

FLORIDA PUBLIC SERVICE COMMISSION
Capital Circle Office Center • 2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

MEMORANDUM

OCTOBER 17, 1996

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF LEGAL SERVICES (ERSTLING) *ME RVE*
DIVISION OF ELECTRIC & GAS (WHEELER) *DW*
DIVISION OF CONSUMER AFFAIRS (DEMELLO) *ESD* JDT

RE: DOCKET NO. 960025-EI - FLORIDA POWER & LIGHT COMPANY -
COMPLAINT OF BROWARD COUNTY GOVERNMENT AGAINST FLORIDA
POWER & LIGHT COMPANY REGARDING STREETLIGHT BILLING IN
BROWARD COUNTY

AGENDA: 10/29/96 - REGULAR AGENDA - DECISION ON STIPULATION PRIOR
TO HEARING - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONF

SPECIAL INSTRUCTIONS: S:\PSC\LEG\WP\960025EI.RCM

CASE BACKGROUND

On April 8, 1996, the Commission issued a Proposed Agency Action Order Denying Refund, Order No. PSC-96-0492-FOF-EI, in the above captioned docket. On April 29, 1996, Broward County, Florida filed a Petition for an Administrative Hearing pursuant to Section 120.57(1) Florida Statutes. Because there are two adversarial parties to the complaint and because the issues to be resolved are mainly factual and do not involve controversial regulatory matters, the Commission referred the case to the Division of Administrative Hearings (DOAH).

DOAH assigned Case No. 96-2367. The Commission filed a Motion for Leave to Intervene on July 30, 1996, and intervention was granted on August 16, 1996. Subsequently, Broward County and Florida Power & Light Company filed a Stipulation and Notice of Withdrawal with DOAH on September 3, 1996. On September 5, 1996, DOAH issued an Order Closing File.

DOCUMENT NUMBER-DATE

11068 OCT 16 96

FPSC-RECORDS/REPORTING

DOCKET NO. 960025-EI
DATE: OCTOBER 17, 1996

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission approve the Stipulation and Notice of Withdrawal executed by Broward County, Florida and Florida Power & Light Company?

STAFF RECOMMENDATION: Yes. The Stipulation provides for withdrawal of the petition before DOAH, resolution of all issues which were the subject of Commission Order No. PSC-96-0492-FOF-EI and for all parties to bear their own costs and attorneys fees. Proposed Agency Action Order No. PSC-96-0492-FOF-EI should be made final and effective on the date of the Commission vote.

STAFF ANALYSIS: The Commission denied Broward County's complaint for streetlight billings in Order No. PSC-96-0492-FOF-EI. In the Stipulation and Notice of Withdrawal, Broward County agrees to forego any further efforts to pursue refunds from Florida Power & Light Company on disputed billings that were the subject of the original complaint. Both parties agree to bear their own costs and attorneys fees for any matters related to the proceedings before DOAH and before the Commission relative to this docket. Stipulation attached as Attachment A. Staff contacted counsel for Broward County and FPL on September 30, 1996, and was advised that the Stipulation and Notice of Withdrawal withdraws the County's protest of Order No. PSC-96-0492-FOF, not the original complaint which initiated this docket. Therefore, staff recommends that the Commission approve the Stipulation and Notice of Withdrawal and, since the protest has been withdrawn, make Order No. PSC-96-0492-FOF final and effective on the date of the Commission vote.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. Since Order No. PSC-96-0492-FOF is being made final, this docket may be closed.

STAFF ANALYSIS: The Stipulation between the parties is to withdraw the protest of Order No. PSC-96-0492-FOF. Therefore, Order No. PSC-96-0492-FOF is made a Final Order. This docket may now be closed.

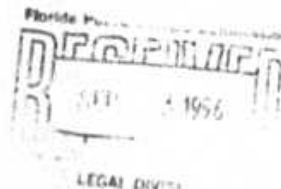
THE STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

BROWARD COUNTY, FLORIDA,
Petitioner,

DOAH NO. 96-2367

vs.

FLORIDA POWER AND LIGHT
COMPANY,
Respondent.



STIPULATION AND NOTICE OF WITHDRAWAL

Petitioner, Broward County, Florida, and Respondent, Florida Power & Light Company, hereby stipulate, and Petitioner hereby files its Notice of Withdrawal pursuant to Florida Administrative Code Rule 60Q-2.036, under the following terms:

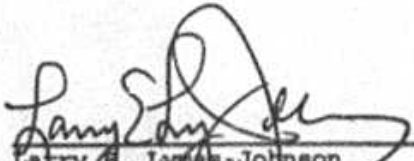
1. Petitioner agrees to withdraw its petition in the above-referenced matter, as well as to forego any further efforts to pursue refunds from Respondent on disputed billings that were the subject of this proceeding or Order No. PSC-96-0492-POF-EI of the Public Service Commission.

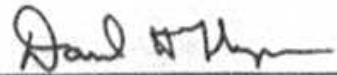
2. Provided Petitioner's withdrawal is accepted by the Hearing Officer and the Public Service Commission, Petitioner and Respondent both agree to bear their own costs and attorneys fees for any matters related to this proceeding and PSC-96-0492-POF-EI.

WHEREFORE, Petitioner and Respondent jointly request that the Hearing Officer enter an order cancelling the hearing in the above-referenced matter, closing the Division of Administrative Hearings file, and returning this matter to the Public Service Commission for final agency action consistent with the stipulation and notice

herein.

Respectfully submitted this 28 day of August, 1996.


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Berger & Davis, P.A.
Attorneys for Florida Power &
Light
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Tallahassee, Florida 32301

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28 day of August, 1996, that the original and one copy of the foregoing was furnished by U.S. Mail to Hearing Officer Linda M. Rigot at the Division of Administrative Hearings, DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida, 32399-1550; and a true and correct copy of the foregoing has been furnished by U.S. Mail to:

Shelia Erstling, Senior Attorney
Public Service Commission
Gerald L. Gunter Building
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