

ORIGINAL

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From: Vicki Gordon Kaufman  
 Sent: Wednesday, December 01, 2004 3:15 PM  
 To: Filings@psc.state.fl.us  
 Cc: John W. McWhirter; Jennifer Brubaker; Bonnie Davis; John Burnett; Patricia A Christensen  
 Subject: Docket No. 041272-EI

Pursuant to the Commission's procedures for e filing, FIPUG provides the following information:

- a. The attorney responsible for the filing is:  
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- b. The document is to be filed in Docket No. 041272-EI
- c. The document is filed on behalf of FIPUG.
- d. The document is 3 pages long.
- e. The document is FIPUG's Response to PEF's "Clarifications."

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FPSC-COMMISSION CLERK

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of storm cost recovery clause for recovery of extraordinary expenditures related to Hurricanes Charley, Frances, Jeanne, and Ivan, by Progress Energy Florida, Inc.

Docket No: 041272-EI  
Filed: December 1, 2004

**THE FLORIDA INDUSTRIAL POWER USERS GROUP'S  
RESPONSE TO PEF'S "CLARIFICATIONS"**

The Florida Industrial Power Users Group (FIPUG), files its response to Progress Energy Florida's (PEF) "Clarifications" of FIPUG's discovery.

1. On November 17, 2004, FIPUG served its First Request for Production on PEF.

2. On November 29, 2004, PEF served "clarifications" regarding the discovery PEF received from FIPUG. That is, it appears that PEF is attempting to, without discussion with counsel for FIPUG, "clarify" on its own requests that FIPUG has propounded. This is improper. PEF's "clarifications" are erroneous and should be disregarded.

3. The Order on Procedure in this case, Order No. PSC-04-1151-PCO-EI, states:

*When discovery requests are served and the respondent intends to seek clarification of the discovery request, the request for clarification shall be made within ten days of service of the discovery request.<sup>1</sup>*

Thus, it appears that this provision of the procedural order is intended to provide the party who must respond to discovery with an opportunity to inquire of the party propounding the discovery if any of the requests are unclear or ambiguous. In other words, it appears

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<sup>1</sup> Order on Procedure at 5, emphasis supplied.

to contemplate that PEF would contact FIPUG to inquire about any requests PEF does not understand.

4. Instead, PEF has attempted to unilaterally “clarify” requests that FIPUG has sent. Such “clarifications” are reminiscent of the “general objections” parties filed when such objections were required by prior procedural orders. They do not and cannot “clarify” FIPUG’s discovery, are thus inappropriate and should be disregarded.

s/ Vicki Gordon Kaufman

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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 PEF's "Clarifications" has been furnished by electronic mail and U.S. Mail this 1<sup>st</sup> day of December 2004, to the following:

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