

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for confidential classification of Annual Status Report and related schedules for year ended 1998, submitted pursuant to Rules 25-6.135, 25-6.1351(4), and 25-6.0436(9), F.A.C., by Florida Power Corporation.

DOCKET NO. 990697-EI
ORDER NO. PSC-99-1993-CFO-EI
ISSUED: October 12, 1999

ORDER ACKNOWLEDGING WITHDRAWAL
OF REQUEST FOR CONFIDENTIAL CLASSIFICATION

Pursuant to Rule 25-22.006, Florida Administrative Code, Florida Power Corporation (FPC) filed a request for confidential classification of certain information contained in its 1998 annual report, Form PSC/AFA 19, filed in accordance with Rule 25-6.135, F.A.C. (FERC Form 1); its 1998 diversification report, Schedules 1-7 of Form PSC/AFA 16, included with the annual report in accordance with Rule 25-6.1351(4), F.A.C.; and its 1998 depreciation status report included with the annual report in accordance with Rule 25-6.043(9), F.A.C. FPC subsequently filed a notice of withdrawal of its request.

The Florida Industrial Power Users Group (FIPUG) and the Legal Environmental Assistance Foundation (LEAF) petitioned to intervene in the docket. FIPUG also filed an objection and response to FPC's request for confidential classification.

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). FPC's withdrawal of its request divests the Commission of further jurisdiction concerning the request for confidential classification.

Accordingly, FPC's withdrawal of its request is acknowledged. This withdrawal shall have the effect of rendering all information contained in its FERC Form 1, diversification report, and depreciation status report public. FPC's withdrawal also has the effect of rendering FIPUG and LEAF's petitions to intervene moot.

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It is therefore

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that Florida Power Corporation's Withdrawal of Request for Confidential Classification is hereby acknowledged. It is further

ORDERED that the Florida Industrial Power Users Group and Legal Environmental Assistance Foundations's Petitions to Intervene are hereby rendered moot. It is further

ORDERED that this docket shall be closed.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 12th day of October, 1999.


SUSAN F. CLARK
Commissioner and Prehearing Officer

(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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.