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SPIEGEL & McDIARMID

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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Before Commissioners: Charles B. Curtis, Chairman;  
Don S. Smith, Georgiana Sheldon,  
and George R. Hall.

Florida Power & Light Company ) Docket No. E-9574

ORDER APPROVING WITHDRAWAL  
OF APPLICATION

(Issued September 21, 1978)

**TO: DG  
ACTION COPY  
DOES NOT NEED TO BE FILED**

On March 31, 1978, Florida Power & Light Company (FP&L) filed pursuant to section 1.11 of the Commission's rules of practice and procedure a notice of withdrawal of its application for authorization to acquire the electric system assets of the City of Vero Beach, Florida. 1/ For the reasons set forth below, the notice of withdrawal is approved.

FP&L's application for approval to acquire the Vero Beach system was originally filed with the FPC on November 26, 1976. On February 7, 1977, the FPC set the matter for hearing. P&L's application was opposed at the hearing by a group comprised of two Florida citizens, the FPC staff and the United States Department of Justice. Hearings in the case became delayed as the result of protracted disputes over discovery procedures and related matters, and the Presiding Judge was required to make numerous rulings on discovery and procedural issues. On May 4, 1977, he issued an order which divided the presentation of evidence into three separate phases. No Commission decision has yet been rendered in any phase, and there is now pending before the Judge a motion by the Commission staff to reopen phase I.

FP&L's proposal to acquire the Vero Beach system was approved by referendum and incorporated in an agreement executed by FP&L and Vero Beach in March 1977. When it became clear that approval for the acquisition could

1/ This proceeding was commenced before the FPC. By the joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC. The term "Commission", when used in the context of action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

not be obtained within the time contemplated by the parties, the agreement was extended to March 1, 1978. Due to continuing delays, the agreement was again extended until April 1, 1978. FP&L declined to further extend the agreement and its notice of withdrawal ensued on March 31, 1978. On April 9, 1978, FP&L filed a motion to suspend further proceedings in the case pending action on its notice of withdrawal. This motion was granted by the Presiding Judge on April 17, 1978.

Answers to FP&L's notice of withdrawal were received from the citizen intervenors and the Commission staff. FP&L responded thereto.

In view of the fact that the underlying agreement between FP&L and Vero Beach has expired, there is no basis upon which to continue the proceeding in this docket. FP&L's notice of withdrawal shall be approved unconditionally, and this proceeding shall be terminated. All other motions and recommendations are denied.

The Commission orders:

(A) FP&L's notice of withdrawal filed herein on March 31, 1978, is approved.

(B) This proceeding is terminated.

By the Commission.

( S E A L )

Kenneth F. Plumb,  
Secretary.