

ORIGINAL

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To: Filings@psc.state.fl.us  
Subject: Docket 040001-EI -- Request for Admissions

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2. The filing is to be made in Docket No. 040001-EI, *In re: Fuel and Purchased Power Cost Recovery Clause with Generating Performance Incentive Factor*;
3. The filing is made on behalf of the Florida Industrial Power Users Group;
4. The total number of pages is 4; and
5. Attached to this e-mail in Adobe format is the Florida Industrial Power Users Group's Objections and Responses to Florida Power & Light Company's First Request for Admissions (Nos. 1-3)

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# ORIGINAL

## 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, 2003

**THE FLORIDA INDUSTRIAL POWER USERS GROUP'S  
OBJECTIONS AND RESPONSES TO FLORIDA POWER & LIGHT COMPANY'S  
FIRST REQUEST FOR ADMISSIONS (NOS. 1-3)**

Pursuant to Rule 28-106.206, Florida Administrative Code, and Rule 1.370(a), Florida Rules of Civil Procedure, the Florida Industrial Power Users Group (FIPUG), hereby files its Objections and Responses to Florida Power & Light Company's (FPL) First Request for Admissions Nos. 1-3.

### **REQUEST FOR ADMISSIONS**

1. The requirements of Section 403.519, Florida Statutes (the "Power Plant Siting Act"), and Rule 25-22.082, Florida Administrative Code (the "Bid Rule") do not apply to the contracts with Southern Company for which FPL seeks Florida Public Service Commission approval in Docket No. 040001-EI.

**OBJECTION:** FIPUG objects to this request because it is irrelevant to the issues in this docket. FIPUG also objects to this request because it is based on a false premise — FIPUG's position is not based on the applicability or non-applicability of the Bid Rule. FIPUG's position is that FPL has failed to meet its burden of proof to demonstrate that the Southern contracts for which it seeks approval in this docket are the most cost-effective alternative available.

2. It is uncertain whether the generation resources discussed in the Direct Testimony FIPUG has sponsored and co-sponsored in this docket as alternatives to the contracts with Southern Company for which FPL seeks Florida Public Service Commission approval in Docket No. 040001-EI will be available to provide output to FPL in 2010.

**OBJECTION:** FIPUG objects to this request on the grounds that “the generation resources discussed in the Direct Testimony FIPUG has sponsored and co-sponsored in this docket as alternatives to the contracts with Southern Company” are not separately set forth for admission as required by Rule 1.370(a), Florida Rules of Civil Procedure. FIPUG further objects because the request is vague and overbroad. FIPUG also objects to the request because it again mischaracterizes FIPUG’s position. FIPUG does not support one generation resource or another as an alternative to the proposed contracts with Southern Company. Rather, FIPUG’s testimony notes that alternatives to the Southern Company contracts may exist in the wholesale market and that FPL has not met its burden of proving that it has adequately explored the market so as to assure the Commission and ratepayers that the contracts for which it seeks approval are the most cost-effective alternative.

3. The Southern Company generation units that are represented by the contracts for which FPL seeks Florida Public Service Commission approval are already in service.

**OBJECTION:** FIPUG objects to this request as irrelevant to the issues in this docket as it mischaracterizes FIPUG’s position. FIPUG does not support one generation resource or another as an alternative to the proposed contracts with Southern Company. Rather, FIPUG’s testimony notes that alternatives to the Southern Company contracts may exist in the wholesale market and FPL has not met its burden of proving that it has adequately explored the market so as to assure the Commission and ratepayers that the contracts for which it seeks approval are the most cost-effective alternatives.

s/Timothy J. Perry

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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 Objections and Responses to Florida Power & Light Company's First Request for Admissions (Nos. 1-3) has been furnished by electronic mail, U.S. Mail and (\*) Federal Express this 1<sup>st</sup> day of November 2004, to the following:

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