

Diamond Williams

100001-EI

From: Patrick Wiggins [wigglaw@comcast.net]
Sent: Monday, October 04, 2010 2:02 PM
To: Filings@psc.state.fl.us
Subject: Docket 100001-EI Notice of Consent to Spin-Off of Issues and Withdrawal of Direct Testimony of Russel Klepper
Attachments: notice withdrawal testimony.doc; ATT53226.htm

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost
recovery clause with generating
performance incentive factor.

DOCKET NO. 100001-EI

FILED: October 4, 2010

AFFIRM'S NOTICE OF CONSENT TO SPIN-OFF OF ISSUES
AND
WITHDRAWAL OF DIRECT TESTIMONY OF RUSSELL KLEPPER

On September 22, 2010, AFFIRM filed in this proceeding the Direct Testimony of Russel Klepper. On September 27, 2010, AFFIRM filed its Preliminary List of Issues and Positions. During the informal issued identification conference this date, Staff recommended that AFFIRM's issues be addressed in existing Docket No. 100358-EI (Investigation into the design of Commercial Time-of-Use rates by Florida Power & Light, pursuant to Order No. PSC-10-0153-FOF-EI), rather than in the instant docket. Based on AFFIRM's understanding that the other parties in this docket (including Florida Power & Light Company) do not object to this approach and the resulting expansion of Docket No. 100358-EI, AFFIRM hereby agrees to having the issues included in that docket for determination. As a result of the spin-off of AFFIRM's issues into Docket No. 100358-EI, the Direct Testimony of Russell Klepper is no longer appropriate for the issues before the Commission in the instant proceeding. AFFIRM therefore withdraws his testimony.

AFFIRM consents to the spin-off of its issues and withdraws the testimony of Mr. Klepper in a good faith attempt to avoid unnecessary complication of the instant docket and so that the time of use problem can be addressed comprehensively in its own

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proceeding. Nothing in this notice may be construed as a waiver of AFFIRM's right to have its disputed issues fully and timely addressed or its right to have its substantial interested protected under due process of law. Further AFFIRM reserves the right to insert any issue (including those previously submitted) as allowed under applicable rules.

Dated this 4th day of October 2010.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above pleading was furnished to the following, by electronic on this 4th day of October, 2009:

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