

Ruth Nettles

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Sent: Thursday, July 30, 2009 1:56 PM
To: Filings@psc.state.fl.us
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Subject: Docket No. 090009-EI / Electronic Filing
Attachments: Joint Notice of Withdrawal of Joint Petition for Variance from or Partial Waiver of Rule.doc; Joint Notice of Withdrawal of Joint Petition for Variance from or Partial Waiver of Rule.pdf

Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 090009-EI

IN RE: Nuclear Power Plant Cost Recovery Clause

c. The document is being filed on behalf of Florida Power & Light Company and Progress Energy Florida, Inc.

d. There are a total of three 2 pages.

e. The document attached for electronic filing is: Joint Notice of Withdrawal of Joint Petition for Variance From or Partial Waiver of Rule 25-6.0423(5)(c)4.

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7/30/2009

DOCUMENT NUMBER-DATE
37802 JUL 30 2009
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Nuclear Power Plant)
Cost Recovery Clause)

Docket No. 090009-EI
Filed: July 30, 2009

**JOINT NOTICE OF WITHDRAWAL OF JOINT PETITION FOR
VARIANCE FROM OR PARTIAL WAIVER OF RULE 25-6.0423(5)(c)4**

NOW BEFORE THIS COMMISSION, through undersigned Counsel, comes Florida Power & Light Company ("FPL") and Progress Energy Florida, Inc. ("PEF") and serves notice of the joint voluntary withdrawal of the Joint Petition for Variance From or Partial Waiver of Rule 25-6.0423(5)(c)4 (the "Variance Petition") that was filed in this docket on May 20, 2009. FPL and PEF have determined that procedural circumstances require the voluntary withdrawal of the Variance Petition; however, FPL and PEF plan to re-file the Variance Petition.

Florida law has clearly established that the legal principle of voluntary dismissal applies to administrative proceedings. *See Orange County v. Debra, Inc.*, 451 So. 2d 868 (Fla. 1st DCA 1983); 582 So. 2d 166 (Fla. 2nd DCA 1991); *Saddlebrook Resorts, Inc. v. Wiregrass Ranch, Inc.*, 630 So. 2d 1123 (Fla. 2nd DCA 1993), *aff'd*, 645 So. 2d 374 (Fla. 1994).

Respectfully submitted on this 30th day of July,

By: s/ Jessica A. Cano

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DOCUMENT NUMBER-DATE

07802 JUL 30 8

FPSC-COMMISSION CLERK

**CERTIFICATE OF SERVICE
DOCKET NO. 090009-EI**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by electronic delivery this 30th day of July, 2009, to the following:

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