

Eric Fryson

From: Myndi Qualls [mqualls@moylelaw.com]
Sent: Friday, February 08, 2013 3:18 PM
To: Filings@psc.state.fl.us
Cc: Jon Moyle
Subject: Docket No. 120314-EQ
Attachments: FIPUG Petition to Intervene.pdf

In accordance with the electronic filing procedures of the Florida Public Service Commission, the following filing is made:

a. The name, address, telephone number and email for the person responsible for the filing is:

Jon C. Moyle, Jr.
Moyle Law Firm, P.A.
The Perkins House
118 North Gadsden Street
Tallahassee, FL 32301
(850) 681-3828
jmoyle@moylelaw.com

b. This filing is made in Docket No. 120314-EQ

c. The document is filed on behalf of The Florida Industrial Power Users Group

d. The total pages in the document are 6 pages.

e. The attached document is The Florida Industrial Power Users Group's Petition to Intervene.

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Parties
updated
2/8/13
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FILED

DOCUMENT NUMBER-DATE

00779 FEB-8 2013

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of negotiated renewable energy contracts with U.S. EcoGen Okeechobee, LLC, U.S. EcoGen Clay, LLC, and U.S. EcoGen Martin, LLC, by Florida Power & Light Company.

DOCKET NO. 120314-EQ

**THE FLORIDA INDUSTRIAL POWER USERS GROUP'S
PETITION TO INTERVENE**

Pursuant to sections 120.569, 120.57(1), Florida Statutes, and rule 25-22.039, 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. Name and address of agency. The affected agency is the Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

2. Name and address of Petitioner. The name and address of the Petitioner is:

Florida Industrial Power Users Group
Moyle Law Firm, P.A.
118 North Gadsden Street
Tallahassee, Florida 32301
Telephone; (850) 681-3828
Facsimile: (850) 681-8788

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

Jon C. Moyle, Jr.
Moyle Law Firm, P.A.
118 North Gadsden Street
Tallahassee, Florida 32301
Telephone; (850) 681-3828
Facsimile: (850) 681-8788
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FPSC-COMMISSION CLERK

4. Notice of docket. Petitioner received notice of this docket by a review of the Commission's website.

5. Statement of Substantial Interests. 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.

6. In this case, the Commission will consider Florida Power & Light Company's (FPL) request to approve three (3) renewable energy contracts for the purchase of approximately 180 megawatts of capacity and energy. Each contract is for approximately 60 megawatts and each project is located in a different county within FPL's service territory. The term of each contract is for thirty (30) years. FPL's ratepayers, including FIPUG members, will be asked to pay for the purchased power represented by these contracts for 30 years if one or more of the contracts are approved by the Commission. As customers of FPL, FIPUG members' substantial interests will be substantially affected in this docket.

7. 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. 2nd DCA 1981). The purpose of the proceeding is to evaluate FPL's request, the contracts in question, what alternatives were considered, whether the energy and capacity is needed, by FPL and other utilities from a statewide perspective and whether the contracts in question represent the least cost renewable energy available to FPL. Thus, the purpose of the proceeding coincides with FIPUG's substantial interests, which is to ensure that the rates it pays to FPL are just and reasonable.

8. Disputed Issues of Material Fact. Disputed issues of material fact include, but are not limited to, the following:

- a. Does FPL have a need for one or more contracts in question;
- b. What other options for renewable energy, if any, did FPL consider before entering into three contracts with the U.S. Ecogen entities;
- c. Do the contracts in question authorize the payment of sums that are above avoided costs at any point in time, and if so, are such payments authorized for cost recovery by Rule 25-17.0832(2), F.A.C. and sections 366.051 and 366.91, Florida Statutes;
- d. Are ratepayers adequately protected in the event of default by the U.S. Ecogen entities;
- e. Do the contracts in question represent the least cost renewable energy available to FPL;
- f. Whether the purchase of firm capacity and energy pursuant to the rates, terms, and other conditions of the contracts in question can reasonably be expected to contribute towards the deferral or avoidance of additional capacity construction or other capacity-related costs by FPL at a cost to FPL's ratepayers which does not exceed full avoided costs;
- g. Whether FPL needs the energy and capacity represented by the contracts in question;
- h. Whether other utilities need the energy and capacity represented by the contracts in question from a statewide perspective.

9. Disputed Legal Issues. Disputed legal issues include, but are not limited to, the following:

- a. Do the contracts in question comply with Rule 25-17.0832(2), F.A.C. and sections 366.051 and 366.91, Florida Statutes.

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

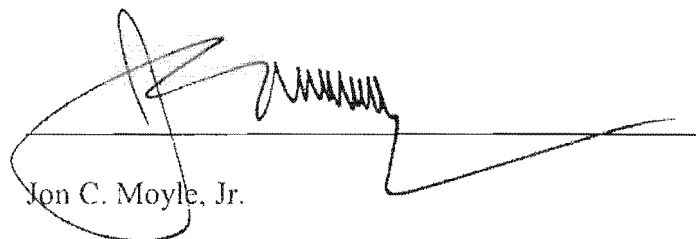
- a. Are the proposed contracts the most cost effective alternative for FPL to secure additional renewable energy and in accord with sections 366.051 and 366.91, Florida Statutes, and Rule 25-17.0832(2) F.A.C.

11. Rules and statutes justifying relief. The rules and statutes that entitle FIPUG to intervene and participate in this case include, but are not limited to:

- a. Section 120.569, Florida Statutes;
- b. Section 120.57, Florida Statutes;
- c. Section 366.04, Florida Statutes;
- d. Section 366.051, Florida Statutes;
- e. Section 366.91, Florida Statutes;
- f. Rule 25-17.0832, Florida Administrative Code.

12. Relief. FIPUG requests that it be permitted to intervene as a full party in this docket. FIPUG is authorized to represent that FPL does not oppose FIPUG's petition to intervene filed on behalf of FIPUG members who are ratepayers and customers of FPL.

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


Jon C. Moyle, Jr.

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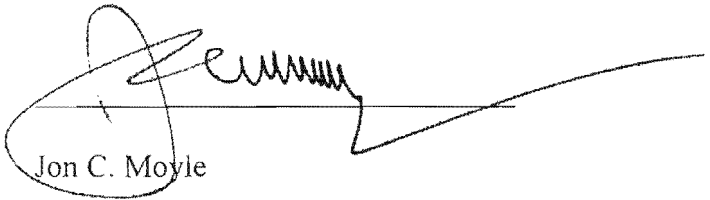
CERTIFICATE OF SERVICE

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 this 8th day of February, 2013, to the following:

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Jon C. Moyle