERED by the Florida Public Service Commission that PEF's voluntary withdrawal is acknowledged. It is further

ORDERED that this docket shall be closed.

DOCUMENT NUMBER-DATE

07655 AUG-8 05

FPSC-COMMISSION CLERK

By ORDER of the Florida Public Service Commission this 8th day of August, 2005.

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

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records

( S E A L )

MCB

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 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.