

ORIGINAL

Timolyn Henry

From: Tim Perry [tperry@mac-law.com]
Sent: Monday, January 10, 2005 4:49 PM
To: Filings@psc.state.fl.us
Cc: Lee L. Willis (E-mail); James D. Beasley (E-mail); Marlene Stern; Vicki Gordon Kaufman; JWM -- John McWhirter
Subject: Docket No. 041376-EI

1. Timothy J. Perry, McWhirter Reeves, 117 S. Gadsden Street, Tallahassee, FL 32301, (850) 222-2525, tperry@mac-law.com is responsible for this electronic filing;
2. The filing is to be made in Docket No. 041376-EI, *In re: Petition for approval of new environmental program for cost recovery through Environmental Cost Recovery Clause, by Tampa Electric Company.*;
3. The filing is made on behalf of the Florida Industrial Power Users Group;
4. The total number of pages is 5; and
5. Attached to this e-mail in Adobe format is the Florida Industrial Power Users Group's Petition to Intervene.

Timothy J. Perry
 McWhirter Reeves
 117 S. Gadsden St.
 Tallahassee, FL 32301
 (850) 222-2525
 (850) 222-5606 - Fax
tperry@mac-law.com

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*Done as listed
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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of new environmental program for cost recovery through Environmental Cost Recovery Clause, by Tampa Electric Company.

Docket No.: 041376-EI
Filed: January 10, 2005

THE FLORIDA INDUSTRIAL POWER USERS GROUP'S
PETITION TO INTERVENE

Pursuant to Chapter 120, Florida Statutes, and rules 25-22.039 and 28-106.205, Florida Administrative Code, the Florida Industrial Power Users Group (FIPUG), through its undersigned counsel, files its Petition to Intervene. In support thereof, FIPUG states:

1. The affected agency is the Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

2. The name and address of the Petitioner is:

Florida Industrial Power Users Group
c/o McWhirter, Reeves, Davidson,
Kaufman, & Arnold, P.A.
400 North Tampa Street, Suite 2450
Tampa, Florida 33602
Telephone: (813) 224-0866
Telecopier: (813) 221-1854

3. Copies of all pleadings, notices, and orders in this docket should be provided to:

John W. McWhirter
jmcwhirter@mac-law.com
McWhirter Reeves, Davidson,
Kaufman, & Arnold, P.A.
400 North Tampa Street, Suite 2450
Tampa, Florida 33602
Telephone: (813) 224-0866
Telecopier: (813) 221-1854

Vicki Gordon Kaufman
vkaufman@mac-law.com
Timothy J. Perry
tperry@mac-law.com
McWhirter, Reeves, Davidson,

Kaufman, & Arnold, P.A.
117 South Gadsden Street
Tallahassee, Florida 32301
(850) 222-2525 (telephone)
(850) 222-5606 (fax)

4. FIPUG is an ad hoc association consisting of industrial users of electricity in Florida. The cost of electricity constitutes a significant portion of FIPUG members' overall costs of production. FIPUG members require adequate, reasonably-priced electricity in order to compete in their respective markets.

5. Statement of Affected Interests. The Commission will decide in this docket whether to approve Tampa Electric Company's (TECo) petition for approval of cost recovery for new environmental compliance programs—Big Bend Unit 1 Selective Catalytic Reduction (SCR), Big Bend Unit 2 SCR and Big Bend Unit 3 SCR—through the Environmental Cost Recovery Clause (ECRC).

6. FIPUG's interests are of the type that this proceeding is designed to protect. See, Agrico Chemical Company v. Department of Environmental Regulation, 406 So.2d 478 (Fla. 2d DCA 1981). The purpose of the proceeding is to evaluate TECo's request, to review the nature of its costs and expenditures to determine if any such costs are appropriate for recovery, and to review the manner in which TECo requests to recover such costs. These issues will affect FIPUG members' substantial interests by potentially increasing their costs of electricity, thus affecting their production costs, their competitive posture, and their levels of employment. Thus, the purpose of the proceeding coincides with FIPUG's substantial interests, which is to ensure that costs passed onto its members by TECo are reasonable and prudent.

7. Disputed Issues of Material Fact. FIPUG anticipates that the issues of disputed fact in this case will include, but are not limited to:

- a. Are the costs recoverable through the environmental cost recovery clause?
- b. If recoverable, what is the appropriate amount of costs to be recovered for the projects?
- c. If recoverable, what is the proper method for TECo to recover its costs?

8. Statement of Ultimate Facts Alleged. Ultimate facts include, but are not limited to, the following:

- a. TECo has the burden to prove that the costs are recoverable through the environmental cost recovery clause.
- b. TECo has the burden to prove that no costs for which it seeks recovery are, or should be, included in base rates.
- c. TECo has the burden to prove that all costs for which TECo seeks recovery are reasonable and prudent.
- d. TECo has the burden to prove the proper method for TECo to recover its costs.

WHEREFORE, FIPUG requests that the Commission to enter an order allowing it to intervene as a full party in this docket.

/ Timothy J. Perry
John W. McWhirter
McWhirter, Reeves, Davidson,
Kaufman, & Arnold, P.A.
400 North Tampa Street, Suite 2450
Tampa, Florida 33602
Telephone: (813) 224-0866
Telecopier: (813) 221-1854
mcwhirter@mac-law.com

Vicki Gordon Kaufman
Timothy J. Perry
McWhirter, Reeves, Davidson,
Kaufman, & Arnold, P.A.
117 South Gadsden Street
Tallahassee, Florida 32301
(850) 222-2525 (telephone)
(850) 222-5606 (fax)
vkaufman@mac-law.com
tperry@mac-law.com

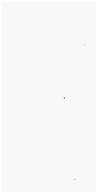
Attorneys for the Florida Industrial Power Users Group

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing The Florida Industrial Power Users Group's Petition to Intervene has been furnished by electronic mail and U.S. Mail this 10th day of January 2005, to the following:

Marlene Stern
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399

Lee L. Willis
James D. Beasley
Ausley & McMullen
227 S. Calhoun Street
Tallahassee, FL 32302



s/ Timothy J. Perry
Timothy J. Perry