

FLORIDA PUBLIC SERVICE COMMISSION

Fletcher Building  
101 East Gaines Street  
Tallahassee, Florida 32399-0850

M E M O R A N D U M

April 6, 1989

TO: STEVE TRIBBLE, DIRECTOR  
DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (RULE) *WR* *RLT*  
DIVISION OF ELECTRIC AND GAS (WALSH)

RE: DOCKET NO. 890001-EI - INVESTIGATION OF FUEL COST  
RECOVERY CLAUSES OF INVESTOR-OWNED UTILITIES AND  
DOCKET NO. 890148-EI - PETITION OF THE FLORIDA  
INDUSTRIAL POWER USERS GROUP TO DISCONTINUE FLORIDA  
POWER & LIGHT COMPANY'S OIL BACKOUT COST RECOVERY  
FACTOR

AGENDA: APRIL 18, 1989 - CONTROVERSIAL - PARTIES MAY  
PARTICIPATE

PANEL: FULL COMMISSION

CRITICAL DATES: NONE

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ISSUE AND RECOMMENDATION SUMMARY

ISSUE 1: Should Florida Industrial Power Users Group's Motion  
To Consolidate Dockets Or Hold Certain Issues In Docket No.  
890001-EI In Abeyance be granted for hearing purposes only ?

RECOMMENDATION: Yes. For purposes of efficiency and  
expediency, this Commission should grant FIPUG's request to  
consolidate these two dockets for hearing purposes only.

DOCUMENT NUMBER-DATE

03457 APR-6 1989

FPSC-RECORDS/REPORTING

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Separate docket numbers and files should be retained, and separate orders should be rendered for each docket.

ISSUE 2: Should the full Commission address issues raised in Docket No. 890148-EI on the last day of the next fuel adjustment hearing in Dockets No. 890001-EI, 890002-EG, and 890003-GU?

RECOMMENDATION: Yes.

#### DISCUSSION OF ISSUES

ISSUE 1: Should Florida Industrial Power Users Group's Motion To Consolidate Dockets Or Hold Certain Issues In Docket No. 890001-EI In Abeyance be granted for hearing purposes only?

RECOMMENDATION: Yes. For purposes of efficiency and expediency, this Commission should grant FIPUG's request to consolidate these two dockets for hearing purposes only. Separate docket numbers and files should be retained, and separate orders should be rendered for each docket.

STAFF ANALYSIS: Florida Rule of Civil Procedure 1.270(a) contemplates two types of consolidation. The first type is where several actions are combined into one and a single judgment is rendered. The second type of consolidation occurs

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where several actions are tried together, but each remains an independent action and has a separate judgment. Only those issues which are common to both actions may be tried together where a single judgment is rendered. However, issues need not be identical to hold a consolidated trial resulting in separate judgements. Further, Rule 25-22.035(2), Florida Administrative Code, allows consolidation if no party would be unduly prejudiced. No such prejudice appears here.

FIPUG, in the last fuel adjustment hearing, raised issues regarding FPL's recovery of certain transmission line investments through operation of the Oil Backout Cost Recovery Factor (OBCRF). FIPUG also petitioned to discontinue FPL's OBCRF in Docket No. 890148-EI. (Thereafter, FIPUG and FPL stipulated that FIPUG would defer presentation of its position on certain OBCRF issues, and that if any adjustment was made to FPL's OBCRF as a result of future proceedings, any amounts ordered to be refunded would be subject to refund as though the Commission had considered and reached a decision on the contested issues in the February 22, 1989 hearing in Docket No. 890001-EI.)

Because all issues are not the same in in both dockets, and for purposes of efficiency, Staff recommends that these two

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dockets be consolidated for hearing purposes only, with separate orders to be issued in each docket.

ISSUE 2: Should the full Commission address issues raised in Docket No. 890148-EI on the last day of the next fuel adjustment hearing in Dockets No. 890001-EI, 890002-EG, and 890003-GU?

RECOMMENDATION: Yes.

STAFF ANALYSIS: Presently, a panel is set to address the next fuel adjustment hearing in Dockets No. 890001-EI, 890002-EG and 890003-GU. The same panel is scheduled to hear FIPUG's petition in Docket No. 890148-EI. Removal of the OBCRF approval for the FPL project in question is a policy decision which may have rate base implications. Therefore, Staff recommends that the full Commission decide the issues raised by FIPUG. For purposes of efficiency and convenience these same issues can be addressed at the last day of the fuel adjustment hearing.

MER/sj