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From: Butler, John <John.Butler@fpl.com>
Sent: Wednesday, December 04, 2013 12:01 PM
To: Filings@psc.state.fl.us
Subject: Electronic Filing / Dkt 130007-EI / FPL's Notice of Voluntary Dismissal of NO2 Compliance Project Petition
Attachments: 12.4.13 FPL Notice of Voluntary Dismissal of NO2 Compliance Project Petition.pdf

Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 130007 - EI
In RE: Environmental Cost Recovery Clause

c. The Document is being filed on behalf of Florida Power & Light Company.

d. There are a total of 5 pages

e. The document attached for electronic filing is Florida Power & Light Company's Notice of Voluntary Dismissal Without Prejudice of NO₂ Compliance Project Petition, Intent to File Amended Petition, and Withdrawal of Motion to Postpone Hearing

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Environmental Cost Recovery Clause

Docket No.: 130007-EI
Date: December 4, 2013

**FLORIDA POWER & LIGHT COMPANY'S
NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE
OF NO₂ COMPLIANCE PROJECT PETITION,
INTENT TO FILE AMENDED PETITION,
AND WITHDRAWAL OF MOTION TO POSTPONE HEARING**

Florida Power & Light Company ("FPL") hereby gives notice of its voluntary dismissal without prejudice of its Petition for Approval of Environmental Cost Recovery for the NO₂ Compliance Project (the "Petition"), filed in this docket on June 28, 2013, its intent to file an amended petition for environmental cost recovery of costs incurred to comply with the new 1-hour NO₂ standard, and withdrawal of its Motion to Postpone Hearing on NO₂ Compliance Project that was filed on November 27, 2013 (the "Motion to Postpone Hearing"). In support thereof, FPL states as follows:

1. On June 28, 2013, FPL filed a Petition and supporting testimony that identified alternatives to address the new 1-hour NO₂ standard that the Florida Department of Environmental Protection ("FDEP") administers pursuant to delegated authority under the federal Clean Air Act. Subsequently, several more alternatives to meet the 1-hour NO₂ standard have been proposed, by both FPL and DeSoto County Generating Company. Recently, FDEP has advised that additional data is needed to confirm certain exceedances of the 1-hour NO₂ standard that are predicted by FPL's air-dispersion modeling, through a limited period of monitoring actual air quality.

2. A petitioner is entitled to voluntarily dismiss its petition at any time prior to completion of the fact-finding process. *See, e.g., Saddlebrook Resorts, Inc. v. Wiregrass Ranch, Inc.*, 630 So. 2d 1123 (Fla. 2nd DCA 1993). The fact-finding process concerning FPL's Petition has not been completed, as there is a hearing currently scheduled for January 29-30, 2014 at which all testimony concerning the NO₂ Compliance Project is to be addressed.

3. The monitoring could extend up to a year, but may be completed in a considerably shorter period of time. Thus, FPL is voluntarily withdrawing its Petition, with the intent of refileing an amended petition and supporting testimony once the results of the monitoring are known. Thereafter, FPL will work with Staff and the parties to propose an appropriate schedule for moving through discovery and the filing of intervenor and rebuttal testimony toward a hearing.

4. Order No. PSC-13-0490-PCO-EI provides that "pending a final Commission decision regarding the [NO₂ Compliance] Project, FPL's projected 2013 and 2014 Project costs shall be included in setting the 2014 factor" for ECRC recovery. In view of FPL's voluntary dismissal without prejudice of the Petition, FPL would have no objection to the Commission's approving a revised 2014 ECRC factor that does not include Project costs, with the understanding that if Project costs are ultimately approved for ECRC recovery pursuant to FPL's amended petition, it would recover 2013 and 2014 Project costs via the true-up process. FPL suggests that approval of the revised ECRC factor could be done administratively by Staff, as the revised overall ECRC factor and the resulting factors for each rate class are all contained in FPL's responses to Staff Interrogatory Nos. 48 and 49, which are part of Hearing Exhibit 2, Item 7 that was stipulated into the record of the November 4, 2013 hearing.

5. The filing of this Notice moots the Motion to Postpone Hearing, and so FPL hereby withdraws that Motion.

Respectfully submitted,

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By: s/ John T. Butler
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CERTIFICATE OF SERVICE
Docket No. 130007-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Voluntary Dismissal Without Prejudice of NO₂ Compliance Project Petition, Intent to File Amended Petition, and Withdrawal of Motion to Postpone has been furnished by electronic mail this 4th day of December, 2013 to the following:

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