

Ruth Nettles

From: John_Butler@fpl.com
Sent: Friday, February 15, 2008 11:56 AM
To: Filings@psc.state.fl.us
Cc: Ralph Jaeger; swright@yvlaw.net; jlavia@yvlaw.net; jrandolph@jones-foster.com; kelly.jr@leg.state.fl.us; Richard Bellak; Mary Anne Helton
Subject: Electronic Filing for Docket No. 080035-EI / FPL's Petition to Intervene
Attachments: Petition to Intervene in Towns' Petition for DS (DKT 080035).doc

Electronic Filing

a. Person responsible for this electronic filing:

John T. Butler, Esq.

700 Universe Boulevard

Juno Beach, FL 33408

561-304-5639

John_Butler@fpl.com

b. Docket No. 080035-EI

In re: Petition for Declaratory Statement before the Public Service Commission by the Town of Palm Beach, the Town of Jupiter Island and the Town of Jupiter Inlet Colony, Florida Concerning Their Rights Under Rule 25-6.115, F.A.C.

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

d. There are a total of **4** pages, including an attached certificate of service.

e. The document attached for electronic filing is Florida Power & Light Company's Petition to Intervene

(See attached file: Petition to Intervene in Towns' Petition for DS (DKT 080035).doc)

Dme
2/15/08
R.J.C.

2/15/2008

DOCUMENT NUMBER-DATE

01191 FEB 15 08

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Declaratory Statement)
Before the Florida Public Service) DOCKET NO. 080035-EI
Commission by the Town of Palm Beach,)
the Town of Jupiter Island, and the Town)
Jupiter Inlet Colony, Florida Concerning) FILED: February 15, 2008
Rights Under Rule 25-6.115, F.A.C.)

FLORIDA POWER & LIGHT COMPANY'S PETITION TO INTERVENE

Pursuant to Chapter 120, Florida Statutes, and Rules 25-22.039, 28-105.0027 and 28-106.205, Florida Administrative Code, Florida Power & Light Company ("FPL"), through its undersigned counsel, files this Petition to Intervene and states as follows:

1. The name and address of the affected agency is:

The Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

2. The name and address of the Petitioner is:

Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408

3. Copies of all pleadings, notices, and orders in this docket should be provided to:

Jeffrey S. Bartel
Vice President - Regulatory Affairs
Florida Power & Light Company
215 South Monroe Street, Suite 810
Tallahassee, FL 32301-1859

DOCUMENT NUMBER-DATE

1

01191 FEB 15 08

FPSC-COMMISSION CLERK

R. Wade Litchfield, Esq.
John T. Butler, Esq.
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408-0420
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4. FPL is a public utility subject to the regulatory jurisdiction of the Commission under Chapter 366, Florida Statutes.

5. Statement of Affected Interests. FPL is substantially interested in the Petition for Declaratory Statement Concerning Rule 25-6.115, Florida Administrative Code, that was filed on January 10, 2008 by the Town of Palm Beach (“TPB”), the Town of Jupiter Island (“TJI”) and the Town of Jupiter Inlet Colony (“TJIC”; collectively, the “Towns”). The Towns’ Petition seeks declarations interpreting Rule 25-6.115 in ways that will directly affect FPL’s determination of the contributions in aid of construction (“CIAC”) that FPL collects from Applicants for underground conversions. In fact, the interpretations sought by the Towns are expressly intended to reduce the CIAC that FPL would collect from such Applicants, thus increasing the net Plant in Service that FPL would record for underground customers and, ultimately, the cost of service borne by FPL’s general body of customers.

6. Statement of Disputed Issues of Material Fact. As a request for declaratory statement, the Towns’ Petition principally seeks legal interpretations of the Commission’s Rule 25-6.115 rather than a determination of disputed material facts. However, the Towns’ Petition asserts that FPL does not presently reduce the CIAC it collects from an Applicant sufficiently to reflect FPL’s avoided engineering and overhead costs when the Applicant performs some or all

of the direct conversion work itself. FPL disputes this assertion and in fact, has already worked closely with one of the Towns (TJI) to identify on a component-by-component basis all such costs that would be avoided if TJI installs the concrete and conduit products required for the first phase of its underground conversion project.

7. Statement of Ultimate Facts. The Commission should reject the interpretations of Rule 25-6.115 sought in the Towns' Petition because they are inconsistent with the wording of the Rule and would inappropriately shift costs from underground conversion Applicants to FPL's general body of customers.

8. Statutes and Rules that Require the Relief Requested by FPL. Statutes and rules that require the relief requested by FMEA include, but are not limited to, Section 120.565, Florida Statutes, and Chapter 28-105, Florida Administrative Code.

WHEREFORE, FPL requests that the Commission enter an order granting its petition to intervene in this docket and further requests the parties to provide the undersigned with all papers filed in this docket.

Respectfully submitted,

John T. Butler, Esquire
Senior Attorney
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420
Telephone: (561) 304-5639
Facsimile: (561) 691-7135

By: /s/ John T. Butler
John T. Butler
Fla. Bar No. 283479

**CERTIFICATE OF SERVICE
DOCKET NO. 080035-EI**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished electronically this 15th day of February, 2008, to the following:

Richard C. Bellak, Esquire
Mary Anne Helton, Esquire
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By: /s/ John T. Butler
John T. Butler
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