

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and Purchased Power
Cost Recovery Clause with Generating
Performance Incentive Factor.

Docket No. 040001-EI
Filed: November 1, 2004

**THE FLORIDA INDUSTRIAL POWER USERS GROUP'S
OBJECTIONS AND RESPONSES TO FLORIDA POWER & LIGHT COMPANY'S
FIRST SET OF INTERROGATORIES (NOS. 1-6)**

Pursuant to Rule 28-106.206, Florida Administrative Code, and Rules 1.280 and 1.340, Florida Rules of Civil Procedure, the Florida Industrial Power Users Group (FIPUG), submits its Objections and Responses to Florida Power & Light Company's (FPL) First Set of Interrogatories (Nos. 1-6).

OBJECTIONS TO DEFINITIONS

FIPUG objects to FPL's definition of "FIPUG." FPL's definition of "FIPUG" inappropriately attempts to include FIPUG's attorneys. FIPUG objects to this definition on the grounds that it is harassing, annoying, and oppressive. Further, any such information in the possession, custody or control of FIPUG's attorneys would be protected by the attorney-client privilege and/or work product privilege. Additionally, given the breadth and irrelevance of many of the questions, any such documents may not be within FIPUG's custody or control.

INTERROGATORIES

1. Identify the members of FIPUG for the time period 2002 through 2004.

ANSWER: FIPUG is an "ad hoc" organization with no general membership. From time to time, industrial and large commercial customers come together to share the cost of intervening in regulatory matters which affect their interests vis-a-vis particular utility companies. Thus, at different times and in different matters, different companies participate in FIPUG activities. With this explanation of FIPUG's structure, the following companies are FPL customers who have authorized FIPUG to represent them in this proceeding:

AirLiquide
Praxair
DuPont

Publix Supermarkets, Inc.
Cape Canaveral Space Center
University of Miami

Mosaic Company

2. Identify any members of FIPUG who have engaged or currently engage in the business of selling power on the wholesale power market for the time period 2002 through 2004.

OBJECTION: The issues to which this discovery purportedly relates concern FPL's request that the Commission "preapprove" UPS purchase power contracts that it proposes to enter into with Southern Company which do not take effect until 2010. As a preliminary matter, such issues do not even belong in the fuel docket, where fuel factors for 2005 will be set. Beyond that, FPL has the burden to prove that it has thoroughly analyzed all options for needed capacity and that the contracts for which it seeks approval are the most cost-effective choice.

FIPUG objects to this interrogatory because it is harassing, annoying, oppressive, irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence.

3. Identify any clients of the law firm McWhirter, Reeves, McGlothlin, Davidson Kaufman & Arnold, P.A., that engage in the business of selling power on the wholesale power market.

OBJECTION: The issues to which this discovery purportedly relates concern FPL's request that the Commission "preapprove" UPS purchase power contracts that it proposes to enter into with Southern Company which do not take effect until 2010. As a preliminary matter, such issues do not even belong in the fuel docket, where fuel factors for 2005 will be set. Beyond that, FPL has the burden to prove that it has thoroughly analyzed all options for needed capacity and that the contracts for which it seeks approval are the most cost-effective choice. Interrogatory No. 3 has nothing to do with that issue.

FIPUG objects to this interrogatory as invalid on its face because it is harassing, annoying, oppressive, irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence. FIPUG further objects to this interrogatory as invalid on its face on the grounds that such information would be protected by the attorney-client privilege. FIPUG further objects because such information is not in FIPUG's possession, custody or control.

In addition, the law firm of McWhirter Reeves objects to providing a list of its clients as such information is irrelevant, is not reasonably calculated to lead to the discovery of admissible evidence, and would be protected by the attorney client privilege. Further, the interrogatory is as invalid on its face because it is harassing, annoying and oppressive.

4. Identify and describe in detail the circumstances under which FIPUG agreed to be a sponsor of the testimony of Mr. David E. Dismukes, in Docket No. 040001-EI.

OBJECTION: The issues to which this discovery purportedly relates concern FPL's request that the Commission "preapprove" UPS purchase power contracts that it proposes to enter into with Southern Company which do not take effect until 2010. As a preliminary matter,

such issues do not even belong in the fuel docket, where fuel factors for 2005 will be set. Beyond that, FPL has the burden to prove that it has thoroughly analyzed all options for needed capacity and that the contracts for which it seeks approval are the most cost-effective choice. Interrogatory No. 4 has nothing to do with that issue. Further, as a party to this proceeding, FIPUG is entitled to sponsor relevant and competent testimony of its choosing. It has no obligation to divulge its hearing strategy to FPL as such information is work product.

Thus, FIPUG objects to this interrogatory as invalid on its face because it is harassing, annoying, oppressive, irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence. FIPUG further objects to this interrogatory as invalid on its face on the grounds that such information would be protected by the attorney-client privilege and the work product privilege.

5. Identify and describe in detail the circumstances under which FIPUG or its counsel were introduced to Kerrick Knauth, including (a) the date when FIPUG or its counsel first met Mr. Knauth; (b) the circumstances surrounding the first time FIPUG or its counsel met Mr. Knauth; (c) the circumstances under which Mr. Knauth agreed to provide testimony on behalf of FIPUG in Docket No. 040001-EI.

OBJECTION: The issues to which this discovery purportedly relates concern FPL's request that the Commission "preapprove" UPS purchase power contracts that it proposes to enter into with Southern Company which do not take effect until 2010. As a preliminary matter, such issues do not even belong in the fuel docket, where fuel factors for 2005 will be set. Beyond that, FPL has the burden to prove that it has thoroughly analyzed all options for needed capacity and that the contracts for which it seeks approval are the most cost-effective choice. Interrogatory No. 5 has nothing to do with that issue. Further, as a party to this proceeding, FIPUG is entitled to sponsor relevant and competent testimony of its choosing. It has no obligation to divulge its hearing strategy to FPL as such information is work product.

Thus, FIPUG objects to this interrogatory as invalid on its face because it is harassing, annoying, oppressive, irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence. FIPUG further objects to this interrogatory as invalid on its face on the grounds that such information would be protected by the attorney client privilege and the work product privilege.

In addition, the law firm of McWhirter Reeves objects to this interrogatory as such information is irrelevant, is not reasonably calculated to lead to the discovery of admissible evidence, and would be protected by the attorney-client privilege and work product privilege. Further, the interrogatory is invalid on its face on the grounds that it is harassing, annoying and oppressive.

6. Identify and describe in detail the circumstances under which FIPUG or its counsel were introduced to Michael F. Vogt, including (a) the date when FIPUG or its counsel

first met Mr. Vogt; (b) the circumstances surrounding the first time FIPUG or its counsel met Mr. Vogt; (c) the circumstances under which Mr. Vogt agreed to provide testimony on behalf of FIPUG in Docket No. 040001-EI.

OBJECTION: The issues to which this discovery purportedly relates concern FPL's request that the Commission "preapprove" UPS purchase power contracts that it proposes to enter into with Southern Company which do not take effect until 2010. As a preliminary matter, such issues do not even belong in the fuel docket, where fuel factors for 2005 will be set. Beyond that, FPL has the burden to prove that it has thoroughly analyzed all options for needed capacity and that the contracts for which it seeks approval are the most cost-effective choice. Interrogatory No. 6 has nothing to do with that issue. Further, as a party to this proceeding, FIPUG is entitled to sponsor relevant and competent testimony of its choosing. It has no obligation to divulge its hearing strategy to FPL as such information is work product.

Thus, FIPUG objects to this interrogatory as invalid on its face because it is harassing, annoying, oppressive, irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence. FIPUG further objects to this interrogatory as invalid on its face on the grounds that such information would be protected by the attorney client privilege and the work product privilege.

In addition, the law firm of McWhirter Reeves objects to this interrogatory as such information is irrelevant, is not reasonably calculated to lead to the discovery of admissible evidence, and would be protected by the attorney-client privilege and work product privilege. Further, the interrogatory is invalid on its face on the grounds that it is harassing, annoying and oppressive.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Florida Industrial Power Users Group's Response to Florida Power & Light Company's First Set of Interrogatories (Nos. 1-6) has been furnished by electronic mail, U.S. Mail and (*) Federal Express this 1st day of November 2004, to the following:

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