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Matilda Sanders

From: Hall, Harlan [hhall@lfgm.com]
Sent: Wednesday, July 06, 2005 2:41 PM
To: Filings@psc.state.fl.us
Subject: Electronic Filing of Withdrawal of Intervention in Docket No. 050256-EM
Attachments: Withdrawal.PDF

Brian D. O'Neill
 Counsel for the City of Vero Beach
 1875 Connecticut Avenue, N.W.
 Suite 1200
 Washington, D.C. 20009
Brian.O'Neill@lfgm.com
 202-986-8012

Docket No. 050256-EM: Petition to Determine Need for Treasure Coast energy Unit.1 -- Withdrawal of Intervention

Filed on behalf of the City of Vero Beach

The attachment contains 3 pages

Withdrawal of Intervention

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1875 CONNECTICUT AVE., N.W.
SUITE 1200
WASHINGTON, D.C. 20009-5728
(202) 986-8000
FACSIMILE: (202) 986-8102

E-MAIL ADDRESS: BRIAN.O'NEILL@LLGM.COM
WRITER'S DIRECT DIAL: (202) 986-8012
WRITER'S DIRECT FAX: (202) 986-8102

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July 6, 2005

Blanca Bayó, Director
Division of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Re: Docket No. 050256-EM: Petition to Determine Need for Treasure Coast Energy Unit.1 -- Withdrawal of Intervention

Dear Ms. Bayó:

Counsel for Florida Municipal Power Agency ("FMPA") in an unrelated arbitration proceeding, by letter dated June 21, 2005, demanded that the City of Vero Beach ("COVB") immediately withdraw its Petition to Intervene in the above-referenced proceeding. FMPA has alleged that COVB, by filing its Petition to Intervene, is violating the express terms of the All Requirements Power Supply Contract between FMPA and COVB ("ARP Contract"). FMPA has threatened COVB with litigation and the payment of damages.

COVB strongly disagrees that it has breached the terms of the ARP Contract. To the contrary, by intervening in this proceeding before the Florida Public Service Commission (the "Commission"), COVB is providing a service to its customers, and to the customers of the other ARP members, by questioning whether FMPA has a need for additional generation, and whether the proposed Treasure Coast Energy Center Unit 1 is the least cost alternative available to FMPA. COVB has an obligation to protect its customers from unreasonable costs that may be

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imposed as a result of actions by FMPA. It is that obligation that led COVB to its decision to exercise its right to effectively withdraw from the FMPA system in 2010.


As indicated in its petition to intervene, whatever need FMPA may allege for the proposed project must be judged by the Commission after it weighs the evidence, including the impact of COVB's withdrawal from the FMPA system in 2010. Significantly, the members of the ARP have not approved the construction of the Treasure Coast Energy Center Unit 1. The FMPA governing board has yet to vote on such approval. Thus, consideration of the FMPA project by the Commission at this time may be premature.

In any event, because FMPA is threatening legal action against COVB and because FMPA already has forced COVB into arbitration regarding the level of capacity credits FMPA has been paying COVB for the past several years, COVB respectfully withdraws its intervention from this proceeding. Although COVB firmly believes that its intervention is not prohibited under the ARP Contract, the fact is that COVB is now facing additional potential litigation with FMPA -- and all of the attendant costs. Under these circumstances, COVB has concluded that withdrawal from the proceeding is the prudent course of action for its customers.

A copy of this letter is being served contemporaneously on each of the parties to this proceeding as set forth on the attached service list.

Thank you for your attention to this matter.

Very truly yours,



Brian D. O'Neill
Counsel for the City of Vero Beach

Enclosures

cc: Certificate of Service

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the letter of withdrawal of the City of Vero Beach have been furnished electronically and by first class U.S. Mail to each of the following this 6th day of July, 2005:

Martha Carter Brown Staff Counsel Florida Public Service Commission 2520 Shumard Oak Boulevard Tallahassee, FL 32399-0850	Gary V. Perko Hopping Green & Sams 123 South Calhoun Street Tallahassee, FL 32301
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Counsel for the City of Vero Beach